



# Protecting Life in Global Health Assistance (PLGHA) and the Statutory Abortion Restrictions

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*USAID Implementing Partners Training*

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## Why are we here?

- USAID works together with countries and implementing partners to support high-quality health programs.
- Understanding the requirements and how to ensure compliance with them is critical for USAID-supported Global Health programs.
- USAID staff, implementing partners, and cooperating governments all have roles to play.
- USAID takes compliance with all requirements very seriously.

# Organization of Session

1. Abortion-Related Legal and Policy Restrictions
  - Protecting Life in Global Health Assistance (PLGHA)
  - Statutory Abortion Restrictions
2. Ensuring Compliance with the Requirements
3. Resources
4. Wrap-Up & Evaluation

# — ABORTION RESTRICTIONS



Photo Credit: Tobin Jones/Jhpiego

## Statutory vs. Policy Requirements

USAID has statutory **and** policy requirements related to abortion, family planning, and HIV/AIDS.

**Statutory** requirements are established in laws passed by the U.S. Congress.

→ compliance is *mandatory*

**Policy** requirements reflect the Administration's priorities and implementation guidance.

→ compliance is *mandatory*

# Vulnerability vs. Violation

## Vulnerability

→ Occurs when circumstances within programs are such that, without modification of procedures, clarification, or careful monitoring, there exists a risk of a violation in the future

## Violation

→ Occurs when an action taken directly contradicts a requirement

# Applicability of the Restrictions

**Foreign NGOs**

**U.S. NGOs**

**Statutory:** all USG funds  
Helms, Leahy, Siljander, Biden

Protecting Life in  
Global Health  
Assistance: FNGOs  
agree as a condition of  
receiving global health  
assistance

**Policy:** all  
sources of funds  
including non-  
USG sources

Protecting Life in Global  
Health Assistance: U.S.  
NGOs are not subject  
to policy's conditions,  
must agree to flow  
down to foreign sub-  
recipients

# Abortion Restrictions

- It is important to understand the host country's laws on abortion.
- What is the legal status of abortion in the countries in which you work?
  - Is it legal or illegal?
  - Are exceptions permitted? If so, under what conditions?
  - Are there efforts underway to change the legal status of abortion?

# — POLICY RESTRICTION:

## Protecting Life in Global Health Assistance



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# Protecting Life in Global Health Assistance: Overview

- Requires foreign non-governmental organizations (NGOs) to agree, as a condition of receiving global health assistance, that they will not perform or actively promote abortion as a method of family planning or provide financial support to any other foreign NGO that conducts such activities.
- Applies to any activities of the organization, including activities conducted with U.S. funding or with other money, public or private.
- USAID implements the policy through a standard provision, “Protecting Life in Global Health Assistance (revised in **May 2019**)” (available in ADS 303)

# Protecting Life in Global Health Assistance: Background

- “Mexico City Policy” (1984-1993, 2001-2009)
  - Required foreign NGOs to agree that they would not “perform or actively promote abortion as a method of family planning” as a condition for receiving USAID family planning assistance.
  - Reinstated by Presidential Memorandum of January 23, 2017.
- “Protecting Life in Global Health Assistance” (2017-present)
  - Presidential Memorandum of January 23, 2017, extends the policy to any global health assistance from any U.S. Department or Agency to the extent allowable by law.
  - In May 2017, the Secretary of State approved a plan to implement the manner in which U.S. Government Departments and Agencies will apply the provisions of the “Mexico City Policy” to global health assistance.

# Protecting Life in Global Health Assistance: Timeline

DATE	EVENT
January 23, 2017	Presidential Memorandum
March 2, 2017	“Mexico City Policy (March 2017)” standard provision issued for USAID family planning assistance
May 9, 2017	Secretary Tillerson approved a plan to extend MCP to global health assistance by all Departments and Agencies
May 15, 2017	“Protecting Life in Global Health Assistance (May 2017)” standard provision issued for USAID global health assistance (replaces March 2 provision)
February 7, 2018	The State Department released the interagency six-month review.
May 22, 2019	USAID issued the May 2019 Standard Provision

## What kinds of assistance does it apply to?

1. Funding for international health programs, such as:
  - HIV/AIDS, maternal and child health, infectious diseases, global health security, and family planning and reproductive health.
2. For USAID, this means global health activities funded from the GHP, ESF, and AEECA accounts.
3. Applies to the provision of funds, commodities, or equipment to a foreign non-governmental organization.
4. Excludes humanitarian assistance, including USAID disaster and humanitarian-relief activities.

