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December 19, 2011

Mr. Edward H. Vazquez
U.S. Department of State
2201 C Street NW
SA-15, Room 3200
Washington, DC 20520

Re: Notice of Proposed Information Collection: DS-4184, Risk Management and Analysis
Public Notice 7662

BY ELECRONIC MAIL TO: Vazquezeh@State.gov

Dear Mr. Vazquez:

This letter is in response to the Notice of Proposed Information Collection: DS-4184, Risk Management and Analysis, published in the Federal Register on October 20, 2011 (p.65317).

InsideNGO is membership organization representing 270 non-governmental organizations that operate humanitarian relief, economic development, civil society, and health promotion programs overseas. Many of our members receive significant grant and contract awards from the Department of State (DOS) and the U.S. Agency for International Development (USAID). As such, they are vitally interested in policies initiated by those agencies which affect those awards as the subject information collection would do.

The subject notice seeks comments that will, among other things, permit DOS to evaluate whether the proposed information collection is necessary for the proper performance of agency functions and to evaluate the accuracy of burden estimates and the validity of the methodology and assumptions used. Accordingly, we offer the following views on those matters.

NECESSITY

Since July 2007, InsideNGO has consistently questioned the necessity and approach proposed, first under the term "Partner Vetting System" and more recently as "Risk Management and Analysis." The concerns that our members have about this activity have been documented in numerous letters to both USAID and the Office of Management and Budget (OMB). Copies of those letters are attached for background. During the intervening four years, we believe that no additional public evidence has surfaced that shows that existing federal agency, grantee, and contractor systems for reviewing organizations with which to consider doing business are not working effectively to avoid funding organizations or individuals supporting terrorism. In addition, Congress expressly prohibited full implementation of such a system in PL 111-117. Instead, it **permitted (but did not require)** the State Department and USAID to implement a "pilot program."

It would appear from the actions of both DOS and USAID in recent months that such a pilot is viewed as a precursor to a full course program. For example, during a public forum conducted on September 8, 2011, DOS and USAID officials indicated that one of the purposes of the pilot was **validation** of the risk based model. Further, the notice to which we are responding indicates that the program will **initially** be conducted as a pilot program, suggesting that it may be a foregone conclusion to expand it rather than to draw any other conclusion about it, up to and including considering abandonment as impractical and unnecessary.

Additionally, USAID, on December 7, 2011 published a Federal Register notice concerning information collection under its program which would be accomplished using a different form (AID 500-13, Partner Information Form). Even though Congressional instructions are that any such program "shall apply equally to the programs and activities" of both agencies, USAID's notice makes no mention of any requirement for limiting the scope of screening of grantees and contractors as required by the Congress. This and the accompanying burden estimates suggest that the activities of the two agencies are not coordinated.

ACCURACY OF BURDEN ESTIMATES AND VALIDITY OF METHODOLOGY AND ASSUMPTIONS USED

Nothing contained in the October 20, 2011 notice provides any basis for our understanding of the validity of the methodology and assumptions used to construct the burden estimates. We understand from the above-mentioned September 8 briefing that the intent of the pilot is to collect data from applicants and offerors for awards in five countries—Guatemala, Philippines, Ukraine, Lebanon and Kenya. However, we have no way of knowing whether the 1,250 respondents identified represent the number of entities that compete for grants and contracts to perform in those countries and what period that data covers. Since it is our understanding that there is separate authority to conduct screening in the West Bank and Gaza and in Afghanistan, we question whether the estimate includes or excludes parties involved with those locations.

However, the fact that raises the most doubt about its accuracy comes from the USAID notice of December 7, 2011 referred to above. It identifies 44,000 annual responses. Even though an earlier USAID announcement (June 17, 2011) indicated that this total represents 40,000 individuals and 4,000 organizations, such a discrepancy between the estimates about organizations from two federal agencies that are intending to implement a **coordinated pilot** program causes us to question the burden estimates. The fact that there is no published breakdown between those organizations that are assumed to be prime grantees or prime contractors versus those that are assumed to be seeking awards at the next lower tier also raises a question since involvement by such lower tier entities necessarily follows program designs that are largely unknown at this time.

OTHER COMMENTS

- **The operational details of how the Risk Management and Analysis program will actually work are not clear** and raise further questions about necessity and accuracy. For example, while indications are that affected organizations will be expected to submit data directly to a federal database, there is nothing about the timing of such entries, particularly for lower tier awardees whose involvement might be manifested

after the primary award begins. The announcement only states that the frequency of the collection is "on occasion." A further related question is whether primary grantees and contractors would be constrained from making lower tier awards which they are responsible for procuring and which will not and should not be selected prior to conducted competition until clearance comes from the federal awarding agency.

- The information collection proposes to obtain sensitive personal information about individuals (such as Social Security and Passport Numbers) and place it in a federal database. While the assertions made during the previously mentioned public forum are that this database will be secure, **there is no indication about how security will be maintained**, particularly given the need to rely on direct input from affected organizations. And given recent high profile breaches of computer security at the federal level, we believe that this feature alone is likely to result in demonstrated reluctance of legitimate organizations and the individuals who work for them to become involved in DOS and USAID funded programs. This certainly could undercut the efforts of both federal agencies to expand the universe of U.S.-based and non U.S. based (host country) organizations that participate in foreign assistance programs.

- **The information collection notice states that the "Obligation to Respond" is "Voluntary."** While no organization is forced to apply for a federal grant or make an offer to perform a federal contract, the assertion that the information collection is voluntary disregards the fact that it will be mandatory for any otherwise eligible entity to participate in an open competition to obtain a federal award.

Our members have no interest in allowing funds made available to them by the U.S. Government to support entities or individuals associated with terrorism. However, as the comments submitted here and those generated earlier, we suggest that the approach being pursued with this information collection, even on a pilot basis, is problematic in concept, design, and potential impact.

Sincerely,

Alison N. Smith
Executive Director

Enclosures

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August 16, 2011

Mr. George Higginbotham
Management Policy Analyst
U.S. Agency for International Development
1300 Pennsylvania Avenue NW, RRB
Washington, DC 20523

BY ELECTRONIC MAIL TO: regulatorypolicy@usaid.gov

Dear Mr. Higginbotham:

This letter is submitted in response to the Notice of Public Information Collection and Request for Comment on Continued Use of the Partner Information Form published in the *Federal Register* on June 17, 2011 (p. 35396).

