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September 21, 2007

VIA E-MAIL TO: jdendale@usaid.gov

Mr. Jeffrey Denale
Coordinator for Counterterrorism
Office of Security
United States Agency for International Development
1300 Pennsylvania Avenue, N.W.
Office 2.06-005, RRB
Washington, DC 20523

**RE: Comments on Federal Register Notice, Vol. 72, No. 140, July 23, 2007,
Doc. 07-3555**

Agency: U.S. Agency for International Development
Title: Notice of Public Information Collections Being Reviewed by USAID

Dear Mr. Denale:

The International Rescue Committee ("IRC"), a leading humanitarian assistance organization providing relief to refugees and the displaced worldwide, and a long-standing partner of USAID, submits the following comments to the above-referenced Federal Register Notice (the "July 23 Notice") whereby USAID seeks comments concerning: (1) whether the proposed collections of information are necessary for the proper performance of the functions of the agency; including whether the information shall have practical utility; (2) the accuracy of the burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

On July 17, 2007, USAID announced its intention to establish a system of records known as the Partner Vetting System ("PVS") whereby it would require non-governmental organizations ("NGOs") as a condition of receiving USAID funding to submit personal information of their directors, officers, and other employees so that USAID can conduct screening of these individuals for the stated purpose of ensuring against USAID funds being used to support individuals or entities associated with terrorism.¹ Subsequently, on July 20, 2007, USAID published a proposed rule to exempt the PVS from numerous protections of the Privacy Act of 1974.² IRC timely submitted responses to both of these notices on August 24, 2007 and September 18, 2007.³ IRC's view, as stated in each of IRC's responses (attached hereto and incorporated herein for the record), is that the PVS as proposed is overreaching and unwarranted, overly burdensome, has no statutory basis, raises serious privacy

¹ See 72 Fed. Reg. No. 136, July 17, 2007 (the "July 17 Notice").

² See 72 Fed. Reg. No. 139, July 20, 2007 (the "July 20 Notice").

³ Letter from George Rupp, IRC President and CEO to Philip M. Heneghan, USAID Chief Privacy Officer, August 24, 2007; Letter from George, Rupp, IRC President and CEO to Philip M. Heneghan, USAID Chief Privacy Officer, September 18, 2007.

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concerns, and will certainly result in added insecurity and harm to the NGO community and overseas staff.

As an initial matter, it is important to point out that the July 23 Notice requests comments on the proposed collection of information intended to be collected by USAID through the PVS; however, as USAID has failed to provide any detailed impact assessments for the PVS, concrete definitions of individuals to be covered by the PVS, the proposed data collection form it intends to use to collect information, or identify how it plans to administer the system, it is impossible for IRC, or any other NGO, to provide adequate comments at this time.

Notwithstanding the inadequacy of information made available by USAID, IRC hereby offers the following comments:

- 1. Whether the proposed collections of information are necessary for the proper performance of the functions of the agency; including whether the information shall have practical utility.**

USAID has failed to show that the proposed collections of information are necessary for its proper performance. USAID asserts, in the July 17 Notice, that it intends to collect personal information about individuals who are employed by NGOs that seek USAID funding in order to conduct screening of such individuals to ensure that USAID funds do not support individuals or entities associated with terrorism. However, USAID has failed to provide any evidence that USAID funds have been diverted to terrorist organizations through NGOs. On the contrary, the Office of the Inspector General in its most recent semi-annual report to Congress stated that in exercising its oversight of programs in USAID's sensitive West Bank/Gaza it has found no such diversion of funds to terrorist organizations. Nor, to IRC's knowledge, has it reported finding such diversions elsewhere. While the July 17 Notice refers for support to a Government Accounting Office report which "identified processes and procedures that could be improved and streamlined with the use of additional information technology," the July 17 Notice fails to note that the report applies only to the West Bank/Gaza region and does not suggest any basis for undertaking such measures globally. Nor is such a system required by Executive Order 13324. Instead, pursuant to Executive Order 13324, NGOs applying for federal funds certify that they will not support individuals or organizations associated with terrorism. There is no indication that these efforts have been determined to be ineffective.

The practical utility of the proposed vetting system simply can not be adequately addressed without knowing the type of information to be collected under the PVS, or how frequently USAID proposes to collect and update the information or administer the system. To date, USAID has failed to provide the data collection form or provide any concrete information on the PVS. Based on the limited information we received in USAID's July 17 Notice, the utility of the PVS is highly questionable. Not only does IRC not have the breadth of information mentioned in the July 17 Notice on its employees, but, given that IRC will be engaged in employing individuals, as well as sub-granting and sub-contracting on an on-going basis, continuous updating of this type of information would not be practical in any sense.

