



Carolyn Miles
President &
Chief Executive Officer

February 17, 2012

To: Office of Information and Regulatory Affairs
Submitted electronically via oira_submission@omb.eop.gov

U.S. Department of State Desk Officer
Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th Street, N.W.
Washington, D.C. 20503

Re: 30-Day Notice of Proposed Information Collection | 77 Fed. Reg. 11
Risk Analysis and Management (RAM) | DS-4184, OMB Control #1405-XXXX

Please accept these comments on behalf of Save the Children Federation, Inc. (Save the Children), the leading independent organization creating lasting change in the lives of children in need in the United States and around the world. Recognized for our commitment to accountability, innovation and collaboration, our work takes us into the heart of communities, where we help children and families help themselves.

Background:

In Fiscal Year 2010, we received revenues of \$542 million, with \$187 million received from U.S. government sources to support health, education and humanitarian assistance programs around the world. As stewards of these resources, we share in USAID's commitment to ensuring that funds are effectively delivered to those in need and not diverted in contravention of the law and national security interests. In fact, in order to maintain our charitable status and receive contributions from the public, Save the Children has systems in place to ensure that no funds are misdirected for non-charitable purposes (not just ensuring against providing support to prohibited parties).

Further, Save the Children is required to certify that it will not knowingly provide funds or material support to any individual or organization that advocates or commits terrorism; thereby requiring us to engage in due diligence in connection with our hiring, grant-making and educational endeavors in the U.S. and around the world. We work in the community, often partnering with local organizations and hiring locally to maximize on-the-ground knowledge and engage in a robust due diligence process before engaging partners, including financial due diligence, reference checks of individuals and partner agencies, program and site visits and personal interviews, and identifying a potential recipient's past projects and partners. More than mere list checking, these processes allow us to have substantive understanding about the people and organizations with whom we work.

Comments:

It is impossible to determine whether or not the proposed information collection activity by USAID, (the "PVS Pilot") is an appropriate and necessary mechanism as the parameters of the PVS Pilot have not yet been made public. Unless there are significant changes in the design of the PVS Pilot, the fundamental problems that lead nearly 200 nonprofits to file comments opposing PVS in 2007 remain. Among the groups opposing PVS were InterAction, the Global Health Council and the International Center for Not for Profit Law. In addition, in 2010 the President's Advisory Council on Faith-Based and Neighborhood Partnerships recommended that the government work with nonprofits to create an alternative.

Specific Concerns:

InterAction and its members, including Save the Children, 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 the PVS mechanism adversely affects both the federal government and its NGO Partners, including Save the Children:

- 1) Perception of NGOs as intelligence sources for U.S. government versus independent and neutral actors: this perception negatively impacts the security stance of U.S. NGOs working on the "other side of the wire." We rely on trust and acceptance to keep our staff safe and ensure effective, impactful programs. Being perceived as a funnel of personal information to the US government undermines the independence and neutrality we need to safely and effectively work in regions of conflict and highly polarized political environments.
- 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: if the PVS Pilot includes requiring U.S. NGOs to collect and submit personal information regarding key individuals of local partner organizations, for databasing and sharing by and among U.S. government agencies, this is a deterrent for both U.S. citizens and foreign nationals to work for U.S. funded programs and could ultimately impact an organization’s ability to recruit experts and implement programs. Databasing foreign individuals and entities thereby discouraging local partners from working with the U.S. government and U.S.-based entities undermines USAID’s recently articulated strategy to grow direct engagement with foreign governments and partnering with local entities.

4) Legal, reputational and administrative burdens associated with processing personal information of individuals: by virtue of fact that the PVS system requires U.S. entities to receive and process (transfer) information to the U.S. government for databasing, to meet the requirements of applicable privacy frameworks, we are required to develop secure data management systems and to hire additional staff to manage the data and process it. The costs for such resources are significant and are often not covered as an allowable grant expense. Further, PVS will require Save the Children and other similarly situated NGOs to institute potentially discriminatory practices against foreign individuals and partners. For example: if Save the Children is required to provide the personal information of a Belgian citizen heading up a local non-profit partner to the U.S. government for its non-public databasing, Save the Children will need to obtain consent from that individual to waive the privacy protections afforded to them under the Belgian personal information privacy statutes. Given that individual may choose not to waive their privacy protections, Save the Children may be required to decline making the award to that organization. The legal and reputational implications for U.S. NGOs working with individuals and organizations protected by varying legal frameworks (e.g. the European Union Data Directive) cannot be understated. U.S. NGOs are faced with a choice of intolerable options: (i) disclose to potential employees and/or grant recipients that personal information is being transferred to the U.S. government for non-public databasing to obtain consent and risk losing otherwise qualified partners and candidates; or (ii) contravene foreign privacy laws to satisfy USAID’s vetting requirements.

We recognize that (i) there is a need to ensure the safe delivery of U.S. funds for their intended purpose and (ii) there are external pressures on USAID to address the risks of diversion in the strongest possible manner. However, we continue to assert that the PVS (and possibly the PVS Pilot) 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 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.

Sincerely,

A handwritten signature in black ink, appearing to read 'Carolyn Miles', with a stylized, flowing script.

Carolyn Miles
President & CEO