InsideNGO is a membership association of 270 nongovernmental organizations representing finance, grants and contracts, human resources, legal and information technology staff. Our members implement a wide range of programs including, for example, humanitarian relief, economic development, civil society and health promotion programs worldwide. Many member organizations receive assistance and acquisition awards from the U.S. Agency for International Development (USAID) and, as such, are vitally interested in policies and practices affecting those awards.

As you may be aware, over the last four years, our organization has submitted multiple detailed comment letters concerning USAID's activities surrounding Partner Vetting. These letters have questioned or opposed numerous aspects of the agency's attempts to conduct this activity, raising substantive questions of legal authority, programmatic necessity, and adverse impact on critical foreign assistance objectives. None of our positions on those matters has changed. However, given that your announcement relates only to compliance with the requirements of the Paperwork Reduction Act (44 U.S.C. 35) and its implementing regulations (5 CFR 1320), this letter addresses the criteria identified in the June 17, 2011 announcement. We have three specific comment areas that are summarized here and elaborated below:

- **Whether the continuing collections of information are necessary for proper performance of the functions of the Agency, including whether the information shall have practical utility;**
- **The accuracy of the burden estimates;**

- **Ways to enhance the quality, utility, and clarity of the information collected and ways to minimize the burden of the collection of information on respondents.**

Our specific comments in each of these three areas include the following.

(1) **Whether the continuing collections of information are necessary for proper performance of the functions of the agency, including whether the information shall have practical utility**—Inside NGO believes that the *proper* performance of the functions are confined to those which are authorized by Congress. Accordingly, we assert that the original Congressional authority to conduct "partner vetting" was confined to activities in the West Bank and Gaza and that, after previous attempts on USAID's part to expand that review worldwide, Congress prohibited use of appropriated funds to implement such a comprehensive partner vetting system (Division F, PL 111-117, 12/16/09). Instead, that same legislation authorized the State Department and USAID to only engage in a "pilot" program of partner vetting. The law did not identify the dimensions of such a program.

We believe it is possible that the scope of the original implementation of that "pilot" (approved to affect 2,000 individuals and 500 organizations) may have been reasonably construed to have constituted a "pilot" program. However, the current information proposal would expand the number of individuals affected by twenty times to 40,000 and would multiply the number of organizations to be affected by eight to 4,000. We strongly suggest that this expansion exceeds any reasonable interpretation of the term "pilot" as used in the cited legislation. As evidence of that, we cite the fact that data about other approved USAID information collections show that the number of organizations planned to be affected by this proposal may constitute a significant percentage (66.66 %) of the total number of organizations that do business with USAID in assistance and acquisition matters. For example, the comprehensive information collection approved for obtaining an applicant's certification that it does not support terrorist organizations or individuals (OMB Control Number 0412-565) identifies 6,000 as the *full* number of organizations affected.

It is also instructive that the U.S. Government Accountability Office documented the need for both USAID and the Department of State to "act consistently with the funding restriction...in all their vetting efforts. (GAO-11-355, 6/8/11, pp. 26-270)" We do not believe that there is any other legislative or executive branch authority available to USAID which permits the marked expansion of the "pilot" program that is proposed in the June 17 announcement and that to do so is to go beyond the proper performance of USAID's functions.

(2) **The accuracy of the burden estimates**—Nothing contained in USAID's notice provides any indication as to the data on which the burden estimates are based. There is no indication as to which countries in which USAID-funded projects are conducted would be covered by the expanded pilot, how many USAID-funded organizations operate in those countries, how many personnel affiliated with those organizations would be affected and whether awards to lower tiers (subgrants and subcontracts) are included.

Accordingly, it is virtually impossible to judge anything from the stated numbers. The use of large round numbers (40,000 and 4,000) and the simplistic time estimate of 11,000 hours (15 minutes per transaction) stands in stark and dubitable contrast to other approved information collections (such as 617 responses for OMB Control No. 0412-0035 related to Private Voluntary Organization registration and 41,573 responses to information collection elements of the Federal Acquisition Regulation).

We continue to call on USAID to generate and the Office of Information and Regulatory Affairs within the Office of Management and Budget to require more credible burden estimate data for whatever scope of partner vetting is ultimately determined to be authorized.

(3) **Ways to enhance the quality, utility, and clarity of the information collected and ways to minimize the burden of the collection of information on respondents**—Nothing contained in the notice shows any recognition of the fact that considerable information collection about primary and lower tier federally funded organizations and some of their principals is already being pursued or planned under the requirements of the Federal Funding Accountability and Transparency Act (FFATA) and applicable regulations at 2 CFR 170 and 2 CFR 176. We submit that USAID should review those information collection activities to eliminate duplication of actions and data elements.

As you can conclude, we remain very troubled by the approach that USAID continues to take with respect to Partner Vetting. We have consistently stated and demonstrated that our members take terrorism and the need to prevent terrorist financing very seriously.

However, we also believe that the PVS as being proposed for expansion is a significant factor that threatens the success of USAID funded development and relief programs. We believe such threat to be much more tangible than the slim possibility that a terrorist individual or organization will slip through existing and rigorous PVO and NGO

screening procedures that rely on the Excluded Parties List System and the database of the Treasury Department's Office of Foreign Assets Control only to be identified by USAID using classified files and secret evidence.

Sincerely,

Alison N. Smith
Executive Director

Ms. Rhonda Turnbow
Deputy Chief Privacy Officer
United States Agency for International Development
Ronald Reagan Building
1300 Pennsylvania Avenue, NW
Office 2.12-003
Washington, D.C. 20523-2120

Subject: Comments on "Partner Vetting System"
Federal Register, Vol. 74, No 20, February 2, 2009, page 5808

Dear Ms. Turnbow:

InsideNGO is a membership organization that represents Chief Financial Officers, Chief Information Officers, Human Resources, Grants and Contracts directors, and other administrative professionals from more than 225 PVOs and NGOs that receive grants, cooperative agreements and contracts from USAID. On behalf of this membership, we express strong and principled opposition to the PVS initiative.

In our comments submitted in response to previous Federal Register notices, InsideNGO has noted that mandatory government anti-terrorist vetting of organizations and individuals is currently only authorized by Congress in the West Bank and Gaza. Expanding the scope of such vetting to all USAID offices, sectors and activities worldwide without Congressional authorization is inappropriate and undesirable for numerous reasons. Our comment letters, and those submitted by 175 fellow associations and implementing organizations - - overwhelmingly indicate basic opposition or grave concerns. We reaffirm all of the grounds cited, none of which has been satisfactorily addressed and resolved by the notice published in the January 2, 2009 Federal Register.