2. The accuracy of the burden estimates.

The estimated annual reporting burden provided by USAID appears to be inaccurate, and not even remotely close to what the actual annual reporting burden would be. USAID claims in its July 23 Notice that the annual reporting burden estimates are 2,000 annual responses and 500 annual hours. First, given that the proposed data collection form containing all the proposed data to be collected is unavailable at this time, it is unclear how USAID or anyone could estimate the amount of time needed to collect the data and complete the form. Accordingly, the calculation that each response would take 15 minutes (2000 responses divided by 500 hours) has no factual basis. Based on the limited information we received in the July 17 Notice on the type of information to be collected, we would estimate that, at a minimum, collection of the detailed personal information and filling out a data collection form, would take approximately one (1) hour per individual per year.

In terms of the individuals to be vetted, the July 17 Notice's definition of individuals to be covered is so broadly worded as to make it impossible for IRC, or any other NGO, to know the impact the PVS will have on each organization in terms of number of individuals vetted. However, what is quite clear is that its assertion that there will only be 2,000 responses has no basis. The July 17 Notice states that the PVS will support the vetting of individuals, officers, or other officials of non-governmental organizations that apply for USAID funding as well as those who apply for registration with USAID as Private and Voluntary Organizations stating "it is necessary to collect information on the principal officers and *other employees* of application organizations" defining principal officers to include "directors, program managers, members of governing bodies, or other individuals with operational control of the organization or those individuals that administer funds." For IRC alone, it has 33 board members, and an estimated 539 senior management, directors, as well as key program personnel and financial personnel located at headquarters and in the field that fit USAID's broad definition of principal officer. Thus, IRC would most likely have to provide information on at least 572 individuals. Using a one (1) hour time estimate to complete the as yet unknown data collection form would take an estimated 572 hours annually for IRC alone. Given that there are approximately 540 registered PVOs and at least 150 unregistered NGOs, not to mention the numerous individuals applying for USAID funding, it is reasonable to assume that the likely number of responses would be more closer to 80,000 (assuming the average NGO size is 1/5 the size of IRC) and the annual time burden would be more like 80,000 hours (leaving aside annual turnover and assuming individuals would be vetted only once each).

3. Ways to enhance the quality, utility, and clarity of the information collected.

As stated in our comment to item (1) above, IRC does not believe that collection of personal identifiable information through the PVS is necessary or warranted; and therefore offers no comment on the quality, utility and clarity of information collected. Even if IRC thought it appropriate to offer such comments, it would not be able to at this time since USAID has failed to issue the proposed data collection form it intends to use to collect information from individuals, specify the information to be collected, identify how frequently it plans to collect this information or how it plans to administer the system.

4. Ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

IRC reiterates all of its comments in items (1), (2) and (3) above in response to this item. Further, IRC would like to reiterate its concern for the security of its staff if the PVS were

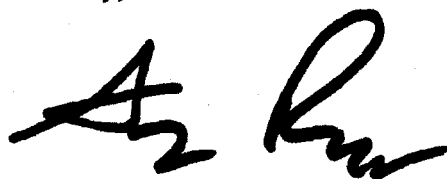
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implemented. As USAID well knows from discussions with NGOs around previous information-gathering proposals, the perceived neutrality and independence of NGOs is critical to the safety and well-being of humanitarian aid workers. If NGOs were to collect personal information on its staff or local partners, and perhaps even beneficiaries for purposes of U.S. intelligence screening, they would be perceived to be an arm of the U.S. intelligence community, which would create heightened security risks for NGO staff overseas, and severely impact the ability of NGOs to implement assistance programs.

* * *

In summary, USAID's proposed collection of personal information through the PVS is completely unwarranted and overly burdensome, and would lead to heightened security risks for the NGO community and their respective overseas staff. Accordingly, IRC strongly urges USAID again to withdraw its July 17, July 20 and July 23 notices and reconsider its proposal for a vetting system in consultation with the NGO community.

Sincerely,



George Rupp
President and Chief Executive Officer

c: Henrietta Fore, Acting Administrator, USAID
Joanne Paskar, Chief, Information and Records Division, Office of Administrative Services, Bureau for Management, USAID
Beverly Johnson, Information and Records Division, Office of Administrative Services, Bureau for Management, USAID
Susan Dudley, Administrator, Office of Information and Regulatory Affairs of the Office of Management and Budget
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David Rostker, Desk Officer, Office of Management and Budget
Philip M. Henegan, Chief Privacy Officer, Chief Privacy Officer, USAID
Sam Worthington, President, InterAction
Nils Daulaire, M.D., President, Global Health Council
The Honorable Patrick J. Leahy
The Honorable Judd Gregg
The Honorable Joseph R. Biden
The Honorable Richard G. Lugar
The Honorable Nita M. Lowey
The Honorable Frank R. Wolf
The Honorable Tom Lantos
The Honorable Ileana Ros-Lehtinen