



The largest alliance of U.S.-based international nongovernmental organizations focused on the world's poor and most vulnerable people.

December 19, 2011

Submitted electronically via vazquezeh@state.gov

Edward H. Vazquez
U.S. Department of State
2201 C Street, N.W., SA-15 Room 3200
Washington, D.C. 20520

RE: Notice of Public Information Collection | 76 Fed. Reg. 203
Risk Management and Analysis (RAM) | DS-4184

Dear Mr. Vazquez:

On behalf of InterAction, the largest alliance of U.S.-based humanitarian and international development non-governmental organizations (NGOs), I am submitting comments on the Risk Management and Analysis form that the U.S. Department of State intends to use for the joint Partner Vetting System (PVS) pilot program with the United States Agency for International Development. I'd like to first address the request for comments on "the accuracy of [the] estimate of the burden of the proposed collection" and then I will answer "whether the proposed information collection is necessary for the proper performance of [agency] function" by outlining our principal concerns with the use of PVS around the world.

Our members, nearly 200 U.S. NGOs, operate worldwide, leveraging more than \$10 billion in private funding alongside \$3 billion in federal funds to help the world's poor and vulnerable peoples to rebuild their lives and communities. As stewards of these resources, we share the State Department's commitment to ensuring that charitable funds are effectively delivered to those in need and not diverted in contravention of the law and national interests. In fact, in order to maintain their charitable status and receive contributions from the public, U.S. NGOs have systems in place to ensure that no funds are misappropriated for any reason, let alone terrorism. Further, NGOs that implement State Department or USAID funded humanitarian and development assistance programs are required to certify that they will not knowingly provide funds or material support to any individual or organization that advocates or commits terrorism; thereby requiring them to check the names of staff and sub-recipients against the master list of Specially Designated Nationals and Blocked Persons maintained by the Department of Treasury's Office of Foreign Assets Control (OFAC), the State Department and FBI exclusion lists, as well as the list of debarred and suspended parties. Many also check staff and sub-recipients against the UN 1267 Committee Consolidated List and the European Union List maintained by the Bank of England.

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NGOs rely on relationships built over decades of experience partnering with local communities to ensure that their employees and sub-grantees are not affiliated with terrorist or criminal organizations. Common practices of pre-award due diligence used by many organizations include reference checks of individuals and partner agencies; program and site visits and personal interviews; asking for lists of other donors, partners and prior experience etc. More than mere list checking, these exhaustive processes allow NGOs to have substantive understanding about the people with whom they work.

These systems have effectively screened hundreds of thousands of potential employees and sub-grantees over many decades. There has been little evidence provided to indicate that these due diligence activities are ineffective. Clearly, NGOs are working to ensure proper performance and appropriate use of funds. The State Department and USAID requiring NGOs to engage in the collection of additional, often personal, information of employees and partner organizations, for the agencies' use in connection with the non-public database is an unnecessary burden for NGOs, particularly since the non-public list used by the State Department and USAID has been criticized for inaccuracy.

It is impossible to judge the accuracy of the burden estimate listed because the parameters of the pilot program have not yet been made public. In fact, in a public meeting held on September 8, 2011 by officials from the State Department and USAID to introduce the public to the PVS pilot, information sheets stated that the specifics of the pilot were still being designed by an interagency team. Without any knowledge of, for example, the number and types of grants that will be vetted in the five pilot countries based on the undefined "risk-based model" and the timing of the vetting e.g. each time new staff are added, with each funding renewal, or simply upon first application, the burden is unclear. The certification on the form also states that the authorizing official must take "reasonable steps in accordance with sound business practices" to verify the information without defining what that means. Thus the amount of time necessary to do so cannot be estimated. Further, the public meeting materials state that the pilot's "projected outcomes" include "collection of data on the number of grants and contracts impacted by vetting and financial information to conduct a cost/benefit analysis," suggesting that there is no basis yet for making a true estimate of the burden.