We were surprised that a "final rule" was issued despite the declared intention to defer the ultimate decision to the Obama Administration, but pleased to see that the comment period was re-opened for 30 days by a notice in the February 2, 2009 Federal Register in response to the Obama Administration's directive to review recently issued rules. The notice, however, states that USAID still aims to put the PVS in place on April 3, 2009. We believe the proposed worldwide expansion of mandatory government anti-terrorist vetting through the PVS mechanism as described to date is

- unjustified,
- unconstitutional,
- illegal,
- inconsistent with Obama Administration policy,

- seriously detrimental to achievement of U.S. development and foreign assistance objectives overseas, while undermining the traditional independence of the PVO/NGO community and U.S. civil society.

We further believe that the limited Privacy Act notice process used by USAID is a completely inappropriate and inadequate method of securing effective public input.

Based on the above, and as explained in more detail below, our request is for USAID to take the following actions: immediately issue a notice (1) withdrawing the Privacy Act and any related Paperwork Reduction Act proceedings; (2) restricting mandatory government anti-terrorist vetting of organizations and individuals to the West Bank and Gaza in accordance with applicable legislation; and (3) either terminating the PVS initiative entirely elsewhere or preparing and conducting a new comprehensive proposed rule meeting the minimum standards for informal rulemaking under the Administrative Procedure Act and including specific agreement language and binding Due Process and other procedures guaranteed prior to exclusion as well as effective post-exclusion remedies for affected persons.

1. PVS Is Unjustified.

a. PVO/NGOs are resolute in fulfilling their existing legal responsibility to prevent any funding or other "material support or resources" from reaching terrorists. In fact, for decades, PVOs and NGOs have designed their programs, conducted careful assessments, managed their expenditures and monitored their partners to assure funding is appropriately used by qualified organizations and personnel. Publicly available databases such as OFAC and the UNSC Committee 1267 website supplement these reviews but do not substitute for them. These systems and controls have protected the reputation of the PVO/NGOs as a safe and worthy investment of not only Federal funds, but also private contributes as well. The PVO/NGO community goes to great lengths to protect its funding.

b. The PVS is a disproportionate and ill-considered response to the purported "problem" of possible funds diversion. It seems to be designed to mitigate USAID's potential risk of criticism or adverse publicity, but does little as a practical matter to assist PVO/NGO's who already ensure that they get to know "key personnel" and prospective partners at the personal level before deciding to work with them. A classified names-based intelligence data base will not look behind proxies on boards or through aliases submitted on a form to effectively identify real terrorist links. PVO/NGOs rely on their personal connections and knowledge to more thoroughly assess the worthiness of an organization and its personnel beforehand. The PVS adds no value to this assessment (indeed, it greatly increases various other problems such as the risk of errors, controversies, claims and legal liability) and cannot be relied upon by the PVO/NGOs to mitigate their risk.

2. PVS Is of Questionable Constitutionality.

a. It is well established that excluding organizations and individuals from federal procurement and non-procurement awards without Due Process constitutes "de facto debarment" which is both unconstitutional and a violation of statutory law and established policy. Judicial decisions require prior notice of the causes of the proposed exclusion and an opportunity to rebut. The procedures described to date by USAID officials at informal meetings - - none of which, we note, have been included in any binding regulation - - fail to satisfy this constitutional and legal standard. The result will unavoidably be de facto debarment and a proliferation of lawsuits.

b. It appears that not only will the files themselves and the specific information in them be classified, but even the very existence of the match may be kept hidden from affected individuals and organizations. The "final rule" sought to take the position that denied applicants will be given an opportunity to have the decision reviewed, but without details of the match and the basis for exclusion, such reviews would appear to be meaningless. It is also not clear that an individual, or any partner or other organization below the prime tier, will have any recourse at all. Under the circumstances, no effective remedy is being provided, and Due Process as guaranteed by the Constitution is impossible.

3. PVS Exceeds USAID's Legal Authority.

a. The legislative authority for the PVS is confined to the West Bank and Gaza. This statute provides no legal authority to expand mandatory government anti-terrorist vetting to cover other programs worldwide. In fact, the restrictions in the statute and the absence of broader authority strongly imply that expansion is not permitted.

b. The other general authorities in the Foreign Assistance Act of 1961, as amended, cited by the Agency such as those relating to determining the "terms and conditions" of assistance have nothing to do with vetting and do not provide an adequate basis for the PVS. The "final rule" reads these authorities as being virtually unlimited, a construction that plainly exceeds their scope and intent.

c. No comprehensive law or Executive Order authorizes broader application of PVS. Many other federal agencies, including those such as the State Department which have superior authority to issue policy direction regarding foreign assistance, do not require worldwide vetting. The Office of Management and Budget and the FAR Councils, among others, have not directed or authorized a PVS-type mechanism government-wide. Most other agencies have not instituted systems comparable to the PVS, nor do they intend to. This clearly indicates that the PVS is not only unnecessary under the Patriot Act but also unjustified by reference to other laws or policies of government-application.

4. PVS Is Inconsistent with Obama Administration Policy.

Obama Administration policies renew focus on protection of the Constitutional rights of individuals and entail an evolution of the "Global War on Terrorism" to a more nuanced and multifaceted yet determined approach. President Obama has also committed to greater Government transparency, as stated in the Presidential Memorandum dated January 21, 2009. The PVS as described to date by USAID is directly inconsistent with all of these trends, and needs fundamental re-examination and withdrawal or significant revision.

5. PVS Will Impair Achievement of U.S. Development and Foreign Assistance Objectives Overseas.

a. The core of the PVS, as currently designed, is the use of classified intelligence data, which is also the root of our concerns. USAID's characterization of the PVS in the "final rule" as simply an "additional mechanism for USAID to use in determining the eligibility of organizations applying for U.S. funds," is untenable. Notwithstanding the potentially severe consequences of being subject to exclusion decisions, no specific and objective standards for eligibility are established; effectively, unlimited discretion is reserved to security and other officials to exclude organizations and individuals based on subjective determinations. This is a veritable formula for arbitrariness, capriciousness, and abuse of discretion.

b. Jeopardizing the trust needed to work with development partners by associating intelligence data collection with development activities is clearly detrimental to the safety and effectiveness of PVO/NGO employees. USAID's dismissal of this point in the "final rule" notice is completely unpersuasive and unrealistic. In addition to the harm caused to the organizations and individuals involved, there will also be a negative impact on development, because the effectiveness of independent civil society and other aid implementers will be impaired, thereby detracting from one of the objectives of foreign assistance, which is to mitigate or eliminate the types of circumstances that breed terrorism.

