

March 30, 2015

Office of Risk Analysis and Management
U.S. Department of State
2201 C St. NW
Washington, DC 20520

RE: Comments in Response to Department of State Federal Register Notice of Proposed Information Collection: DS-4184, Risk Management and Analysis

Submitted via e-mail to: FARRELLM1@state.gov

Dear Ms. Farrell:

World Vision, Inc. (WV) respectfully submits the following comments in response to the Department of State's notice for public comments ("Notice") re: Risk Analysis and Management (RAM), published in the Federal Register on January 28, 2015. WV is grateful for State's commitment to advance and to protect U.S. foreign policy interests through the compassionate use of U.S. foreign assistance. This expands stable and free societies, creates markets and trade partners for the United States, and fosters goodwill abroad.

The proposed Information Collection is designed to ensure that "State funded activities do not provide support to entities or individuals deemed to be a risk to national security." While WV shares State's concerns and understands the objective of the proposed Information Collection, WV is deeply concerned about RAM's potential impact on staff and beneficiary security and the effectiveness of humanitarian and development program operations. We explain in detail below.

1. Necessity of the Proposed Information Collection

1.1 The Proposed Information Collection is Not a Reasonable and Necessary Means to Achieve the Stated Goal

The Notice states that the purpose of the RAM is to "ensure that State funded activities do not provide support to entities or individuals deemed to be a risk to national security." WV and the US NGO community are committed to ensuring proper performance, compliance with applicable laws, and appropriate use of U.S. Government funds. To this end, we have already implemented due diligence procedures adequate to safeguard against violating the prohibitions against giving material assistance to terrorists as codified in 50 U.S.C. § 1701, related Executive Orders, and 18

U.S.C. § 2339A and B, which we understand attach to both United States Government and private funding streams. To date, there is no plausible evidence indicating these procedures have been unsuccessful in preventing the provision of material support to terrorists. Without sufficient evidence that current practices are inadequate, the proposal to collect additional information of directors, officers and/or employees of U.S. implementing partners is an unnecessary, costly, and overly burdensome requirement.

Despite the comments submitted by WV and numerous organizations in response to past notices which questioned the need for the program and challenged State's rationale on the basis of a lack of evidence of need for the vetting requirement and U.S. Congressional limitations on the full proposed implementation of the partner vetting system, State has continued to pursue it with little modification. We submit with Inside NGO, InterAction, and others that there is little indication that current screening procedures used by recipients for hiring personnel or engaging subrecipients and contractors are not working sufficiently to prevent State funds from finding their way inadvertently to terrorist organizations or those sympathizing with terrorists who are deemed to be a risk to national security.

1.2 The Security Risk to WV and other NGOs is Significant

The RAM program requires humanitarian organizations and contractors that receive funding from the Department of State to collect and report identifying information on their directors, officers, and/or key employees. Further, the Notice states that the information collected is compared to information gathered from commercial, public, and U.S. government databases to determine the risk that the applying organization, entity or individual might use department funds or programs in a way that presents a threat to national security. It is not clear how State will use the information it receives as part of the RAM program. The implementation of the proposed Information Collection could have adverse impact on WV's operations. Specifically, as a humanitarian and development organization, WV operates mainly based on the acceptance of the local communities within which it works. This acceptance of WV by local governments, organizations, and communities as an impartial and independent entity, apart from U.S. Government foreign policy interests, ensures both program effectiveness and protection for our staff and beneficiaries. The proposed information collection will undermine this impartiality and independence. Although we expect State to conduct "direct vetting" in most cases (see section 2.6 below), WV's role as implementer of programs in host country local communities may create the perception of colluding with the U.S. government on intelligence gathering. This perception could undermine the protection of communities, especially in high risk contexts, and expose WV staff, partners, or beneficiaries to a greater risk of physical harm. We also anticipate that local staff in the field might be unable or less willing to operate under these conditions. Indeed, WV's office in Pakistan has seen multiple staff members killed by unknown assailants in the past. WV offices in south-central Somalia were forcibly shutdown by militants in August 2010. In 2013, WV lost two staff members to a violent attack in Nyala, Darfur. The Counterterrorism and Humanitarian Engagement Project highlights these concerns as follows:

Principled humanitarian action is based on a set of core principles: humanity, independence, and impartiality. These principles are essential to establishing and maintaining access to affected populations as well as ensuring the safety of humanitarian personnel. Humanitarian organizations may be concerned that the vetting programs could undermine humanitarian organizations' independence and neutrality by requiring them to collect and provide the U.S.G. with detailed information on their partners. This is in part because the U.S.G. asks humanitarian organizations to provide information for vetting through classified intelligence databases while providing only limited assurances as to the U.S.G.'s ultimate use of the information.

