

Office of Information Programs and Services
A/GIS/IPS/RL
U.S. Department of State
Washington, D.C. 20522-8100

Via Mail and Fax

August 19, 2013

RE: FOIA Request - Fee Waiver and Expedition Requests Included

To Whom It May Concern:

This is a request for expedited production of records under the Freedom of Information Act, 5 U.S.C. § 552, State Department implementing regulations at 22 C.F.R. § 171 *et seq.*, and Attorney General Holder's Memorandum for Heads of Executive Departments and Agencies, dated March 19, 2009.

This request is being made by the Global Justice Center (GJC), a 501(c)(3) non-profit human rights organization based in New York specializing in the global enforcement of international law rights guarantees.

I. EXPEDITION REQUEST

GJC requests expedited processing of this FOIA request as permitted under 22 C.F.R. § 171.12 (b). The materials requested are needed urgently, as they pertain to an issue under discussion in the public domain and within the administration and are critical to GJC's "August 12th Campaign," which challenges the U.S. government's compliance with the Geneva Conventions and related international laws ensuring complete medical treatment for girls and women who are victims of rape and torture in armed conflicts.

This request is two-fold. **First**, it pertains specifically to the services provided to rape victims in the context of the ongoing armed conflict in Syria – an issue of utmost importance and immediate concern.¹ There are frequent news reports regarding the use of sexual violence in this conflict, and the matter of sexual violence in general is currently on the agenda of the Security Council. In fact, the U.S. government, as a member of the U.N., has pledged under Security Council Resolution 2106 to provide non-discriminatory and comprehensive health services to survivors of sexual violence, which is implicated by U.S. abortion restrictions on foreign assistance. **Second**, this request pertains to any documents and contracts related to US funding for efforts that align with the United Kingdom's Preventing Sexual Violence Initiative.²

¹ See USAID, *Syria – Complex Emergency: Fact Sheet # 15, Fiscal Year (FY) 2013*, May 9, 2013, available at http://www.usaid.gov/sites/default/files/documents/1866/05.09.13%20-%20USG%20Syria%20Complex%20Emergency%20Fact%20Sheet%20_15.pdf.

² See *United States Announces \$10 Million in Support for G-8 Preventing Sexual Violence Initiative* (April 11, 2013), available at <http://www.state.gov/r/pa/prs/ps/2013/04/207396.htm>.

GJC is the major source of information and legal analyses of U.S. government policy in the August 12th Campaign, and GJC has been joined by over 3,000 U.S. and global legal and human rights organizations as well as been the subject of media coverage. The materials are also needed in conjunction with GJC's work in monitoring the implementation of President Obama's executive orders on Women, Peace, and Security (December 19, 2011) and Preventing and Responding to Violence against Women and Girls Globally (August 10, 2012). Further, the issue of the application of the abortion restrictions on conflict-related humanitarian aid is one under active consideration by the U.S. government.

The U.S. government has laudably made ending the use of rape as a weapon of war a major focus of U.S. foreign policy. It has also repeatedly documented that the trauma, mortality, and morbidity of women rape victims is exacerbated for those who become pregnant from war rape. The Geneva Conventions' guarantee of full medical care for these war victims necessarily includes access to abortions. Ensuring the availability of - often life-saving - abortion for these torture/war crimes victims is a matter of saving lives. With that in mind, we request that the documents be expedited, as your FOIA provisions indicate that expedited processing will be provided if "failure to obtain requested information on an expedited basis could reasonably be expected to: pose an imminent threat to the life or physical safety of an individual; impair substantial due process rights; or harm substantial humanitarian interests." The U.S. Department of State found that GJC's FOIA request # F-2012-22928, which requested the same type of documents as those requested herein, "warrant[ed] expedited processing."

II. FEE WAIVER REQUEST

GJC also requests a fee waiver for the present request under 22 C.F.R. § 171.17, as the GJC has no commercial interest in the matter and the information requested is of paramount importance to the public.