c. The public's perception that the PVS is associated with intelligence gathering, despite USAID's denial, will place humanitarian assistance PVO/NGOs in non-compliance with paragraph four of the widely applied Red Cross Code of Conduct, which states, in part, "We will never knowingly - or through negligence – allow ourselves, or our employees, to be used to gather information of a political, military or economically sensitive nature for governments or other bodies that may serve purposes other than those which are strictly humanitarian, nor will we act as instruments of foreign policy of donor governments."

d. The use of the PVS will be especially disconcerting in countries in which the host government is hostile to the NGO sector. It will serve as a model for repressive regimes which may also wish to collect personal information and "vet" partners,

funds sources, employees and anyone else associated with local NGOs. Many of these countries already insist on NGO registration, which is easily manipulated to permit local government vetting of individuals. And while the U.S. government may deem personal information from "key personnel" to be safe behind the walls of the Ronald Reagan Building, it will be dangerous in some countries to simply collect this information and convey it to the PVS portal. Our concern is with the safety of these field staff which USAID cannot assure in insisting on PVS information.

6. PVS Undermines the Independence of the PVO/NGO Community; Applying It Only to the Community is Unfair.

a. As noted above, the expansion of mandatory government anti-terrorist vetting worldwide will seriously threaten the historic autonomy of the PVO/NGO community by creating a perception that our organizations are acting as agents not only of the U.S. government in general but also of the intelligence agencies specifically. We do not believe that this is consistent with the collaborative relationship of support or stimulation envisaged and in fact required by the Federal Grant and Cooperative Agreement Act of 1977, the independence required to qualify for PVO status, or in a broad sense the independence of civil society that the U.S. government traditionally sought to foster as a key policy objective. In the past, USAID has frequently acknowledged how heavily it relies on the PVO/NGOs to implement development and humanitarian relief programs. Our ability to do so effectively - - and, in fact, the safety and security of our staff and partners in many countries in the developing world - - may be undermined by measures such as the PVS.

b. Restricting the proposed roll-out of the PVS to assistance awards which are primarily made to the PVO/NGO community is unfair. The explanations provided by USAID regarding this point are completely unpersuasive and inadequate. If the PVS were indeed as necessary and important as USAID has been characterizing it, we do not see why swift approval of its application to contractors could not be obtained. The PVS should only be applied when/if it has been approved for all types of organizations implementing all types of awards.

7. Privacy Act and Paper Work Reduction Notices are Incomplete, Inadequate and Inappropriate for Obtaining Public Input on the PVS.

a. Matters as significant as the PVS, which affect the constitutional and statutory rights of organizations and individuals, fundamental U.S. government policies, and the safety and security of implementing entities and their partners and staff, are not properly discussed with the public through the mechanism of "Privacy Act" and "Paperwork Reduction Act" notices. The contents of these notices are both highly technical and extremely skeletal. Gaps and uncertainties abound. Furthermore, such notices impose, at best, only the most limited obligations on

the government and are therefore thoroughly inadequate and inappropriate as vehicles for public dialogue on critical policy initiatives like the PVS.

b. Within USAID, consultations regarding the PVS should not be limited to such officials as the offices of Security and the Chief Privacy Officer, but should include the Foreign Service and other development professionals or senior executives whose programs will be most affected. Outside USAID, there needs to be the broadest possible debate within Congress, interest groups focusing on foreign assistance issues, and all affected implementer communities. The decision not to prepare a comprehensive document following the standard requirements for "informal rulemaking" under the Administrative Procedure Act but instead to utilize the "Privacy Act" (and to a lesser extent, the "Paperwork Reduction Act") hampered the dialogue and needs to be reversed.

c. USAID's characterization of the PVS in the Final Rule as not a "major rule," and therefore not subject to the Congressional Review Act, provides added testimony on the limited nature of USAID's engagement with the public on this issue.

d. Based on the contents of the "final rule" notice, in light of the massive number of comments received, and the fact that many of the comments raised numerous complex and difficult issues, we do not believe that USAID has either obtained effective public input or fully and fairly considered the input nevertheless received. By a copy of this letter, we are urging OMB's OIRA to engage on this to assure USAID does not attempt to initiate the PVS until all issues of concern to the public have been identified, discussed, addressed and resolved. With this goal in mind, we attach to our letter a list of additional operational questions and concerns mentioned by our members that have not been adequately addressed to date.

In conclusion, InsideNGO strongly opposes USAID's proposal to unilaterally expand mandatory government anti-terrorist vetting of organizations and individuals worldwide through the PVS system. If USAID desires to continue to pursue the initiative in some form, we ask that a comprehensive rulemaking be prepared with full details on the procedures to be followed and the rights and remedies of affected individuals at each stage. Implementing the PVS based on the current "final rule" notice would be unfair, improper and even counter-productive. InsideNGO and its members take terrorism and the need to prevent terrorist financing very seriously. Nevertheless, it is clear to us that the PVS as currently described is a threat to the success of USAID's development and relief programs and indeed is a much tangible one than the slim possibility that a terrorist will slip through the existing PVO/NGO screening systems only to be identified by the USAID Office of Security in the course of government vetting against classified files and secret evidence.

Sincerely,

Alison N. Smith
Executive Director
InsideNGO

Encl.: a/s

cc: Susan Dudley, Administrator OIRA (sdudley@omb.eop.gov)
David Rostker, Desk Officer for USAID, OIRA (drostker@omb.gov).

APVOFM

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January 4, 2008

Mr. David Rostker
Office of Information and Regulatory Affairs
Office of Management and Budget
Washington, DC 20503

BY ELECTRONIC MAIL TO: David_Rostker@omb.eop.gov

Dear Mr. Rostker:

This letter is in response to a notice published by the U.S. Agency for International Development (USAID) in the *Federal Register* on December 5, 2007 (72 FR 68553) concerning a proposed information collection which is subject to review by your office under the Paperwork Reduction Act of 1995. It relates to collection of a document proposed to be called "Partner Information Form" which USAID asserts will collect personal information on "approximately 2,000 individuals and/or officers of non-governmental organizations" whose organizations seek to obtain contracts, grants, cooperative agreements or other funding from USAID. For numerous reasons identified below and in previous direct correspondence with USAID (copies of which are included herewith) the Association of Private Voluntary Organization Financial Managers (APVOFM) is opposed to this information collection.