## What kinds of entities does it apply to?

**YES**



- Foreign NGOs (non-U.S.)

**NO**



- 
- U.S. NGOs\*
  - Public International Organizations (PIOs) and other multilateral entities in which sovereign nations participate
  - Foreign Governments

\* U.S. organizations are required to flow down the provision to foreign non-governmental sub-recipients that receive global health assistance.

## What kinds of instruments does it apply to?

- Applies to cooperative agreements, grants, grants under contract. The standard provision must be included in:
  - All new USAID grants and cooperative agreements that provide global health assistance,
  - All existing USAID grants and cooperative agreements that have not yet received any version of the PLGHA standard provision, when such agreements are amended to add new funding; and
  - All existing USAID grants and cooperative agreements that provide global health assistance that have previously received the PLGHA (May 2017) standard provision, when such agreements are amended to add new (incremental) funding, or as soon as reasonably practicable.
- Will apply to contracts
  - The Interagency is taking the necessary steps to include a similar provision in certain types of contracts for global health assistance.
  - Until that process is complete, the policy will not apply to contracts that provide global health assistance.

## Which activities does the policy cover?

- All activities implemented by the foreign NGO, including activities funded with non-USAID sources.
- Prohibited activities:
  - Performing abortion as a method of family planning
  - Actively promoting abortion as a method of family planning
  - Providing financial support to any other foreign NGO that conducts activities described above.

# Applicability of the Restrictions

**Foreign NGOs**

**U.S. NGOs**

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# Key Definitions

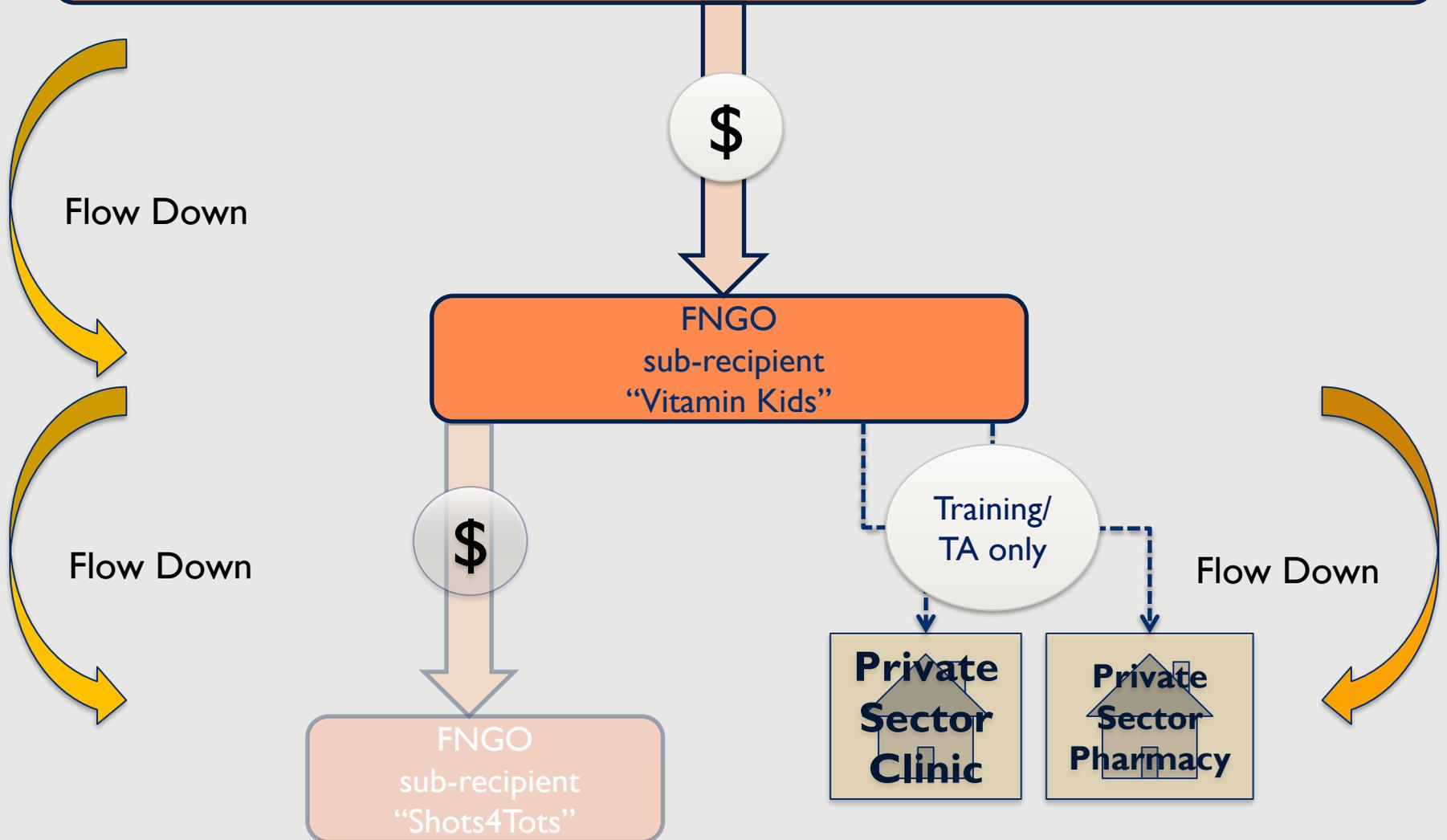
- **“Protecting Life in Global Health Assistance (May 2019)”** standard provision includes specific information about the policy’s conditions, key definitions, and procedures for ensuring compliance
- **“Foreign non-governmental organization”** – a for profit or not-for-profit non-governmental organization that is not organized under the laws of the United States
- **“Furnish health assistance”** – includes the transfer of funds or goods financed with such funds, but does not include:
  - purchase of goods or services from an organization
  - provision of technical assistance or training (including other costs for individuals directly related to such technical assistance or participation in training), unless such organization receives a subaward of U.S. global health assistance funds under the award.

