

FOIA MARKER

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Subgroup/Office of Origin: Counsel Office

Series/Staff Member: Shelli Peterson

Subseries:

OA/ID Number: 21947

FolderID:

Folder Title:

[Loose Documents Re: Family Planning & USAID (United States Agency for International Development)] [unfolded] [1]

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Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. fax	Barbara Crane to Shelli Peterson; re: Draft Documents on New USAID Family Planning Restrictions; Personal Information for Clearances for Tomorrow's Meeting (partial) (1 page)	11/18/1999	b(6)

COLLECTION:

Clinton Presidential Records
Counsel's Office
Shelli Peterson
OA/Box Number: 21947

FOLDER TITLE:

[Loose Documents Re: Family Planning & USAID (Agency for International Development)] [unfolded] [1]

2013-0365-F

jp3295

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
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- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

September 14, 2000

Please Post



Protect International Family Planning

On July 13, the U.S. House of Representatives passed the Fiscal Year 2001 Foreign Operations Appropriations bill (HR 4811), banning non-governmental organizations (NGOs) in other countries from receiving U.S. international family planning funds if they *use their own money* to perform abortions or engage in discussion about abortion laws. This ban, commonly referred to as the "global gag rule," effectively punishes family planning organizations that provide legal abortion services.

International family planning reduces the number of unintended pregnancies and improves the overall health of women and families worldwide.

- According to a 1996 report from the United Nations Children's Fund (UNICEF), almost 600,000 women die during pregnancy and childbirth each year; 75,000 of these women die attempting to abort an unwanted pregnancy by themselves or with the help of an unsafe provider. Access to contraception reduces the number of unplanned pregnancies and therefore reduces the need for abortion.
- Family planning overseas allows women to time and space births, which reduces the incidence of low birthweight and improves overall child health and survival rates.
- International family planning helps to foster self-sufficiency, promote preventive health care, and educate people on how to protect themselves and their families from the spread of sexually transmitted diseases.

Here's What You Can Do!



Help spread the word; work with friends and family to distribute this alert in your community.



Call your members of Congress at 202/224-3121 and urge them to oppose restrictions on international family planning.

WOMEN'S NETWORK FOR CHANGE ~ American Association of University Women ~ Advocates for Youth ~ American College of Nurse-Midwives ~ American College of Obstetricians and Gynecologists ~ American Jewish Congress ~ American Medical Women's Association ~ Business and Professional Women/USA ~ Center for the Child Care Workforce ~ Center for Ethics in Action ~ Center for Policy Alternatives ~ Coalition of Labor Union Women ~ Federally Employed Women ~ Feminist Majority ~ Fifty plus One ~ Girls Incorporated ~ Gray Panthers ~ Hadassah ~ MANA, A National Latina Organization ~ Ms. Foundation for Women ~ 9to5, National Association of Working Women ~ National Abortion and Reproductive Rights Action League ~ National Abortion Federation ~ National Association of Social Workers ~ National Council of Jewish Women ~ National Council of Negro Women ~ National Hook-Up of Black Women, Inc. ~ National Network of Abortion Funds ~ National Organization for Women ~ National Partnership for Women and Families ~ National Political Congress of Black Women, Inc. ~ National Women's Law Center ~ National Women's Political Caucus ~ New Girl Times ~ OWL The Voice of Mid-Life and Older Women ~ Planned Parenthood Federation of America ~ ProChoice Resource Center ~ Religious Coalition for Reproductive Choice ~ United States Student Association ~ Wider Opportunities for Women ~ Women Work! ~ Women's Campaign Fund ~ Women's Environment and Development Organization ~ Women's International League for Peace and Freedom ~ YWCA of the U.S.A.

FOR MORE INFORMATION ON THESE ALERTS, CALL 800/608-5286

POSSIBLE LEGISLATIVE OPTIONS FOR A WORST CASE SCENARIO

1. **Withhold support for IPPF/London and use the money given to them for other family planning organizations.**

Explanation: Under this option, we would simply agree to legislatively prohibit AID from granting any money to IPPF. The cap would stand at \$385, so the \$5 million or so that goes to IPPF would be used for other grantees.

Pros

- Easy to administer, with no impact on other groups or program as a whole.
- Addresses main group the right wing complains about.
- Of the options being considered, dropping funding to IPPF would have the least programmatic impact

Cons

- Singles out one group that has lots of support from the pro-choice wing and ~~which~~ ~~does a lot of good.~~
- May be politically hard to swallow.

Discussion: The International Planned Parenthood Federation (IPPF) is unlikely to agree to any of the conditions being discussed. They were one of the two organizations that refused to sign Mexico City. IPPF has not been an effective organization for some years. USAID has dropped its funding from around \$17 million to \$5.8 million in FY 99. They also received \$2 million in contraceptives in FY 99. They are scheduled to get \$5 million in FY00. IPPF is an important symbol for both sides of the abortion/family planning issue. Not funding them would be seen as a significant victory for the anti-pop groups and a stinging defeat for the pro-pop groups. If played, we should get a lot for this card.

2. **Smith language with Presidential waiver for both lobbying and performing coupled with a cut in the overall level for family planning assistance if the President exercises a waiver, but no reduction from individual grantees.**

Explanation: If the lump sum off the top were limited to \$5 million, although the programs would suffer, the loss could be absorbed. However, if the amount exceeded that amount, the countries most in need of the funds would be hurt most and there would be a growing disparity in the way we fund assistance in the most needy nations and the way we fund Eastern European countries and the countries of the former Soviet Union.

Pros

- All organizations would share the burden, not just those who engage in lobbying or perform abortions

Cons

less controversial

Discussion: The effect of this option would be to reduce the amount of assistance that could be provided to each organization that received family planning funding in FY 1998, if the President exercised one or both waivers. This would be an across-the-board percentage reduction from every organization regardless of whether a particular organization performed abortions or lobbied. Organizations that received no funding in FY 1998 would be unaffected, but that is likely to be a fairly low number. The funds not used for these organizations would ~~either be used for a more benign purpose, e.g., post-abortion care, or transferred to another account, e.g., child survival.~~

cheat sheet

Application of sanctions on individual foreign nongovernmental organizations. In any compromise that entails punishing individual organizations that cannot certify with regard to either the performance of abortions or lobbying (however defined), it is essential to change the language in the Smith amendment, or not apply that language to any penalties that might be imposed on an organization that cannot certify. That language (under the caption "Application to Foreign Organizations") has the effect of applying the certification requirements and prohibitions directly to a primary grantee and indirectly to that primary grantee if its sub-grantees cannot make a certification. If our objective is to limit the application of any penalty to only the "offending" organization, then a prime grantee which does not use its own funds for abortion or lobbying should not be penalized if its grantee uses its own funds for abortion or lobbying.