The APVOFM represents the chief financial officers and other administrative personnel of more than 190 organizations that are engaged in international humanitarian, public health, economic development, and civil society projects worldwide. Many of these organizations receive significant numbers of awards directly from USAID as well as subawards from other entities that are direct USAID award recipients. Accordingly, we are vitally interested in all administrative procedures that USAID seeks to institute whether they relate to organizational registration, pre-award submission and screening or post-award management and oversight. As evidence thereof, you may recall that the Association was intensively involved in commenting to USAID and to OIRA concerning USAID's December 20, 2004 proposal to require "marking" of project sites, supplies and equipment purchased in whole or in part with USAID funds. Further, representatives of the Association participated in a "listening meeting" conducted by your office in June, 2005 during which strong objections were raised to those proposed regulations and to the information collections they would have mandated. That experience in which OIRA clearly caused many positive changes in the USAID proposal provides us hope that, when the merits of the current information collection proposal that is the subject of this letter are considered at your office, you will conclude that USAID should withdraw its proposal or substantially overhaul it.

As noted above, we have previously submitted detailed letters to USAID concerning its proposed information collection and have included them with this letter. We understand that USAID was required to submit a summary of the comments that it received in response to its *Federal Register* notices of July 23, 2007 and October 2, 2007. However, we believe that OIRA should review the full texts of the letters submitted by all commenters in response to those earlier notices in order to fully understand and appreciate the comprehensive list of valid reasons why the proposed information collection is unnecessary and burdensome and so poorly conceived that it cannot hope to achieve its stated objective of assuring that USAID funding does not support entities or individuals associated with terrorism. Accordingly, we ask that you review our earlier letters and treat them to be part of our specific comments submitted in response to the December 5, 2007 notice.

Our specific comments are:

- **Necessity of the Information Collection**—It has been and continues to be our strong contention that the proposed information collection is not necessary for the proper performance of the functions of the agency. While Congress enacted a statutory provision requiring so-called "partner vetting" for USAID-funded activities conducted in the West Bank and Gaza, no similar provision was imposed on the other activities of the agency conducted world-wide. Further, there is no similar provision imposed on the federally funded activities of any other federal awardmaking agency. Apparently, in the view of Congress, the proper performance of the functions of USAID and of every other federal agency can be conducted without such "vetting" activity or any information collection associated with it. Further, according to USAID's own Inspector General (Semi-annual Report to Congress for the period October 1, 2006-March 31, 2007), there is no evidence that agency funding has gone to terrorist organizations. The proposed system and its information collection are therefore in the nature of a solution in search of a problem.

  We continue to assert that sufficient legal authority for the proposed information collection is lacking. USAID has cited the general legal authority of the Foreign Assistance Act for the USAID Administrator to operate the foreign assistance program, enacted in 1961, as justification for the activity. However, we strongly suggest that the absence of specific subsequent authority to conduct the activity, given more recent adoption of terrorism-related policies such as the PATRIOT ACT and Executive Order 13324, demonstrates that the argument that the information collection is necessary is without merit. Further, reliance on an authority enacted in 1961 is inadequate given the need to reconcile in a transparent manner the impact of the proposed system on civil liberties and laws of other countries.

- **Accuracy of Burden Estimates**—Throughout the period during which USAID has been publishing notices related to its "Partner Vetting System" and despite contrary information submitted by organizations potentially affected, the agency has asserted that its information collection will involve "approximately 2,000 individuals and/or officers of non-governmental organizations." At this stage of the process, the only appropriate comment about the accuracy of USAID's burden estimates is that they are completely without basis and are especially disturbing given the numerous comments made in previous responses to public notices by PVOs and other affected practioners.

  The "Partner Information Form" drafted by USAID calls on for coverage of "key individuals" which include "(i) the principal officers of the organization's governing body (e.g., chairman, vice chairman, treasurer, and secretary of the board of directors or board of trustees); (ii) the principal officer and

deputy principal officer of the organization (e.g., executive director, deputy director, president, vice president); the program manager or chief of party of the **USG-financed** (emphasis added) program; and any other person with significant responsibilities for administration of the **USG-financed** (emphasis added) activities and resources. The characterizations in these descriptions demonstrate the lack of care and accuracy that USAID has exercised in developing its proposal. For example, the identification of the first two categories as "officers" of the organization is inconsistent with fundamental legal principles affecting non-profit tax-exempt organizations set out by the Internal Revenue Service. The careless and overly-broad use of the adjective "USG-financed" belies the fact that the proposed information collection relates to USAID and not to other federal agencies (such as the Departments of State, Health and Human Services, and Labor) which also award to the potentially affected non-governmental organizations. However, it is in the simple arithmetic related to the subject individuals where USAID's estimates are fatally flawed.

Even if one were to assume that an affected organization has or seeks only one award from USAID, the minimum number of individuals on which information would have to be reported would be seven (four board members, two members of senior management, one project director or chief of party). Using USAID's estimate of 2,000 individuals as the dividend and seven as the divisor, the number of organizations estimated to be affected would be 286. We do not possess the numbers of current active USAID grants, cooperative agreements, and contracts nor do we have the number of entities that have sought such awards unsuccessfully. Apparently, neither do the USAID officials who developed the estimate. However, even using the fact that there are approximately 541 organizations registered as private voluntary organizations pursuant to 22 CFR 207, the resulting total of individuals would reach 3,787. We submit, based upon knowledge of our own membership, and the multiple countries, solicitations, awards in which many of them are involved, that the number would exceed 10,000. When factoring in the possibilities of information collections because of personnel changes and a reasonable interpretation of the term "any other person with significant responsibilities for administration," we suggest that the number will go even higher. Finally, the lack of clarity as to whether the vetting requirement and information collection will flow through to subgrantees and subcontractors and those organizations seeking those awards shows the breadth of the activity is unknown to USAID. We believe that USAID does not have complete or accurate data on subawards or subcontracts, or the means of collecting it. While we obviously would prefer for OIRA to disapprove USAID's request completely, we submit that it should, at a minimum, require the agency to develop estimates that have a basis in reality before letting them go forward with any information collection.

3. **Ways to enhance the quality, utility, and clarity of the information collected and to minimize the burden on respondents**—In one of our earlier letters to USAID on this subject, we expressed the concern that a discussion of these aspects of the information collection assumed that the information involved must be collected. We renew those concerns along with the suggestion that USAID consult with other federal agencies that are involved in collection of information about contractors and grantees and in terrorism screening to determine whether their activities can be coordinated or folded together to avoid duplication of effort and burden. We suggest that the Central Contractor Registry, operated by the General Services Administration, which requires all direct contractors and grantees to register with the federal government using similar data to that contained on the Partner Information Form, and the listings compiled by the Office of Foreign Assets Control in the U.S. Treasury Department would be worthwhile places to start such an effort. The merit of such an approach is shown by the facts that five federal regulatory agencies with oversight responsibilities for financial institutions have managed to coordinate screening of suspicious financial activities through the Financial Crimes Enforcement Network and that

the Government Accountability Office (GAO) provided testimony to the House Committee on Homeland Security on November 8, 2007 in which they made recommendations to further promote a comprehensive and coordinated approach to terrorist-related screening. It is highly questionable whether USAID must establish a separate free-standing effort for screening for terrorists when so many other screening activities are being conducted by other federal agencies with greater knowledge, capability, and experience in this area.