## Six-Month Review: Specific Clarifications on Implementation

- For grants and cooperative agreements, on May 22, 2019, USAID issued a new standard provision entitled, “Protecting Life in Global Health Assistance (May 2019),” that includes two **clarifications**:
  - Violations of the standard provision will result in the termination of awards or sub-awards unless the U.S. Government determines that other corrective action is appropriate; and
  - The PLGHA requirements do not apply to recipients/beneficiaries of in-kind training and technical assistance if they are foreign NGOs that have **not** received an award or sub-award of US global health assistance
- In addition, the Department of State announced that it will **not** amend the requirement regarding “financial support”

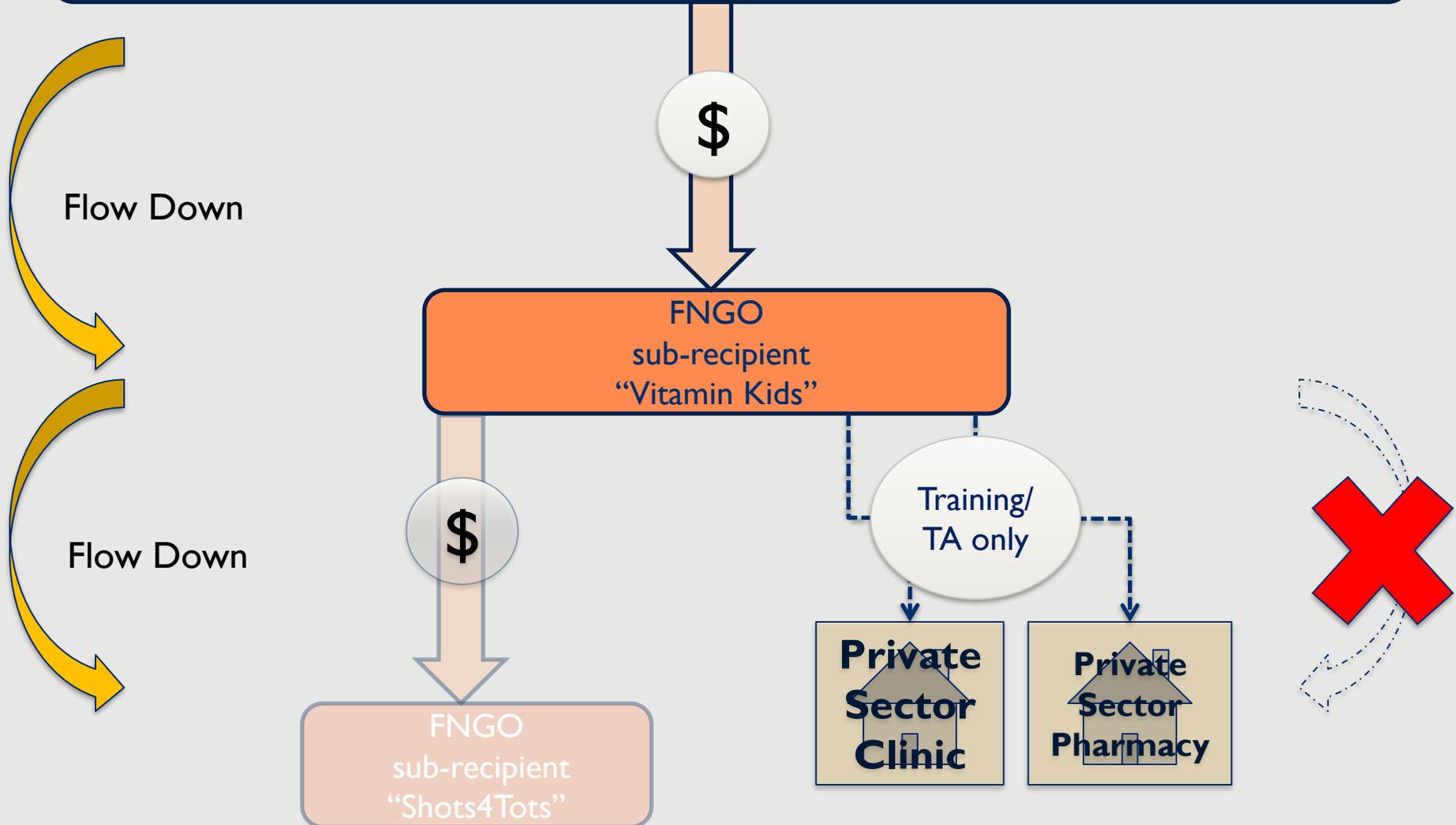
# Previous Standard Provision (May 2017)

**“Strive to Thrive”**



# Current Standard Provision (May 2019)

**“Strive to Thrive”**



# Key Definitions

- **“Abortion as a method of family planning”** is defined as abortions performed for the purpose of spacing births.
- This **includes**, but is not limited to, abortions performed in the following cases:
  - for the physical or mental health of the mother
  - due to fetal abnormalities
  - menstrual regulation
- The only cases **not considered** abortion as a method of family planning are:
  - If the life of the mother would be endangered if the fetus were carried to term.
  - Rape
  - Incest

## Key Definitions

- **“To perform abortions”** – to operate a facility where abortions are provided as a method of family planning.
- Post Abortion Care (PAC) the treatment of injuries or illnesses caused by legal or illegal abortions is permitted under the Protecting Life in Global Health Assistance Policy