4A. **Smith language with waiver for both lobbying and performing, with reductions to any grantee or subgrantee that is above a certain threshold and do not certify that it does not spend any money (or more than a de minimus amount) on engaging in such activity.**

grantees and subgrantees

Explanation: Under this option, the cuts would come directly from the subgrantees who engage in the regulated activity. The grantee who engages in no such activity would be able to redirect the funds to another subgrantee, thus keeping the money in family planning. The threshold level of the grant must be high enough to avoid the administrative burden of going after the smallest subs. If the threshold drops, we could perhaps accomplish the same goal by redefining lobbying more narrowly than the Smith language.

Pros

Cons

Discussion: Given the large number of grant recipients and the layers of subgrantees, this option would be extremely difficult to implement and would concentrate an inordinate amount of time on de minimis amount grants. Under this option, funding withheld from the grant recipient would be redirected to other certifying grantees. *\$500,000*

If we added a minimum threshold so that grants for less than ~~\$300,000~~ *[Duff to refine]* would not be covered by the Smith language. This approach would capture the large foreign organizations that perform or lobby for abortion but would avoid the administrative difficulty in

- Would likely affect few organizations
- Would be easier to administer, since we would simply prohibit the activity rather than have to reduce funding.

Cons

- A outright ban might result in some organizations getting no funding (as opposed to reduced funding.)
- Will probably result in subsequent disputes when some organization does something that may be viewed by Congress as lobbying.

7.
6

Require an independent study by a CPA firm of foreign NGOs expenditure of their own funds for lobbying and/or abortion; the information from that study would be transmitted to Congress by the President, with any recommendations he might have. This could be coupled with some sort of process for expedited consideration of legislation from the appropriate committees of jurisdiction – in response to the results of the study – with fast track procedures on the House and Senate floors.

Pros

Neither side has any real idea how much is spent on lobbying or performing; this would allow the facts to be developed.

Cons

There may be some chilling effect of a CPA asking about groups' use of their own funds and some foreign policy issues are presented in that the groups receive funds from other nations, which would in effect be under review by the federal government.

monitoring de minimis size grants. OMB Circular A-133 identifies this amount as de minimis in the domestic context; if used overseas, would eliminate ___% of the grants.

A slight variance would be to apply the certification requirement to all grants regardless of size, but apply the penalty provision only to grants above the minimum threshold. This option would not exempt foreign organizations falling below the threshold from Smith – although they would still be able to avoid the certification requirement if the President exercised the waiver. The result would be the same: only organizations whose grants exceeded the threshold suffered a penalty for failing to provide the certifications.

(as broadly defined by Smith)
A further variance would be to apply the penalty only to organizations that fail to provide the lobbying as opposed to both certifications. This option would focus on organizations that receive grants in excess of the threshold who fail to provide the lobbying certification, rather than both certifications. This would limit the penalty to those organizations that in Smith's view are the bad ones.

5 **Smith language with no waiver for performing, but waiver for lobbying.**

Explanation: this option reverses the presumption in the vetoed State Dept conference report. It would allow the President to waive the ban for lobbying but absolutely ban the grantees from performing abortions with their own funds. It would drop the funding reduction penalty included in the vetoed bill for exercising the waiver.

Pros:

- Would expose many, many fewer organizations to the risk of being dropped from the program if they could not certify that they did not engage in the proscribed activity (in this case performing abortions) with their own funds. From a pro-life perspective, a ban on funding groups that perform abortions with their own funds might also be attractive.

Cons:

- The administration would be agreeing to a ban on performing abortions and defending a waiver that it would presumably exercise to allow lobbying to continue.

4B
4C
8. **Substitute a narrow definition of lobbying.**

4B. Explanation: We could agree to either reduce funding for anyone who lobbies or prohibit lobbying altogether, but have a narrow definition (NOT the Smith language) that is limited to actual direct lobbying (i.e., button-holing legislative members or their staff about specific legislation).

Pros

- Would disproportionately affect those countries most in need of family planning assistance.
- Wouldn't target those organizations that engage in lobbying or perform abortions.

Discussion: Family planning assistance is currently capped in the FY 2000 appropriations bill at \$385 million. The effect of this option would be to reduce this ceiling by some amount, leaving it to the administration to determine the allocation of the reduced total. The bill language would specify that the amount of the reduction would be used for a less controversial purpose (e.g., an additional amount over FY 98 levels for post-abortion care) or transferred to another account, e.g., child survival. To the extent that the penalty amount exceeds \$10 million, the damage to the program becomes severe. At the \$___ million level it becomes unacceptable. ~~For accepting this limitation, metering should be eliminated.~~ 5

In FY96, Congress cut the population account to \$356 million. However, using prior year funds, the Administration increased this amount to \$432 million. Since then, the population level has remained at \$385 million. The \$385 million cap is attained with a combination of DA (Development) and non-DA funds. Since FY97, non-DA funds constitute a larger percent of the cap. In FY99, \$339 of the \$385 million was DA. The FY00 budget puts the DA amount at \$340. Non-DA funds primarily go to former Soviet Union, Eastern Europe, Egypt, Jordan, and the West Bank. Haiti is also a large recipient. In general, though, these funds do not go to the neediest or most demographically important countries. Also, the non-DA countries are relatively well funded in population relative to the DA countries. For example, ESF countries have a \$0.33 per capita versus \$0.14 per capita of population funds. It is likely that any reduction in the population account would come from the DA and not non-DA accounts. As a result, the impact of the reduction would be magnified in particular countries like _____.

A reduction from the \$385 level would have more than programmatic consequences. The \$385 level is now considered a symbolic line-in-the-sand. A reduction of the population cap would alter the negotiation starting point for future years and perhaps lead to a downward budgetary spiral.