Since the program was Congressionally-mandated as a joint pilot with USAID, we were disappointed to see that each agency is developing a unique form. This represents an increased and unnecessary burden on respondents. Form DS-4181 also solicits information about Afghanistan projects, though Afghanistan is not a pilot country. We maintain that the appropriations language cited as the authority for the information collection bars the agencies from expanding the PVS program outside of the pilot



countries and we are concerned that these Afghanistan information requests represent intent to continue the expansion of PVS activities during the pilot phase.

In the materials provided to the public in September, the State Department and USAID present expansion of the pilot program as a foregone conclusion, stating that a projected, “expected outcome” is the “validation of [the] risk-based model.” We believe this is not in the spirit of an effective pilot program, as intended by Congress. Our community would like to participate in a robust evaluation of the program and we encourage the State Department and USAID to plan an effective and independent evaluation phase before considering any expansion of the pilot.

InterAction and its members have continuously objected to the global implementation of partner vetting in its current form and have requested a dialogue with the State Department and USAID to determine whether we can find a compromise that meets the agency’s needs while protecting our employees and partners.

Our key objections highlight the ways in which gathering this information adversely affects both the federal government and our members:

1) Perception of NGOs as intelligence sources for U.S. government versus independent and neutral actors

Many of USAID’s foreign assistance programs are effectively achieved through people-to-people, nongovernmental interaction. To carry out the goals of such programs, U.S. NGOs that share knowledge, information and experience with indigenous groups and individuals must maintain their independence and neutrality. In many highly polarized political environments, where accusations that foreign governments are undermining the host country’s sovereignty are common, protection of neutrality and independence are critical. Since the employees of NGOs and local partner organizations could be vetted against secret lists maintained by the U.S. government intelligence agencies and have their information permanently collected, the likely perception overseas could be that the American NGOs are direct, intelligence-gathering sources for the U.S. government. This perception could put into jeopardy the trust-building process that is central to NGO work as well as the basic principles of NGOs and their programs – neutrality, trust and independence.

2) Increased security risk for staff and local partners.

We are concerned that the Partner Vetting System puts State Department and USAID personnel and officials and partner employees and local partners at even greater risk. The perception, described above, that NGOs collecting the personal information are operating as an extension of U.S. law enforcement and intelligence agencies, undermines the basic principles of acceptance, neutrality and trust upon which NGOs rely to preserve the safety of their staff and operations, particularly in dangerous regions or in politically sensitive environments. Rather than “enhancing” security, requiring NGOs to collect and turn-over personal information to the U.S. government increases the risk of violence against staff.



3) *Discouraging international and local partners to work with U.S. NGOs.*

The requirement to provide personal data to the State Department and USAID and the knowledge that information is being coordinated with intelligence sources and maintained in inaccessible records serves as a deterrent for both U.S. citizens and foreign nationals to work for federally-funded organizations and could ultimately impact organizations' ability to recruit experts and implement programs. The legal implications for international NGOs that are important partners in the State Department and USAID's work cannot be understated when and if they are forced to contravene foreign laws for non-American employees.

4) *Administrative burdens that duplicate existing screening processes.*

The collection and maintenance of the vast amounts of personal data required by the PVS requires organizations to develop secure data management systems and to hire additional staff to manage the data and process. The costs for such resources are significant and are often not covered as an allowable grant expense. To alleviate this burden the agencies should, at the very least, work to coordinate the various reporting requirements or utilize similar screening mechanisms already in place.

We recognize the external pressures on USAID and the State Department to address the risks of diversion in the strongest possible manner. However, we continue to assert that the PVS is not adequately designed to protect NGO workers and partners and represents an unwelcome redefinition of the relationship between our community and the federal government, endangering critical aid and development work and consequently harming U.S. national interests. We encourage the State Department and USAID to engage the U.S. NGO community in a dialogue so that we can develop a solution. PVS as currently defined represents too great a risk for too little reward. Thank you for the opportunity to publically voice such concerns.

Best regards,

A handwritten signature in black ink that reads "Samuel A. Worthington".

Samuel A. Worthington
President and CEO