For humanitarian organizations, two sets of related concerns may arise in this connection. First, vetting programs may raise matters of principle. An effective humanitarian space requires a humanitarian community that closely guards the principles that guide their actions and provide them legitimacy. The vetting programs appear to ask—and, according to some, require—humanitarian organizations to potentially compromise some of those principles.

Second, not adhering to humanitarian principles may impact the life-saving work of humanitarian organizations and the safety of their personnel. Unlike many for-profit contractors and others that make regular use of private security forces, humanitarian organizations rely on community acceptance in order to safely access civilian populations in need of assistance in insecure environments. Their work requires that local populations trust that they adhere to humanitarian principles. Some humanitarian organizations may worry that by complying with U.S. vetting requirements, they may create the perception that they collect information for U.S. intelligence services—whether or not that is, in fact, the case—and thereby potentially threaten local populations' willingness to allow them access to civilian populations. This, in turn, may jeopardize humanitarian organizations' ability to access affected communities and endanger their personnel (Counterterrorism and Humanitarian Engagement Project, "Partner Vetting in Humanitarian Assistance: An Overview of Pilot USAID and State Department Programs," *Research and Policy Paper*, November 2013.)

In addition, the nature of the proposed Information Collection could reduce the ability of WV to partner with local organizations or to employ expert staff members who do not want to be vetted against a US intelligence database, or in other ways to be perceived to be colluding directly with U.S. Government security functions. As a result, WV's ability to provide effective assistance to support sustainable development could be greatly compromised.

2. Accuracy of Burden Estimates and Clarity of Process

The Department of State's burden estimate not only fails to provide sufficient details, but also does not take into account the following considerations that directly contribute to the burden on recipients of State funds and State funded programs to comply with the Information Collection requirement:

- 2.1 Scope - The scope of RAM as it is presented now is very broad. In its latest Federal Register Notice, State proposed to vet "directors, officers and /or key employees" This category is very broad and the definitions of "officers" and "key employees" are not clear. As a result, it may lead to subjective determination by State officers who are responsible for such decisions.
- 2.2 Frequency – In addition to the extent and subjectivity of vetting mentioned under no. 2.1 above, it is not clear how often State plans to screen "directors, officers and/or key employees." For example, does State collect information and process screening

every time a recipient receives a grant even if its “directors, officers and/or key employees” have been recently screened?

2.3 Processing Time – It is not clear how long it takes for State to complete the screening process once information is collected.

2.4 Monetary threshold – The proposed Information Collection does not provide any monetary threshold below which information collection and screening will not be necessary. Also, it is not clear whether information will be collected from vendors who provide goods and services for program activities. In addition, collecting information from small local organizations such as community based organizations which do not have strong established practices in management and documentation, if required, could unduly burden recipients of State funds as well as delay State funded program activities.

2.5 Lack of Agency Coordination – Although both USAID and State are engaged in similar vetting efforts, it does not seem that there is a procedure to coordinate or share results from their separate vetting activities. As a result, recipients may be subjected to multiple requests when the result could easily be shared among the agencies.

2.6 Direct Vetting – In a letter written to InterAction, Under Secretary of State Patrick F. Kennedy, expressed his agreement to the NGO community’s proposal for “direct vetting” as follows:

We have undertaken careful review of InterAction’s “direct vetting” proposal and agree that a “direct vetting” approach can be incorporated in the pilot in order to test its feasibility. We will not utilize this approach for Afghanistan, but would be willing to pilot “direct vetting” in the other five countries. Under the State pilot, prime grantees may opt to use this approach.

As the Under Secretary rightly stated in the letter, this approach would respond to some of the NGO community’s concerns by removing the NGO prime grantees from the role of data collector. However, to our knowledge, the agreement and detailed processes on “direct vetting” expressed in the letter have not been translated or formalized into any formal rule or procedure. In the absence of a clear rule and procedure, it is not certain if State officials implementing RAM will be bound to apply the “direct vetting” approach and what is outlined in the “Optional Process for Direct Vetting of Sub-Awardees by Department of State”. In short, it is not clear what the legal standing is of the Under Secretary’s letter. Therefore, we request that the agreement for “direct vetting” expressed in the letter and the operational procedures outlined thereto be formalized.