3. Smith language with waiver for both lobbying and performing coupled with a percentage reduction off all grantees if the President issues a waiver. Transfer the resulting savings to the CSF for post abortion care (or as second alternative, to the CSF for prevention cervical cancer).

Explanation:

Pros

- All organizations would share the burden, not just those who engage in lobbying or perform abortions

Cons

- Wouldn't target those organizations that engage in lobbying or perform abortions

- De Minimus Def.
- Use of 'savings'
- Melting



United States Department of State

Washington, D.C. 20520

OFFICE OF THE ASSISTANT LEGAL ADVISER
FOR POLITICAL AND MILITARY AFFAIRS (L/PM)

FAX COVER SHEET

Date: 11/24

Transmitted to:

Name: Ms. Shelli PetersonOrganization: LHI Counsel's officeFax number: 456-7024Telephone: 456-7804

Transmitted from:

Robin J. Frank
Attorney-Adviser for
Political-Military Affairs
Dept of State
Room 6429

Washington, D.C. 20520

Telephone: (202) 647-7838 direct: 647-6855

Fax: (202) 647-7620

Instructions/Comments:

Per your discussion with Bill Kissinger
yesterday and our telcon
My colleagues Carol Schwab + Joen Kim
will check to see if we've got examples
of waivers based on statutory language
closer to the "family planning" language and then
will give you a call.

Pages being transmitted

(not including cover page): 4

THE WHITE HOUSE
WASHINGTON

September 29, 1998

Presidential Determination
No. 98-37

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: Use of \$10 Million in Nonproliferation, Anti-Terrorism, Demining and Related Programs Account Funds and \$5 Million in Economic Support Funds for a U.S. Contribution to the Korean Peninsula Development Organization (KEDO)

Pursuant to the authority vested in me by section 614(a)(1) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2364(a)(1) (the "Act"), I hereby determine that it is important to the security interests of the United States to furnish up to \$10 million in funds made available under the heading "Nonproliferation, Anti-Terrorism, Demining and Related Programs" in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105-118), and \$5 million in funds made available under Chapter 4 of Part II of the Act for the U.S. contribution to KEDO without regard to any provision of law within the scope of section 614(a)(1). I hereby authorize this contribution.

You are hereby authorized and directed to transmit this determination to the Congress and to arrange for its publication in the Federal Register.

William J. Clinton

ACTION: EAP

COPIES TO:

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WASHINGTON

December 24, 1998

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file 614

Presidential Determination
No. 99-09

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: Use of \$12 Million in Economic Support Funds
for a U.S. Contribution to the Korean Peninsula
Development Organization (KEDO)

Pursuant to the authority vested in me by section 614(a)(1) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2364(a)(1) (the "Act"), I hereby determine that it is important to the security interests of the United States to furnish up to \$12 million in funds made available under Chapter 4 of Part II of the Act for assistance for KEDO without regard to any provision of law within the scope of section 614(a)(1). I hereby authorize furnishing of this assistance.

You are hereby authorized and directed to transmit this determination to the Congress and to arrange for its publication in the Federal Register.

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William J. Clinton

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THE WHITE HOUSE
WASHINGTON

March 4, 1999

Presidential Determination
No. 99-16

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MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: U.S. Contribution to KEDO: Certification Under Section 582(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999, as contained in Public Law 105-277

Pursuant to section 582(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999, as contained in Public Law 105-277, I hereby certify that:

(1) (A) the parties to the Agreed Framework have taken and continue to take demonstrable steps to assure that progress is made on the implementation of the January 1, 1992, Joint Declaration on the Denuclearization of the Korean Peninsula in which the Government of North Korea, has committed not to test, manufacture, produce, receive, possess, store, deploy, or use nuclear weapons;

(B) the parties to the Agreed Framework have taken and continue to take demonstrable steps to assure that progress is made on the implementation of the North-South dialogue; and

(C) North Korea is complying with all provisions of the Agreed Framework and with the Confidential Minute between North Korea and the United States.

(2) North Korea is cooperating fully in the canning and safe storage of all spent fuel from its graphite-moderated nuclear reactors;

(3) North Korea has not significantly diverted assistance provided by the United States for purposes for which it was not intended; and

3/8/99 - copies to:

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(4) the United States is fully engaged in efforts to impede North Korea's development and export of ballistic missiles.

You are authorized and directed to report this certification to the Congress and to arrange for its publication in the Federal Register.

William J. Clinton

[Federal Register: May 2, 1996 (Volume 61, Number 86)]

[Presidential Documents]

[Page 19505]

From the Federal Register Online via GPO Access [wais.access.gpo.gov]

[DOCID:fr02my96-144]

Presidential Documents

[[Page 19505]]

Memorandum of April 26, 1996

Suspension of Subsection 325(a) and Subsection 325(b) of the Department of the Interior and Related Agencies Appropriations Act, 1996, ('`Act'') as Set Forth in Section 101(c) of Title I of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (H.R. 3019) Concerning the Tongass National Forest

Memorandum for the Secretary of Agriculture

By the authority vested in me by subsection 325(c) of the Department of the Interior and Related Agencies Appropriations Act, 1996, ('`Act'') as set forth in section 101(c) of title I of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (H.R. 3019), and section 301 of title 3, United States Code, I hereby suspend subsections 325(a) and 325(b) of the Act because I have determined that such suspension is appropriate based upon the public interest in sound **environmental management** and protection of cultural, biological, or historic resources.

This suspension shall take effect immediately and shall continue in effect for the period in which subsection 325(a) and subsection 325(b) of the Act would otherwise be in effect.

You are authorized and directed to publish this memorandum in the Federal Register.

(Presidential Sig.)<Clinton1><Clinton2>

THE WHITE HOUSE,

Washington, April 26, 1996.

[FR Doc. 96-11099

Filed 5-1-96; 8:45 am]

Billing code 3410-11-M

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. fax	Barbara Crane to Shelli Peterson; re: Draft Documents on New USAID Family Planning Restrictions; Personal Information for Clearances for Tomorrow's Meeting (partial) (1 page)	11/18/1999	b(6)

COLLECTION:

Clinton Presidential Records
Counsel's Office
Shelli Peterson
OA/Box Number: 21947

FOLDER TITLE:

[Loose Documents Re: Family Planning & USAID (Agency for International
Development)] [unfolded] [1]

2013-0365-F
jp3295

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RR. Document will be reviewed upon request.