4. **Request for a Meeting with OIRA and USAID**—This Association supports the objective of seeing that no USAID funds support individuals or organizations associated with terrorism. In fact, we support the objective of assuring that no funds received and expended by our members, **from any source**, do so. However, as this letter and the additional material submitted with it demonstrate, we believe that the proposed "Partner Vetting System" and the attendant potential information collection associated with it are unwarranted, poorly conceived, ineffective and burdensome. We also suggest that more sensible approaches to solving the perceived problem could be developed through dialogue with OIRA and USAID in which the detailed realities of the affected organizations, their programs, locations, governance, and staffing are explored. Accordingly, we ask that OIRA convene a meeting similar to the one it conducted on June 28, 2005 related to USAID's proposal for "marking" and that this Association and others representing the potentially affected parties be permitted to send representatives who can knowledgably address these matters.

Thank you for the opportunity to express our views. We look forward to the possibility of further dialogue with OIRA and USAID.

Sincerely,

Alison N. Smith
Executive Director

APVOFM

Association of PVO Financial Managers

Financial and Management training and information
For private voluntary organizations worldwide

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November 29, 2007

Mr. Jeff Denale
Coordinator for Counterterrorism
Office of Security
United States Agency for International Development
Ronald Reagan Building
1300 Pennsylvania Avenue NW
Washington, DC 20523

BY ELECTRONIC MAIL TO: jdenale@usaid.gov

Dear Mr. Denale:

This is a letter of comment concerning the Notice of Public Information Collection which was republished on October 2, 2007 in the *Federal Register* (72 FR 56041-4) and which relates to collection of information in connection with a proposal by USAID to implement a "Partner Vetting System."

The Association of Private Voluntary Organization Financial Managers (APVOFM) is a membership organization that represents the chief financial officers, grants and contracts directors, human resource managers and other administrative professionals of more than 190 organizations engaged in international humanitarian, economic development and civil society programs worldwide. Our member organizations are the recipients of hundreds of USAID grants, cooperative agreements and contracts and include most of the participants in USAID's Food for Peace (PL 480) program. . Accordingly, we are vitally interested in all administrative matters that affect these programs including the collection of information through applications, proposals and reports. This is the fourth letter that we have transmitted to USAID on subjects related to the proposed "Partner Vetting System." These include:

- a letter in response to a *Federal Register* notice published July 17, 2007 proposing the Partner Vetting System;
- a letter in response to a *Federal Register* notice published July 20, 2007 proposing to exempt the system from numerous statutory protections afforded to individuals under the Privacy Act of 1974; and
- a letter in response to a *Federal Register* notice published July 23, 2007 concerning public information collection.

In each of these letters, we have presented numerous objections to the development of the subject system and to collection of information pursuant to it. Accordingly, we are resubmitting all three in their entirety as an attachment to this letter in view of the fact that the October 2, 2007 notice did little to change the substance of the USAID proposal to collect information. Our concerns about the four Paperwork Reduction Act-based criteria listed in your announcement that were expressed in that letter have not materially changed. We specifically request that the subject letter be made a part of the public record related to your October 2, 2007 notice and that it be included in any material which your office subsequently provides to the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget in connection with this proposed information collection. We are also providing you with copies of the other letters which we submitted in case they have not been provided to you by other USAID units.

Inasmuch as your publication of the October 2 notice was apparently accomplished because of the development of a proposed "Partner Information Form," we are submitting supplemental comments concerning the proposed data elements in that form, the proposed instructions, and the statements on the proposed document concerning public burden and the authority to collect the subject information. In the course of each of these comments, we address certain relevant Paperwork Reduction Act criterion(a).

- DATA ELEMENTS—The information identified in Part I, Questions 1 and 5, if collected, would likely be duplicative, in the case of a primary recipient and its personnel. Further, the form and its instructions do not make clear, based on the distinctions contained in Question 2, whether the form is completed by the primary awardee covered in Question 1 for itself and its subawardees or whether it is simply to pass the form along to subgrantees or subcontractors (if such parties are to be involved or if they are known at the time of submission) for their completion. This is particularly evident because of the fact Question 5 asks for address and contact information about whatever entity is to be covered by that question. In sum, the form and its instructions do not make clear who is completing each response.

  The term "key individuals associated with the organization" contained in Question 6 is not sufficiently defined in the instructions, particularly because two of the examples given rely on the introductory abbreviation "e.g.,". Further, the phrase "any other person with significant responsibilities for administration of the USG-financed activities or resources" is ill-defined and ambiguous. Accordingly, we assert that Items i, ii, and iv in the instructions for Question 6 would result in open-ended information collection requests that will result in wholesale unevenness in the responses of affected parties. As such, the responses will have little practical utility while imposing significant burden on respondents. Further, the proposed reliance on the adjective "key" which is used in other contexts in federal contracts and grants to identify "positions that are essential to successful implementation of the award" [See ADS 303.3.11(b)] is highly problematic and confusing. It is abundantly clear that USAID has not effectively thought these concepts through because the response required in Question 6 of the form itself includes the need to mandatorily complete the block labeled "Rank or title in organization listed in #5 **(if "key individual")** [our emphasis added]. Inasmuch as

Question 6 is only about "key individuals," we question who else could USAID be referring to as required to respond to this inquiry?

- PUBLIC BURDEN ESTIMATE—Despite the fact that our earlier letter in response to USAID's July 23, 2007 information collection notice fully addressed the issue of the accuracy of the burden estimates, we must re-emphasize our objections here based on the information retained in the October 2 announcement and on the proposed form. The estimate that each response to the request for information will average 15 minutes has no basis because the number of individuals about whom the information would need to be gathered for each response is, as noted above, ambiguous and variable. The assertion contained in the October 2, 2007 announcement that there will be 2,000 responses affecting 2,000 respondents is equally unrealistic. This estimate represents a fundamental miscalculation of the number of organizations with which USAID is doing direct acquisition and assistance business and the number of subgrantees and subcontractors with which those organizations, in turn, are involved. Certain member organizations of our Association have enough subgrantees worldwide, **individually**, to render USAID's estimates inaccurate, **all by themselves**. Such inaccuracy is so pronounced that we believe it alone constitutes grounds for the Office of Information and Regulatory Affairs to disapprove USAID's information collection request, pursuant to 5 CFR 1320.