# Key Definitions

- **“To actively promote abortion”** – providing advice or information that abortion as a method of family planning is an available option, including
  - counseling including advice and information on the benefits and availability of abortion
  - providing referrals for abortion services (excluding passive referral)
  - lobbying a foreign government to legalize or make available abortion as a method of family planning
  - conducting public information campaigns

# Key Provisions

- **Passive referral** is allowed but must meet all of these conditions:
  - the woman is already pregnant,
  - the woman has clearly stated an intention to have a legal abortion,
  - the woman asks where an abortion can be legally obtained, and
  - medical ethics require a response.

## Key Provisions: Financial Support

- Foreign non-governmental organizations (NGOs) must agree, as a condition of receiving global health assistance, that they **will not provide financial support** to any other foreign NGO that conducts prohibited activities.
- Consistent with Secretary Pompeo's announcement and the language of the standard provision, foreign NGO implementing partners subject to PLGHA should take steps to ensure that they are not providing financial support, with any source of funds and for any purpose, to any foreign NGO that performs, or actively promotes, abortion as a method of family planning.

USG global health assistance

Funds from non-global health USG assistance, another bilateral donor; multilateral organization; or private foundation

# Foreign NGO “Strive to Thrive”

USG global health assistance award  
(grant/cooperative agreement)

Non-USG awards

“Furnishing health assistance to a foreign NGO includes the transfer of U.S. global health assistance funds made available under this award or goods financed with such funds ...”