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- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]



U.S. Agency For International Development
Washington, D.C. 20523

FACSIMILE TRANSMITTAL COVER SHEET**DATE:** Nov. 18, 1999**TO:** Shelly Peterson**Tel:** 202-456-7804**Fax:** 202-456-7024

FROM: Barbara Crane *me*
Senior Policy Adviser
Office of Population
Center for Population, Health and Nutrition
USAID
1300 Pennsylvania Avenue, N.W.
Washington, D.C. 20523-3600

Tel: 202-712-5839**Fax:** 202-216-3046**Email:** bcrane@usaid.gov**Number of pages (including cover sheet)** 4

Subject: Draft documents on New USAID Family Planning Restrictions; Personal information for clearances for tomorrow's meeting

Accompanying this cover sheet are two documents that Duff mentioned to you in his message, identifying action steps and issues of interpretation and implementation to be discussed in tomorrow morning's meeting.

If you are agreeable, participants will include the following:

Bill Kissinger, State/L DOB: (b)(6) SSN: (b)(6)

Duff Gillespie, USAID/G/PHN DOB: (b)(6) SSN: (b)(6)

Bob Lester, USAID/GC DOB: (b)(6) SSN: (b)(6)

Pat Ramsey, USAID/GC DOB: (b)(6) SSN: (b)(6)

Barbara Crane, USAID/G/PHN/POP DOB: (b)(6) SSN: (b)(6)

[00]

[Federal Register: May 16, 1996 (Vol. 61, Number 96)]

[Presidential Documents]

[Page 24667]

From the Federal Register Online via GPO Access [wais.access.gpo.gov]

[DOCID:fr16my96-152]

Presidential Documents

[[Page 24667]]

Memorandum of April 26, 1996

Suspension of the Proviso Limiting Implementation of Subsections (a), (b), (c), (e), (g), or (i) of the Endangered Species Act of 1973 (16 U.S.C. 1533) Contained in the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (H.R. 3019)

Memorandum for the Secretary of the Interior [and] the Secretary of Commerce

By the authority vested in me by the final proviso under the heading of United States Fish and Wildlife Service, Resource Management, of title I of the Department of the Interior and Related Agencies Appropriations Act, 1996 (authorizing the suspension of the preceding proviso limiting implementation of subsections (a), (b), (c), (e), (g), or (i) of section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) (''limitation proviso'')), and section 301 of title 3, United States Code, I hereby suspend that limitation proviso because I have determined that such suspension is appropriate based upon the public interest in sound environmental management, sustainable resource use, protection of national or locally-affected interests, and protection of cultural, biological, or historic resources.

This suspension is effective immediately and shall continue until the limitation proviso expires.

The Secretary of the Interior is authorized to report this suspension to the Congress and to publish this memorandum in the Federal Register.

(Presidential Sig.)<Clinton1><Clinton2>

THE WHITE HOUSE,

Washington, April 26, 1996.

[FR Doc. 96-12242

Filed 5-15-96; 8:45]

Billing code 4310-10-M

(A) assistance authorized by subsection (a) and allocated for population planning activities or other population assistance shall be reduced by a total of \$12,500,000, and that amount shall be transferred from funds appropriated by this Act under the heading "Development Assistance" and consolidated and merged with funds appropriated by this Act under the heading "Child Survival and Disease Programs Fund"; and

(B) Notwithstanding any other provision of law, such transferred funds that would have been made available for population planning activities or other population assistance shall be made available for infant and child health programs that have a direct, measurable, and high impact on reducing the incidence of illness and death among children.

(3) LIMITATION.—The authority provided in paragraph (1) may be exercised to allow the provision of not more than \$15,000,000, in the aggregate, to all foreign private, nongovernmental, or multilateral organizations with respect to which such authority is exercised.

(4) ADDITIONAL REQUIREMENTS.—Upon exercising the authority provided in paragraph (1), the President shall report in writing to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives.

(c) WAIVER AUTHORITY.—

(1) AUTHORITY.—The President may waive the restrictions contained in subsection (b) that require certifications from foreign private, nongovernmental, or multilateral organizations;

(2) REDUCTION OF ASSISTANCE.—In the event the President exercises the authority contained in paragraph (1) to waive either or both subsections (b) (1) and (b) (2), then—

(A) assistance authorized by subsection (a) and allocated for population planning activities or other population assistance shall be reduced by a total of \$12,500,000, and that amount shall be transferred from funds appropriated by this Act under the heading “Development Assistance” and consolidated and merged with funds appropriated by this Act under the heading “Child Survival and Disease Programs Fund”; and

(B) Notwithstanding any other provision of law, such transferred funds that would have been made available for population planning activities or other population assistance shall be made available for infant and child health programs that have a direct, measurable, and high impact on reducing the incidence of illness and death among children.

(3) LIMITATION.—The authority provided in paragraph (1) may be exercised to allow the provision of not more than \$15,000,000, *in the aggregate, to all foreign private, nongovernmental, or multilateral organizations with respect to which such authority is exercised.*

(4) ADDITIONAL REQUIREMENTS.—*Upon exercising the authority provided in paragraph (1), the President shall report in writing to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives.*

Post Abortion Care

Safe Pregnancy

Maternal Nutrition

Cervical Cancer

- # 10 Child spacing
 - # 25 UNFPA
 - # 15 American Schools & Hospitals Abroad (incl. Hadassah)
-

① It'll be asked for reporting waiver to someone

Bill

025-5646



U.S. Agency For International Development
Washington, D.C. 20523

FACSIMILE TRANSMITTAL COVER SHEET

DATE: 11/22/99TO: Shelly PetersonURGENTTel: 202-456-7804Fax: 202-456-7024FROM: Barbara Crane / Duff Gillespie
Senior Policy Adviser