- PRIVACY ACT STATEMENT—In letters sent to USAID's Privacy Act official in response to announcements published in the July 17, 2007 and July 20, 2007 editions of the *Federal Register*, we strongly challenged USAID's authority to develop and implement the Partner Vetting System. Accordingly, we cannot let stand, without similar comment, the assertions, in the "Privacy Act Statement" contained in the proposed form. There, USAID states that "applicable laws and implementing procedures" require the type of screening that is anticipated under the proposed Partner Vetting System and this information collection request. Yet no other federal awardmaking agency, including those with international programs, has attempted to become engaged in such procedure. This is true despite the fact that they are covered by the same executive orders and Homeland Security directives cited. In the face of that fact, to state that the information collection is required is without merit. The statutory section so fully cited in the Notice relates only to activities in the West Bank and Gaza and does not extend elsewhere. And the "other legislative and executive branch prohibitions" which are mentioned are not specifically identified. Accordingly, they have no veracity and are therefore to be discounted. We further assert that the "broad discretion" provided to USAID under the Foreign Assistance Act and which is cited as part of the rationale for this information collection does not extend to taking actions such as those that would take place under the proposed Partner Vetting System which so clearly contradict the letter and spirit of the Paperwork Reduction Act and its implementing regulations.

  As stated in other communications with USAID, we support the objective of seeing that USAID funds and its funded activities do not support entities or individuals associated with terrorism. However, we believe that the proposed Partner Vetting System and the

proposed information collection on which it would be based is unwarranted, poorly conceived, and excessively burdensome and do not believe that it would achieve the desired objective. Rather it stands to destroy what Foreign Assistance has taken so many years to build.

Sincerely,

Alison N. Smith
Executive Director

APVOFM

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August 27, 2007

Mr. Philip M. Heneghan
Chief Privacy Officer
United States Agency for International Development
1300 Pennsylvania Avenue NW
Office 2.12-003
Washington, DC 20523-2120

BY FAX (703) 666-2466 and by ELECTONIC MAIL TO: privacy@usaid.gov

RE: Notice, Privacy Act system of Records, Federal Register, Vol. 72, No 136, July 17, 2007, pages 39041-39044

Dear Mr. Heneghan:

This letter is in response to the announcement, published in the *Federal Register* of July 17, 2007 (pp.39042-4) proposing to establish a "Partner Vetting System" which would collect and maintain information related to individuals and organizations applying for USAID assistance or acquisition awards.

The Association of Private Voluntary Organization Financial Managers (APVOFM), a membership organization that represents the chief financial officers, grants and contract directors, and other administrative professionals from more than 190 organizations that receive grants, cooperative agreements and contracts from USAID, expresses strong opposition to this effort. APVOFM on behalf of our members, urges USAID to withdraw the subject proposal for the following reasons.

1. **Absence of Underlying Programmatic Necessity**—There is no evidence that USAID funding has been flowing to terrorist organizations. In fact, the agency's Office of Inspector General submitted this conclusion to Congress in its most recent required Semi-annual Report covering the period October 1, 2006 through March 31, 2007. On page 18 of the subject report, the OIG stated, "OIG oversight activities during this period did not identify any instances where terrorist organizations received USAID funds."

2. **Absence of Underlying Legal Justification**—USAID's regulation implementing Office of Management and Budget Circular A-110 governing administration of grants and cooperative agreements to U.S. non-governmental organizations and commercial entities states clearly and explicitly in 22 CFR 226.1 that "USAID **shall not** (emphasis added) impose additional or inconsistent requirements except as provided in Sections 226.4 and 226.14, or unless **specifically** (emphasis added) required by Federal statute or executive order." Collecting extensive personal information about individuals who work for grant applicants or recipients is not authorized by existing requirements of 22 CFR 226, which is quite explicit about

information collection requirements as it relates to both applications (22 CFR 226.12) and post award performance and financial reports (22 CFR 226.51-52).

We find that there is no requirement to make this departure. There is no specific statutory requirement to take this comprehensive action in law that affects USAID exclusively. Neither is there such a requirement in law that is more broadly based, such as the USA PATRIOT Act. Further, Executive Order 13324 does not explicitly require such a step. If such a requirement were present in the latter two sources, Partner Vetting would be an activity that every federal award making agency would be taking.

3. **Absence of Office of Management and Budget Clearances**—The USAID assistance administration regulation cited above also contains several provisions that require USAID to obtain Office of Management and Budget permission or clearance before adding more stringent or burdensome requirements on grantees than those that are authorized by OMB Circular A-110. We see no evidence that any of these clearances have either been considered or obtained. They include:

   --Class Deviations (22 CFR 226.4)—The relevant section of the regulation states, "The Office of Management and Budget (OMB) may grant exceptions for classes of grants or recipients subject to the requirements of this part when exceptions are not prohibited by statute. However, in the interest of maximum uniformity, exceptions from the requirements of this part shall be permitted only in unusual circumstances. USAID may apply more restrictive requirements to a class of recipients **when approved by OMB** (emphasis added). Such approval is to be obtained from OMB's Office of Federal Financial Management (OFFM).

   --Forms for Applying for Federal Assistance (22 CFR 226.12)—USAID is required to comply with the applicable report clearance requirements of 5 CFR 1320, entitled "Controlling Paperwork Burdens on the Public" when it imposes information collection requirements on ten or more organizations or individuals in the general public that go beyond those authorized in OMB Circular A-110. These regulations were issued pursuant to the Paperwork Reduction Act (as amended). The Standard Form 424 series contains no information collection requirements related to data about individual staff members. We strongly assert that to require such submission in the level of detail (e.g., individual social security numbers, etc.) outlined in the July 17 proposal requires a clearance by the OMB's Office of Information and Regulatory Affairs (OIRA) that has not been obtained.

   --Performance and Financial Reporting Requirements (22 CFR 226.51-2)—These regulatory sections, which impose requirements for assistance recipients to submit periodic reports to USAID, mirror the application requirements cited above with their specific reference to the Paperwork Reduction Act regulations. Accordingly, any effort to collect such information from recipients in a post-award setting, such as those related to prior issued awards or where updating of information submitted at the application stage is deemed necessary would require a similar OIRA clearance, which has not been obtained.