The documents requested in this FOIA request pertain directly to the activities of the State Department. State is the agency directly responsible for administering and implementing U.S. abortion restrictions on foreign assistance. Furthermore, the documents requested are not currently in the public domain, and State department provisions and guidelines for implementing U.S. abortion restrictions are not available online.

Additionally, the information requested is of significant importance to GJC, an international human rights NGO actively working in the field of foreign affairs and international law. The information and materials requested are directly related to a significant GJC project that often touches on the work of the State Department. For example, as a part of this project on the implementation of U.S. abortion restrictions, the GJC submitted a shadow report on the matter to the Human Rights Council for the Universal Periodic Review of the U.S., which was within the purview of the State Department.

Further, the information we seek is in the public interest, and dissemination of the information obtained is a key component of GJC's current programmatic work on the issue. The information sought is essential to GJC's work and will be incorporated into advocacy efforts and publications, which include briefs, white papers, and legal updates disseminated to the public, interested partners, and the media.

Finally, GJC has no commercial interest that would be furthered by the disclosure of the information. GJC is a non-profit engaged in the use and development of international law to embed gender equality globally and is not engaged in any commercial activity. Further, GJC has been granted a fee waiver in a past FOIA request at State, # F-2012-22928, for the same type of documents as those requested herein. Fees should be waived given that GJC is the primary organization providing the U.S. public with information on this issue and that GJC has no commercial interests.

III. DEFINITIONS FOR THIS FOIA REQUEST

1. “MATERIALS”- For purposes of this request, the term “materials” includes, but is not limited to, any and all objects, emails, writings, meeting notes, minutes, notations on documents, calendar notation of meetings or phone calls, PowerPoint presentations, telephone logs, drawings, graphs, charts, tables, electronic or computerized data compilations, budgets, accountings, electronic or computerized documents, photographs, audiotapes, videotapes, transcripts, drafts, correspondence, notes, notes of oral communications, and non-identical copies, including but not limited to copies with notations. This includes legal department memos or meeting notes, and all materials received by State even if not generated by State, such as a memo or request for clarity from USAID, White House, or awardees.
2. “AWARDS” - For purposes of this request, the term “awards” includes all State Department or State Department partnerships’ grants, contracts, partnership agreements, and cooperative agreements with U.S. Non-Governmental Organizations, Foreign Non-Governmental Organizations, Public International Organizations, and Foreign Governments. “Awards” include any modifications relating to the abortion prohibitions.
3. “ABORTION PROHIBITIONS ON FOREIGN ASSISTANCE OR HELMS-RELATED RESTRICTIONS”- These terms are used interchangeably herein and refer to U.S. abortion restrictions on foreign assistance, including the Helms Amendment to the Foreign Assistance Act, the Siljander Amendment, the Tiahrt Amendment, the Biden Amendment, the Kemp-Kasten Amendment, and the Leahy Amendment or any permutations of these restrictions as found in annual appropriations or federal legislation.

IV. Request for Materials

A. Award and Grants Materials pertaining to Syria

We request information pertaining to State humanitarian assistance awards to Syria and neighboring countries in FY 2012 and 2013 (listed below).³ We limit our request to those portions of the awards that are publicly disclosed, the purpose and scope of the award, implementing partners, and the portion of the award (or modification) containing abortion prohibitory language. We do not expect this would amount to more than 8-10 pages per award requested. There is no need to submit any request for a contract/cooperative agreement to any submitter, as we are uninterested in any information that could at all be deemed confidential or relating to any competitive advantage.

³ See *supra*, note 1.