Office of Population

Center for Population, Health and Nutrition

USAID

1300 Pennsylvania Avenue, N.W.

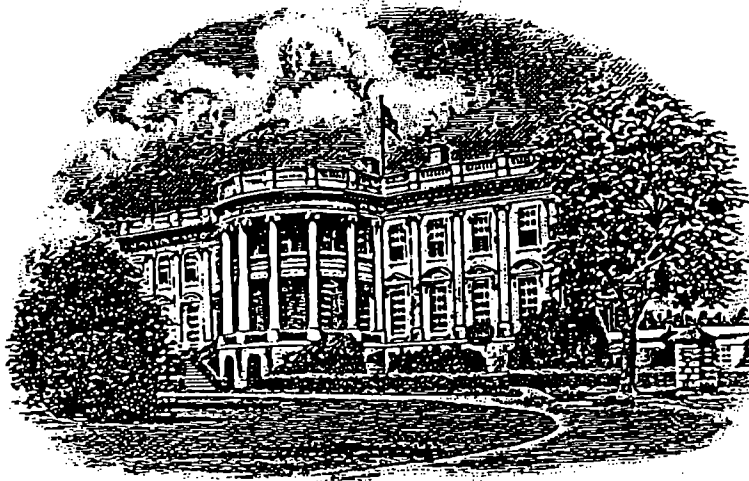
Washington, D.C. 20523-3600

Tel: 202-712-5839Fax: 202-216-3046Email: bcrane@usaid.govNumber of pages (including cover sheet) 2Subject: Edits to Presidential statement

Attached are some possible additional
phrasing to include in the statement, discussed
by Duff + me. Please call if you'd like to
discuss further. Thanks for sharing this with us!

Barbara Crane

The White House



Office of the Counsel to the President
Facsimile Transmission

Date: ~~11/15/99~~ 11/16/99

To: Bill Kissinger 647-7096
Bob Lester 216-3058
~~Robert Bork 219-3304~~
~~Robert Cassida~~

Facsimile Number: _____

Total Pages: ~~3~~

From: Michelle Peterson

Phone: (202) 456-7804

Fax: (202) 456-7024

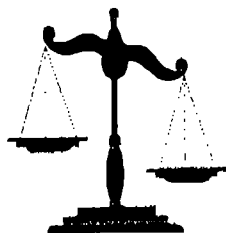
*Final language -
Call ASAP if any thing
looks wrong!*

Note:

*Pls keep close hold, but call me w/ comments/
concerns.*

Review attached language

The documents accompanying this facsimile transmittal sheet are intended only for the use of the individual or entity to whom it is addressed. This message contains information which may be privileged, confidential or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any disclosure, dissemination, copying or distribution, or the taking of any action in reliance on the contents of this communication is strictly prohibited. If you have received the information in error, please immediately notify the sender at the telephone number above.



U.S. DEPARTMENT OF STATE
THE LEGAL ADVISER
Washington, D. C. 20520-6310

Date: November 29, 1999

TO: Shelly Peterson. fax 456-7024, tel. 456-7804
Bob Damas, fax 395-7289, tel. 395-5044

FAX # Phone #

FROM: L – William Kissinger, Legal Adviser's Office

FAX #: 202 647-7096 Phone #: 202 647-9598

SUBJECT:

Special Instructions/Message: Shelly & Bob, Mike Casella asked that I send only changes to the waiver language. Please call if you have any questions. Bill.

Number of Pages: 1 (plus this cover sheet)

as President of
the U.S., including

Presidential Determination
No. _____

MEMORANDUM FOR THE SECRETARY OF STATE

under
SUBJECT: Waiver of section 599D(b) of Title _____ of the Consolidated Appropriations Act
~~for Fiscal Year 2000~~ which places certain restrictions on recipients of
U.S. international family planning assistance

Pursuant to the authority vested in me by section 599D(c) of Title _____ of the Consolidated
~~Appropriations Act for Fiscal Year 2000~~ (the "Act"), I hereby waive the restrictions contained in
subsection (b) to the full extent authorized by subsection (c). [This waiver shall take effect
immediately and shall continue until the expiration of the appropriations covered by the
restrictions in subsection (b).] *

report

You are hereby authorized and directed to ~~transmit~~ this waiver ~~on my behalf~~ to the Committees
on Appropriations and on Foreign Relations of the Senate and the Committees on Appropriations
and on International Relations of the House of Representatives.

(Presidential Signature)

the Foreign Operations, Export
Financing, and Related Programs
Appropriations Act, 2000, as
enacted in Section 1000(a)(2)
of the Consolidated Appropriations
Act, FY 2000 (PL—)

* This sentence is unnecessary; there is low level
concern that including it creates a precedent
we will not follow in future waivers, thereby leading
Congress to draw negative inferences. On the other
hand, we understand political reason to include.
Your choice

assistance may be made available for any foreign private, nongovernmental, or multilateral organization until the organization certifies that it will not, during the period for which the funds are made available, violate the laws of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited, or engage in activities or efforts to alter the laws or governmental policies of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited.

(B) Subparagraph (A) shall not apply to activities in opposition to coercive abortion or involuntary sterilization.

(3) APPLICATION TO FOREIGN ORGANIZATIONS.--The prohibitions and certifications of this subsection apply to funds made available to a foreign organization either directly or as a subcontractor or subgrantee.

(c) WAIVER AUTHORITY.—

(1) AUTHORITY.—The President may waive the restrictions contained in subsection (b) that require certifications from foreign private, nongovernmental, or multilateral organizations.

(2) REDUCTION OF ASSISTANCE.—In the event the President exercises the authority contained in paragraph (1) to waive either or both subsections (b) (1) and (b) (2), then—

(A) assistance authorized by subsection (a) and allocated for population planning activities or other population assistance shall be reduced by a total of \$12,500,000, and that amount shall be transferred from funds appropriated by this Act under the heading “Development Assistance” and consolidated and merged with funds appropriated by this Act under the heading “Child Survival and Disease Programs Fund”; and

(B) Notwithstanding any other provision of law, such transferred funds that would have been made available for population planning activities or other population assistance shall be made available for infant and child health programs that have a direct, measurable, and high impact on reducing the incidence of illness and death among children.

(3) **LIMITATION.**—The authority provided in paragraph (1) may be exercised to allow the provision of not more than \$15,000,000, in the aggregate, to all foreign private, nongovernmental, or multilateral organizations with respect to which such authority is exercised.

(4) **ADDITIONAL REQUIREMENTS.**—Upon exercising the authority provided in paragraph (1), the President shall report in writing to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives.