3. Minimizing Reporting Burdens

Based on the issues identified in no. 2 above, WV recommends the following steps in order to minimize the burden on recipients of State funds in complying with RAM:

1. The scope of the Information Collection should be clear and definite. The proposed language states that the Information Collection applies to “directors, officers and/or key employees.” As stated above, the definition of “officers” and “key employees” is very broad and subjective. As a result, the decision as to who should be vetted is left to the discretion of the Grant Officer (GO) or anyone who is responsible to make such determination. This creates uncertainty and inconsistency in complying with the requirement. WV recommends that the definition of “officers and/or key employees” should be specific (e.g. CEO/President, Country Director, Project Director, etc...) and not left open. Also, we recommend that there should be a cap on the number of “officers and/or key employees” to be vetted. We recommend that the number should be limited to a maximum of five (5) “officers and/or key employees.” Also, we recommend that there should be clear guidance instructing State GOs about how to determine which parties should be vetted in any particular circumstance in order to avoid inconsistent, arbitrary, and overreaching application of RAM.
2. In addition to the scope of Information Collection, requiring the information frequently may be burdensome to recipients. Therefore, WV recommends that Information Collection not be required more than annually for the same award. Also, we understand that State will implement direct vetting. We recommend that this understanding be formalized so that the prime grantee should not be involved in the facilitation or submission of sub-recipient vetting information to State.
3. In order to minimize burden, WV also recommends that only applicants selected for State funding be required to provide vetting information. It creates unreasonable burden to require vetting information from all State funding applicants when it is clear that only one or a few recipients will be awarded. Similarly, the possibility of project implementation delays as a result of post-award vetting and processing of vetting results needs to be considered and addressed. WV recommends that vetting processes be completed, and recipients notified, within 7 days of information collection to avoid delays in implementation of programs.
4. It is not clear from the Notice whether vendors will be subject to RAM requirements. If vetting information is required from a vendor either before or at the time of award, it may circumvent the purpose of competitive procurement. It is unreasonable to expect all possible vendors to be vetted before inviting them to bid. Therefore,

vendors who provide goods and services for implementation of State funded projects should be excluded from the RAM requirement.

5. The lack of a reasonable minimum monetary threshold that provides automatic exemption from RAM will create unnecessary burden on State funded recipients and could significantly impact State funded program activities. Thus, WV recommends that RAM only apply to recipients and sub-recipients that receive above \$150,000 per calendar year in State funding. Those who receive below \$150,000, including beneficiaries receiving training, should be explicitly exempted from the RAM requirement.
6. The proposed Information Collection is silent as to whether the requirements apply to activities funded by matching funds or leveraged support (for example, a consultant funded by matching funds). WV recommends that non-USAID funded personnel be clearly excluded from the requirement.
7. Finally, WV recommends that arrangement be made between USAID, State, and any other Federal funding agency which may implement similar program like RAM to avoid duplication of effort and share data on vetting results. This would align with U.S. Congressional requirements that State and USAID implement vetting "jointly" and help minimize the burden on implementing partners by avoiding submission of information on their staff members to multiple agencies at the same or similar time.

WV is very much committed to working with the U.S. Department of State to find ways to reduce the risk of State-funded activities providing support to entities or individuals deemed to be a risk to national security. However, for the reasons presented above, WV strongly believes that the adverse impact of the proposed Information Collection on State funded programs and its implementing partners outweigh the benefits. We therefore respectfully request that the State Department consider and address these comments and concerns.

Thank you for your consideration. If you have any questions on these comments, please do not hesitate to contact WV Senior Advisor Randy Tift (rtift@worldvision.org), or at 202-572-6300.

Sincerely,



Kent R. Hill
Senior Vice President for International Programs
World Vision, Inc.

WV is a Christian relief, development and advocacy organization. For over 60 years we have been committed to working with children, families and communities to overcome poverty and injustice. Inspired by our Christian values, we are dedicated to working with the world's most vulnerable people. We serve close to 100 million people in nearly 100 countries around the world, regardless of religion, race, ethnicity, or gender.