“provide financial support”

Foreign NGOs should conduct due diligence on other foreign NGOs to which they provide financial support.



Foreign NGOs cannot provide financial support, with any source of funds and for any purpose, to another foreign NGO that performs or actively promotes abortion as a method of family planning.

## Key Provisions: Termination of the award

- Immediate termination remains the presumptive action.
- For other corrective action, implementing partner must work closely and transparently with the U.S. government to attempt to address the situation.
- The revised (May 2019) standard provision clarifies that:
  - Violations will result in the termination of awards or sub-awards unless the U.S. Government determines that other corrective action is appropriate

# Key Provisions

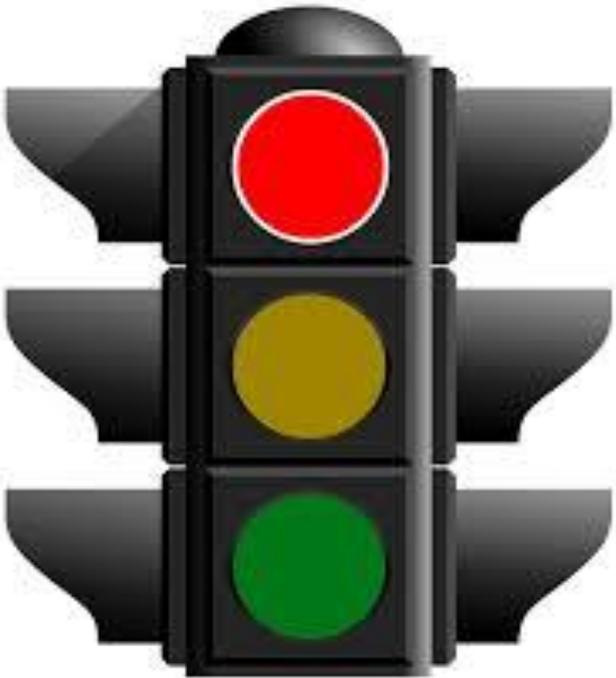
- **Affirmative Duty of Healthcare Provider exception:**
  - Where the provider is required by local law to provide counseling about or referrals for abortion as a method of family planning, compliance with such law does not trigger a violation of the policy
  - Exception is not available where the provider is allowed, but not required, by local law to provide such counseling or referrals
  - Missions should consult with USAID on this provision

## Exclusions

- Excluded from the definition of abortion as a method of family planning:
  - If the life of the mother would be endangered if the fetus were carried to term.
  - Following rape or incest.
- Treatment of injuries or illnesses caused by legal or illegal abortions (Post Abortion Care or PAC) is permitted under the Protecting Life in Global Health Assistance Policy

# Knowledge Check: Stoplight Scenarios

## Key for Stoplights



**Red:** This poses a serious vulnerability or potential violation. Inform your RLO and the USAID/W compliance team immediately.

**Yellow:** More information is needed or the situation requires increased monitoring and coordination.

**Green:** This doesn't pose a vulnerability or a violation.

## Knowledge Check: Stoplight Scenario

Healthy Families Clinic, a foreign NGO, receives USAID support to provide HIV Care and Treatment services under a USAID cooperative agreement. The Healthy Families Clinic provides information and counseling about all pregnancy options, and will refer women who are interested in having a legal abortion to a nearby clinic.

## Knowledge Check: Stoplight Scenario

USAID/Westeros provides funds to Terra, Inc., a local organization. Terra, Inc. uses those funds to train private providers at local private clinics on tuberculosis diagnosis and effective referral strategies into the public sector for TB/HIV care. As part of the package of services, the private sector clinics provide legal abortion services.

## Knowledge Check: Stoplight Scenario

Strive to Thrive, a foreign non-governmental organization receiving global health assistance from USAID/Ferndean, provides a range of health services to women and children in the country.

Staff from Strive to Thrive have reached out to USAID/Ferndean to discuss their potential participation at a conference hosted by the Government of Ferndean on reproductive health and maternal and child nutrition services in primary care and community settings. Discussion topics at the conference include family planning, rural service delivery, and safe abortion.

Strive to Thrive wants to distribute posters, participate in breakout sessions, and host live streaming for its presentations on expanding quality improvement for community-based primary care.

# — STATUTORY RESTRICTIONS



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# What do these restrictions apply to?