11/16/99 2:15pm

AUTHORIZATION FOR POPULATION PLANNING

SEC. 599D. (a) **AUTHORIZATION.**--Not to exceed \$385,000,000 of the funds appropriated in title II of this Act may be available for population planning activities or other population assistance.

(b) **RESTRICTION ON ASSISTANCE TO FOREIGN ORGANIZATIONS THAT PERFORM OR ACTIVELY PROMOTE ABORTIONS.**—

(1) **PERFORMANCE OF ABORTIONS.**—(A) Notwithstanding section 614 of the Foreign Assistance Act of 1961, or any other provision of law, no funds appropriated by title II of this Act for population planning activities or other population assistance may be made available for any foreign private, nongovernmental, or multilateral organization until the organization certifies that it will not, during the period for which the funds are made available, perform abortions in any foreign country, except where the life of the mother would be endangered if the pregnancy were carried to term or in cases of forcible rape or incest.

(B) Subparagraph (A) may not be construed to apply to the treatment of injuries or illnesses caused by legal or illegal abortions or to assistance provided directly to the government of a country.

(2) **LOBBYING ACTIVITIES.**—(A) Notwithstanding section 614 of the Foreign Assistance Act of 1961, or any other provision of law, no funds appropriated by title II of this Act for population planning activities or other population

DRAFT - DRAFT - DRAFT

November 18, 1999, 1:00 p.m.

**New Restrictions on USAID Family Planning Assistance:
Actions and Next Steps**

- **Consultations by USAID with White House and, with White House participation, Congress** concerning matters of implementation and interpretation, e.g.:
 - definition of lobbying and criteria for "de minimis" activity that would not violate the restrictions
 - procedures for collecting and validating the certifications necessary to implement the waiver and the \$15 million cap
 - guidance on handling of \$12.5 million funding transfer
 - content, format, and timing of report required by Congress - confirmation of previous understanding
- **Announcement from the White House (not USAID) on the agreement** and discussion on the content of the announcement with respect to plans and process for Presidential waiver, whether it will include a definition of lobbying, and whether it will address the Administration's intentions with respect to the FY 2001 budget request and opposing repetition of the restrictions.
- **Message to USAID staff, cooperating agencies, and field missions**, following enactment of the provisions into law, explaining key aspects of implementation and alerting them that the certification process may take time and may result in delays of FY 2000 obligations to some organizations.
- **Notice to USAID contractors and grantees (G/PHN, GC, and OP) to implement the procedures for certifying** whether or not they are involved in defined abortion activities and determination of what amendments may be needed to contracts and grant agreements.
- **Budget decisions** on USAID accounts from which \$12.5 million is to be cut, which specific countries and programs will be cut, and how additional funds for the Child Survival and Disease Fund will be used.

\fy00steps.doc

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Fall '96
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New Restrictions on USAID Family Planning Assistance

An agreement reached by the Administration and Congressional leadership establishes new restrictions on U.S. international family planning assistance for FY 2000, with provision for a Presidential waiver of the restrictions.

Specifically, the restrictions prohibit U.S. family planning assistance to foreign nongovernmental organizations (NGOs) or multilateral organizations that -- *with their own funds* -- perform abortions or "engage in activities or efforts to alter the laws or governmental policies of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited." Organizations have to certify that they do not engage in these activities in order to be eligible for U.S. funding. The new restrictions go beyond existing longstanding prohibitions on use of USAID funds for performing or lobbying for abortions.

Presidential waiver. The agreement allows for a Presidential waiver of the required certifications, while providing that no more than \$15 million may be given to organizations which are unable or unwilling to provide certifications. In addition, if the waiver is exercised, as is expected, the total funding for family planning is to be reduced from \$385 million to \$372.5 million, with \$12.5 million added to the "Child Survival and Disease Programs Fund."

Q: How much of USAID's program is affected by these restrictions?

A: USAID currently funds hundreds of foreign private and nongovernmental organizations through direct grants and contracts as well as through subgrants and subcontracts of U.S.-based cooperating agencies. In addition, USAID funds the World Health Organization, a multilateral agency that would be affected by the restrictions, to carry out contraceptive research and other family planning activities. Other funds are directed to governments or U.S.-based cooperating agencies or pharmaceutical companies that are not affected by these restrictions.

The number of non-governmental organizations currently involved in performing or lobbying for abortion is not known. Also unknown is the number of organizations which would risk foregoing FY 2000 funding or may even end existing agreements with USAID rather than provide the required information.

Q: How will USAID implement the Presidential waiver and the \$15 million cap in funding to organizations benefiting from the waiver?

A: Prior to any FY 2000 obligations of USAID funds to foreign private, nongovernmental and multilateral organizations, each organization will be required under this law to provide a certification to USAID. The certification will indicate whether or not the organization will be performing abortions or lobbying with its own resources during the two-year period from October 1, 1999 to September 30, 2001 (the period during which FY2000 funds can be obligated), or during the period in which the funds will be expended, whichever comes first.

The certifications, together with the planned USAID funding levels for each organization, will need to be collected by USAID. This information will be used to determine whether planned funding for organizations engaged in abortion activities (or unwilling or unable to provide certification) is within the \$15 million cap. The information would also be used to inform decisions on allocation of the \$15 million if necessary. *USAID will do everything possible to minimize the burden of the certification process for recipient organizations, to ensure timely obligation of funds, and to avoid disruptions in family planning services.*

Q: What will be the impact of reduced funding for family planning activities?

A: *USAID will review allocations carefully in order to minimize the impact of the reduced funding. The Administration is also committed to seeking a significant funding increase for FY 2001.*

November 18, 1999
\\fy00brf.doc

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Q: What will be the impact of reduced funding for family planning activities?

A: *USAID will review allocations carefully in order to minimize the impact of the reduced funding. The Administration is also committed to seeking a significant funding increase for FY 2001.*

November 18, 1999

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Duff Gillespie

216 - 3485

Today I signed the omnibus appropriations bill. Although it was overall a very good package, it included a provision on international family planning that I have strongly opposed throughout my administration. This is a one-time provision that imposes additional restrictions on international family planning groups. However, I insisted that Congress ~~include~~ ^{President} a waiver provision, which I sign today.

With this waiver, up to \$15 million can be allocated to foreign non-governmental organizations (NGOs) that, with their own funds either perform abortions or lobby to change the laws of their countries to allow for safe, legal abortions. I have instructed ~~the~~ ^{NSA} to implement the new ~~restrictions on~~ ^{provision} family planning money in such a way as to minimize to the extent possible the impact on international family planning efforts.