4. **Absence of GAO Recommendations Concerning Expansion of Vetting Beyond the West Bank and Gaza—** The announcement concerning the proposed Vetting System makes reference to the statutory requirement for extraordinary procedures that applies to the West Bank and Gaza. In so doing, it mentions a report issued by the Government Accountability

Office (GAO) concerning its review of that activity. The announcement states that GAO "identified processes and procedures that could be improved and streamlined with the use of additional information technology. The PVS is being created, in part, as a result of these recommendations and will assist not only the mission for WBG in better tracking and managing the overall vetting process, but all locations in which USAID has or will have a program." However, a complete review of the GAO report (GAO-06-1062R, September 29, 2006) shows that GAO confined its work and its recommendations exclusively to the West Bank and Gaza and made no comments on the need for vetting elsewhere.

5. **Adequacy of Governmentwide Certification Systems related to Employer Identification, Central Contractor Registration, Suspension and Debarment and Terrorist Financing—** The systems maintained by the General Services Administration, related to suspension and debarment, and the Treasury Department's Office of Foreign Assets Control, regarding terrorist financing, appear to have been fully adequate for pre-award screening as demonstrated by such conclusions as those of the USAID inspector general cited above. Also, information required to be submitted by grantees and contractors who are individuals, through use of the DUNS number and the Central Contractor Registration (CCR) process does not need to be duplicated in this proposed system of records. The current procedures related to terrorist financing have been in place government-wide for over five years with no apparent need for expansion or modification.

6 **Data Security** Under the proposed system, paper records would be generated and maintained at USAID regional locations. It has not been demonstrated that data security at these locations has been considered and can be maintained. GAO was critical of this aspect of the operation of the program in West Bank and Gaza and while improvements have apparently been instituted, follow-up assessment of their adequacy has not occurred.

Another potentially faulty security feature of the system is that "authorized USAID contractors" would have access to the data involving other contractors and all grantees. That raises a question as to whether a function that should be performed only by federal employees is being delegated to certain contractors. The adequacy of the controls instituted over their activities (use of security clearances and certifications) is also subject to question. Highly publicized breaches in data security in agencies that have considerably more experience than USAID in collecting personal information about those with government business (for example, the Departments of Veterans Affairs and Education) suggest that any system used in a highly decentralized environment like that involving USAID must do more than is apparently contemplated to protect personal information.

7 **Chilling Effect**---Knowing that sensitive personal information as that proposed will be stored within a system that is decentralized and to which unknown contractors and agencies will have access, could well have a chilling effect on individuals choosing to be on PVO/NGO Boards of Directors, individuals choosing to work in the PVO/NGO sector, and companies wanting to do business with the PVO/NGO community.

Since PVO/NGOs are the most effective way USAID has to implement its foreign policy agenda, it is especially disconcerting to see it propose processes and systems that can well discourage PVOs, NGOs, universities and colleges and for-profit firms from engaging in international work.

8 **Lack of due process**—USAID is proposing that information collected on individuals from law enforcement and intelligence agencies be exempted from the Privacy Act of 1974, thereby denying their rights of access and ability to challenge the accuracy of the information in the records. As such, the PVS tramples on the due process and privacy rights of individuals whose information would be collected and processed through the system. In addition, PVO/NGOs may be barred from PVO registration or receiving awards without an explanation or any recourse.

That USAID would not "confirm or deny that an individual 'passed' or 'failed' screening" (*Federal Register July 20, 2007 (pp. 39769-10)* puts applicants in an untenable position. Further, NGOs can expend upwards of $100,000 to respond to RFAs or RFPs. To incur such an expense for a process in which the organization may not even qualify is wasteful, unfair, and prone to abuse without any means for accountability.

9 **Undue Burden**—Organizations receiving or applying for funding from USAID would find providing information such as that indicated in the notice extremely burdensome. The number of hours required to compile and keep up to date such information would require an enormous amount of effort as that information is not currently compiled. In an era when USAID and other funders are wanting organizations to reduce non programmatic expenses, the Partner Vetting System as currently described would add significantly to such costs both within the government and at the implementing agencies. The proposed vetting system, as currently conceived, has not adequately assessed the cost of collecting and maintaining the information or the benefit of doing so.

10 **Violation of Agency Policy and Legal Protection**--Organization policies at many agencies expressly prohibit their organization from providing personal information to outside parties. Gathering this information and providing it to the US Government or outside parties in countries in which our members and employees work could very well violate local laws. Further, such policies would require PVO/NGOs to obtain legal counsel in each impacted country.

11 **Safety and Security Concerns**—The safety and security of employees could be jeopardized if USAID-funded organizations are perceived to be extensions of US law enforcement. The actual and perceived independence of the PVO/NGO community is critical to its ability to execute programs funded by both private and US Government funds.

12 **Lack of consultation**--We find it especially troublesome that USAID would collect and maintain information about individuals from the USAID Partner community without full consultation with those Partners, or follow the appropriate rule-making process that would allow for such consultation. This approach directly contradicts commitments voiced by the Administrator-designate Henrietta H. Fore in her June 12, 2007 testimony to the Senate Foreign Relations Committee, to consult with the affected community on matters of importance.

The July 17 notice, and the two related Federal Register notices published shortly thereafter, allow barely six weeks for comment, and offer little information about the system itself. Moreover, to request comments during the height of summer vacation, and to have the system take effect the date that comments are due, indicates no real desire to consider the comments submitted.

> Further, USAID established a Partners Day Forum four years ago during which USAID meets with its partners to update and discuss issues of importance. At no time during any of our past meetings, including one on June 6, did the mention of a partner vetting system get raised or discussed. It was only by reading the Federal Register Notice that our community learned of this proposal. No effort was made to alert the Partner community about the notice.

We strongly urge USAID to withdraw the Partner Vetting System proposal. This Association will closely monitor all aspects of policymaking and implementation and will, at every juncture, do everything we can to pursue privacy protection, burden reduction, and administrative realism.

In the future, APVOFM urges USAID to follow the negotiated rule-making process under the Administrative Procedures Act when proposing or establishing new policy initiatives. This process would allow for consultation and the exploration of practical, programmatic implications of policies and proposals to be fully considered before implementation.

Sincerely,

Alison N. Smith
Executive Director

cc. Henrietta Fore, USAID
Susan Dudley, OIRA
David Rostker, OMB
Art Fraas, OMB
The Honorable Patrick J. Leahy
The Honorable Christopher Dodd
The Honorable Joseph R. Biden
The Honorable Richard G. Lugar
The Honorable Nita M. Lowey
The Honorable Tom Lantos