- Funds
  - These restrictions apply to all U.S. foreign assistance funds, not just health funds. They do not apply to activities funded with non-USG sources.
  - However, foreign NGOs must adhere to Protecting Life in Global Health Assistance restrictions.
- Entities
  - These requirements apply to all entities that receive U.S. foreign assistance funding, including NGOs, governments, and PIOs.
- Instruments
  - All agreements including grants, cooperative agreements, and contracts.

## Which activities do the statutory restrictions cover?

- USAID funds cannot be used to:
  - Perform abortion as a method of family planning.
  - Motivate or coerce people to practice abortions.
    - The term “motivate,” does not prohibit the provision, consistent with local law, of information or counseling about all pregnancy options
    - However, foreign NGOs must adhere to the Protecting Life in Global Health Assistance Policy, which prohibits providing or actively promoting abortion as a method of family planning, which includes counseling and referrals

*Helms Amendment*

*Leahy Amendment*

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## Which activities do the statutory restrictions cover?

- USAID funds cannot be used to:
  - Lobby for or against abortion.
  - Pay for biomedical research related to abortion.
    - But, epidemiologic or descriptive research to assess the trends in incidence, extent or consequences of abortions is permitted.

*Siljander Amendment*  
*Biden Amendment*

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## Post-Abortion Care (PAC)

- USAID funds can be used for post-abortion care (PAC).
- USAID-supported post-abortion care programs may include:
  - Emergency treatment for complications of induced or spontaneous abortion
  - Counseling on and provision of FP options
  - Community empowerment through community awareness and mobilization
- Review the Global Health Programs Account Guidance for more specific information about PAC policies.

## Knowledge Check: Stoplight Scenario

Through an integrated HIV/FP project USAID/Dorne supports several staff members who are seconded as technical advisors to a county health management team. The Government of Dorne is in ongoing discussions about changing its abortion law. One of the USAID-supported advisors to the health management team is asked to analyze the benefits of a change in law for their county as a pilot model to advise the Ministry on expanding access to abortion if it becomes legal.

## Knowledge Check: Stoplight Scenario

USAID/Melmac supports a health communications program that helps local journalists improve their capacity to report on the health sector. One of the journalists supported through the communications program produces a radio spot about the cost of unsafe abortion in Melmac and how a change in the law could improve access to safe abortion.

# — ENSURING COMPLIANCE



# Preventive Actions

- Know the requirements
  - Discuss with colleagues & partners and assess awareness
  - Provide training (e-learning and/or in-person) to staff, with emphasis on reaching new staff
  - Create & adapt informational materials
  - Review agreements for appropriate clauses
- Identify potential vulnerabilities
  - Which requirements apply?
  - What vulnerabilities exist?
- Develop a compliance plan

# Monitoring Activities

- Monitoring activities should be regular and ongoing
  - Incorporate compliance into routine project monitoring activities and quality of care monitoring and supervision
  - Opportunities for monitoring:
    - Field visits
    - Team/project meetings
    - Review reports/records
    - Observation
- Monitoring activities should be documented using standardized forms, and should be included in compliance files

## Response Procedures

If you think there may be a serious vulnerability or violation of these requirements:

- Immediately inform the USAID Mission, AOR, or compliance team as appropriate
- USAID/W will discuss the situation with you and determine what the next steps are.
- USAID must report some violations to the U.S. Congress.
- USAID/W will work with you to determine what corrective actions must be taken in the program.

# RESOURCES



# Resources

## 1. Summary of USAID Abortion Restrictions:

<https://www.usaid.gov/global-health/legislative-policy-requirements>

## 2. Standard Provisions Related to Abortion Restrictions:

- ADS 303maa (U.S. NGOs):
- ADS 303mab (non-U.S. NGOs)

## 3. Protecting Life in Global Health Assistance FAQs:

<https://www.usaid.gov/documents/1864/protecting-life-global-health-assistance-frequently-asked-questions-and-answers>

## 4. Protecting Life in Global Health Assistance and Statutory Abortion Restrictions eLearning course:

<https://www.globalhealthlearning.org/course/protecting-life-global-health-assistance-and-statutory>

# KEY MESSAGES



Photo courtesy of IRH

# Key Messages

- Ensuring compliance with the requirements is everyone's responsibility.
- You must be familiar with the requirements to identify potential issues in your programs/facilities.
- Resources are available and you should know where to find them.
- Documentation is important.
- Communication is important.



# THANK YOU!

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