Unfortunately, the republican Congress has seen fit to demand that with this waiver, \$12.5 million be transferred from the funds used for international family planning to child survival funds. Although the money will be well spent on child survival, the cut will have a negative impact on our family planning activities worldwide. I will seek a significant funding increase for these critical programs for FY 2001. Additionally, as I have stated ~~repeatedly~~ ^{before}, I do not believe it is appropriate to limit the use to which foreign NGOs can put their own money. Thus, I will oppose inclusion of this restriction in any future appropriations bill.

and to respect the rights of citizens to speak freely on issues of importance in their countries, such as the rights of couples to make their own reproductive decisions.

or their ability to participate in the democratic process in their own countries.

pls feel free to edit, &
suggest changes - it's
very rough.

- Julie

[Federal Register: May 17, 1996 (Volume 61, Number 97)]

[Presidential Documents]

[Page 24875]

From the Federal Register Online via GPO Access [wais.access.gpo.gov]

[DOCID:fr17my96-135]

Presidential Documents

Title 3--
The President

[[Page 24875]]

November 1, 1999
Memorandum of April 26, 1996

Waiver
~~Suspension of Subsection 119(a) of the Department of the Interior and Related Agencies Appropriations Act, 1996, ("Act") as set forth in Section 101(c) of Title I of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (H.R. 3019) Regarding the Mojave National Preserve~~

Substitute appropriate language

State
Memorandum for the Secretary of the Interior
Subsection (c)(1) of
By the authority vested in me by subsection 119(b) of the Department of the Interior and Related Agencies Appropriations Act, 1996, ("Act") as set forth in section 101(c) of title I of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (H.R. 3019) and section 301 of title 3, United States Code, I hereby ~~suspend subsection 119(a) of the Act, because I have determined that such suspension is appropriate based upon the public interest in sound environmental management, sustainable resource use, protection of national or locally-affected interests, and protection of cultural, biological, or historic resources.~~

Waive the restrictions contained in subsection b. need no rationale/explanation

Waiver
This ~~suspension~~ shall take effect immediately and shall continue until ~~subsection 119(a)~~ expires.

You are authorized and directed to report this ~~waiver suspension~~ to the Congress and to publish this memorandum in the Federal Register.

(Presidential Sig.) <Clinton1><Clinton2>

THE WHITE HOUSE,

Washington, April 26, 1996.

[FR Doc. 96-12571
Filed 5-16-96; 8:45 am]
Billing code 4310-70-M

Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives

11/22/1999 2:22 PM

11/16/99 2:15pm

AUTHORIZATION FOR POPULATION PLANNING

SEC. 599D. (a) AUTHORIZATION.--Not to exceed \$385,000,000 of the funds appropriated in title II of this Act may be available for population planning activities or other population assistance.

(b) RESTRICTION ON ASSISTANCE TO FOREIGN ORGANIZATIONS THAT PERFORM OR ACTIVELY PROMOTE ABORTIONS.—

(1) PERFORMANCE OF ABORTIONS.—(A) Notwithstanding section 614 of the Foreign Assistance Act of 1961, or any other provision of law, no funds appropriated by title II of this Act for population planning activities or other population assistance may be made available for any foreign private, nongovernmental, or multilateral organization until the organization certifies that it will not, during the period for which the funds are made available, perform abortions in any foreign country, except where the life of the mother would be endangered if the pregnancy were carried to term or in cases of forcible rape or incest.

(B) Subparagraph (A) may not be construed to apply to the treatment of injuries or illnesses caused by legal or illegal abortions or to assistance provided directly to the government of a country.

(2) LOBBYING ACTIVITIES.—(A) Notwithstanding section 614 of the Foreign Assistance Act of 1961, or any other provision of law, no funds appropriated by title II of this Act

for population planning activities or other population assistance may be made available for any foreign private, nongovernmental, or multilateral organization until the organization certifies that it will not, during the period for which the funds are made available, violate the laws of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited, or engage in activities or efforts to alter the laws or governmental policies of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited.

(B) Subparagraph (A) shall not apply to activities in opposition to coercive abortion or involuntary sterilization.

(3) APPLICATION TO FOREIGN ORGANIZATIONS.--The prohibitions and certifications of this subsection apply to funds made available to a foreign organization either directly or as a subcontractor or subgrantee.

(c) WAIVER AUTHORITY.—

(1) AUTHORITY.—The President may waive the restrictions contained in subsection (b) that require certifications from foreign private, nongovernmental, or multilateral organizations.

(2) REDUCTION OF ASSISTANCE.—In the event the President exercises the authority contained in paragraph (1) to waive either or both subsections (b) (1) and (b) (2), then—

ABC This Week, 11/21/99

WILL: OK. On what--matter of public policy yet again, Mrs. Clinton has to decide perhaps between her constituency and the president's. The president has accepted in the UN dues resolution funding language that is anathema to some of the abortion rights groups. Where does Mrs. Clinton come down on this, with her husband or against?

WOLFSON: Well, as you know, Hillary is one of the champions of international family planning programs around the world. She has seen the good work that these programs has performed in many nations and it's just a shame that since the Republicans took over the Congress in 1994, they've have essentially waged war on family planning programs both in this country and internationally.

ROBERTS: But her husband has signed this. Is she going to agree with him or disagree with him?

WOLFSON: Well, I think it's unfortunate that we were put in this choice. I think it's yet another sign of why the Democrats need to take their Congress back from the Republicans and I'm sure she would have joined with Nita Lowey and Carolyn Maloney and Chuck Schumer and every single other member of the New York delegation in voting for the final package.

b. im. SEC. 502. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 503. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the Tariff Act of 1930.

SEC. 504. None of the funds made available by this Act shall be available in fiscal year 2000 for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynnco, Georgia, and Artesia, New Mexico, out of the Department of the Treasury.

SEC. 505. No part of any appropriation contained in this Act shall be available to pay the salary for any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service, and has within 90 days after his release from such service or from hospitalization continuing after discharge for a period of not more than 1 year, made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 506. No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c, popularly known as the "Buy American Act").