1. Award to **International Committee of the Red Cross (ICRC)** for Health, Relief Commodities, Shelter, WASH, and Capacity Building in Syria. *Funding:* \$11,000,000 (FY 2013);
2. Award to **International Federation of Red Cross and Red Crescent Societies** for Winterization and Relief Commodities in Lebanon and Turkey. *Funding:* \$2,100,000 (FY 2013);
3. Award to **NGO Partners** for Health, Mental Health/Psychosocial Support, Reproductive Health, Livelihoods, Capacity Building, GBV, Shelter, and Case Management in Jordan, Lebanon and Turkey. *Funding:* \$7,499,159 (FY 2013);
4. Award to **U.N. Population Fund** for Mental Health, Capacity Building, and Protection in Lebanon and Turkey. *Funding:* \$1,093,000. (FY 2013);
5. Award to **U.N. High Commissioner for Refugees (UNHCR)** for Protection, Camp Management, Shelter and Settlements, WASH, Education, and Relief Commodities in Jordan, Lebanon, Turkey, Iraq and Egypt. *Funding:* \$140,137,000 (FY 2013);
6. Award to **UNHCR** for Relief Commodities, Shelter and Settlements, Health, and WASH in Syria. *Funding:* \$19,170,000 (FY 2013);
7. Award to **U.N. Children’s Fund (UNICEF)** for Education, Wash, and Child Protection in Jordan, Lebanon, Turkey and Iraq. *Funding:* \$26,000,000 (FY 2013);
8. Award to **ICRC** for Emergency Medical Care, Food, and Relief Items in Syria. *Funding:* \$8,000,000 (FY 2012);
9. Award to **NGO Partners** for Health, Psychosocial, Protection, and Shelter Assistance in Jordan and Lebanon. *Funding:* \$3,000,000 (FY 2012);
10. Award to **UNHCR** for Assistance for IDPs through Syria Humanitarian Response Plan in Syria. *Funding:* \$8,360,000 (FY 2012);
11. Award to **UNHCR** for Support for the Regional Response Plan in Jordan, Lebanon, Turkey and Iraq. *Funding:* \$19,500,000 (FY 2012);
12. Award to **UNICEF** for WASH and Protection in Jordan. *Funding:* \$2,000,000 (FY 2012).

B. Award and Grants Materials as well as Internal State Department Materials pertaining to US funding for efforts that align with the United Kingdom’s Preventing Sexual Violence Initiative

It was announced on April 11, 2013 that the United States was committing “\$10 million to support new and ongoing efforts that align with the Preventing Sexual Violence Initiative. Such efforts include improving access to services for survivors of gender-based violence in places such as South Sudan, Sri Lanka, Afghanistan, and Haiti. This assistance will support survivors’ recovery, including by addressing the health impacts of gender-based violence . . .”⁴ Following are the materials that are requested regarding this State Department funding initiative.

1. All awards pertaining to US funding for new and ongoing efforts that align with the United Kingdom’s Preventing Sexual Violence Initiative (“PSVI Awards”);
2. All materials pertaining to the creation of standard clauses imposing abortion restrictions to be included in State Department PSVI Awards;
3. All materials on enforcement of subcontracting requirements relating to abortion prohibitions in the context of State Department PSVI Awards;

⁴ See *supra*, note 1.

4. All materials relating to State Grant Officers and abortion restrictions in PSVI Awards, including directives, reports on award changes, or modifications of any abortion conditions on awards;
5. All materials relating to PSVI Award recipients/awardees seeking advice of Grant Officers or of State on terms and conditions regarding abortion;
6. All materials relating to requests to the office of legal advisors reviewing proposed activities pertinent to PSVI Awards;
7. All communications between State and awardees and/or potential awardees of PSVI Awards relating to the abortion prohibitions, including email communications and notes regarding telephone conversations; and
8. All materials relating to the interpretation and implementation of abortion prohibitions in PSVI Awards required by State, Foreign Operations Appropriations.

We look forward to a determination on this request from you within 10 working days, pursuant to 5 U.S.C. 522. Thank you for your prompt attention to this request.

Please call Akila Radhakrishnan at (212) 725-6530 ext. 206 if you have any questions or wish to obtain further information about the nature of the documents in which we are interested. The records should be sent to Janet Benshoof, Global Justice Center, 725 Seventh Ave, Suite 1502, New York, NY 10001.

Sincerely,



Janet Benshoof

Enclosures:

1. U.S. Department of State reponse letter granting expedited processing