SEC. 507. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary of the Treasury shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 508. If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 509. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

SEC. 510. The provision of section 509 shall not apply where the life of the mother would be endangered if the fetus were carried to term, or the pregnancy is the result of an act of rape or incest.

SEC. 511. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2000 from appropriations made available for salaries and expenses for fiscal year 2000 in this Act, shall remain available through September 30, 2001, for each such account for the purposes authorized: *Provided*, That a request shall be submitted to the Committees on Appropriations for approval prior to the expenditure of such funds: *Provided further*, That these requests shall be made in compliance with reprogramming guidelines.

SEC. 512. None of the funds made available in this Act may be used by the Executive Office of the President to request from the Federal Bureau of Investigation any official background investigation report on any individual, except when—

(1) such individual has given his or her express written consent for such request not more than 6 months prior to the date of such request and during the same presidential administration; or

(2) such request is required due to extraordinary circumstances involving national security.

~~SEC. 513. Notwithstanding section 515 of Public Law 104-201, 50 percent of the unobligated balances available to the White House Office Salaries and Expenses appropriations in fiscal year 1997 shall remain available through September 30, 2000, for the purposes of satisfying the conditions of section 515 of the Treasury and General Government Appropriations Act, 1997.~~

SEC. 514. The cost accounting standards promulgated under section 26 of the Office of Federal Procurement Policy Act (Public Law 93-400; 41 U.S.C. 422) shall not apply with respect to a contract under the Federal Employees Health Benefits Program established under chapter 89 of title 5, United States Code.

SEC. 515. INVENTORY OF FEDERAL GRANT PROGRAMS. The Director of the Office of Management and Budget shall prepare an inventory of existing Federal grant programs after consulting each agency that administers Federal grant programs including formula funds, competitive grant funds, block grant funds, and direct payments. The inventory shall include the name of the program, a copy of relevant statutory and regulatory guidelines, the funding level in fiscal year 1999, a list of the eligibility criteria both statutory and regulatory, and a copy of the application form. The Director shall submit the inventory no later than 6 months after enactment to the Committees on Appropriations and relevant authorizing committees.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SEC. 601. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 602. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other

Deadline.

FY00

Dec-03-99 16:36 From-0A DIR & GEN COUNSEL

2024567921

T-669

P.02/04

F-045



Barbara Crane <bcrane@usaid.gov>

11/23/99 09:08:02 AM

Please respond to bcrane@usaid.gov

Record Type: Record

To: Michelle Peterson/WHO/EOP

cc: kissingewd@ms.state.gov, m.pollack@state.gov

Subject: Presidential waiver statement with proposed edits

Here's the waiver statement attached.

Bill Kissinger, State/L, also saw it last night and suggested that last line of first para. should end "which I WILL EXERCISE today."

On the first line of the last paragraph, he suggests: ...\$12.5 million be TAKEN AWAY FROM CRITICALLY IMPORTANT international family planning PROGRAMS."

The next sentence might then read better if it says, "Although, AS PROVIDED IN THE LAW, the money will be well spent on child survival, the cut will.....

Hope these suggestions are useful as you move toward finalizing the statement. We of course are very interested in how it takes shape!

Barbara Crane

Barbara B. Crane, Ph.D.
Senior Policy Adviser
Office of Population, Rm. 3.06-024
U.S. Agency for International Development
1300 Pennsylvania Avenue, N.W.
Washington, D. C. 20523-3600
Tel: 202-712-5839
Fax: 202-216-3046



- FY00PRES.DOC

**RECOMMENDATIONS ON THE
HOUSE FY 2000 BILL AND REPORT
FOR CONSIDERATION DURING CONFERENCE**

Several provisions of the House Appropriations Committee Report and Bill for FY 2000 raise significant concerns for USAID, and will impede USAID's ability to improve maternal and child health and reduce mortality. The primary concerns are highlighted below, and where appropriate recommendations are suggested, including possible alternative wording.

1. The section entitled "Preserve the Integrity of the Child Survival and Disease Programs Fund" directs USAID to program CSD funds separately from other account funding, including DA funds, and establish a separate Center for Child Survival and Disease Programs. Separate programming is in conflict with best development practice and basic principles of public health; would lead to a decline in resources available for field programs; and cause an enormous increase in administrative actions for USAID and its partners in the field. Such a separation may not be feasible, given that almost all host country government and private health programs offer a wide spectrum of integrated services.

As an alternative, USAID recommends language for the Statement of Managers along the following lines:

In response to concerns expressed by the House Appropriations Committee about preserving the integrity of the Child Survival and Disease Program Fund, USAID is directed to delineate the kinds of activities Child Survival and Disease Funds are used for in the FY 2001 budget justification and in 2000 notifications of change. If funds from other accounts are also used in the same program, the notification will also identify the activities those other accounts support. USAID is urged to take steps to ensure that operating units are aware of, and apply the guidance on the appropriate use of CSD funds.

USAID is urged to appoint a senior technical professional as a point of contact for the Agency on the Child Survival and Disease Program fund. USAID is further directed to prepare a biennial report to Congress on the implementation of the CSD fund incorporating existing reports on polio, HIV/AIDS and child survival.

2. The House allocations of the Child Survival and Disease account present several problems for USAID: although the House increases the total amount for the CSD account by \$35 million, from \$650 million to \$685 million, the increased sub-earmarks actually result in a DECREASE in money available for child survival interventions. This causes a severe funding crisis for the Agency's basic child survival program, and could lead to the severe curtailment of core child survival activities that prevent some of the primary causes of child mortality, such as

1. Separate programming of CSD and DA/Pop funds

In order to preserve the integrity of the Child Survival and Disease Program Fund, the Committee directs AID to separate the administration and coordination of activities in this account from those of other global activities...the fiscal year 2001 budget justification and 2000 notifications of changes should not combine programs, projects, and activities funded from this account with programs, projects, and activities funded from other funding sources, except with the prior agreement of the Committee.

Issues:

- **USAID strongly opposes** separate programming of CSD and other account resources.
- USAID has a clear **policy on the appropriate uses of CSD funds**, and sends this guidance regularly to mission and operating unit staff. At the mission level, detailed budget and expenditure information on the use of CSD funding already exists. A 1996 GAO audit found that USAID used its child survival funds appropriately.
- CSD account resources are often programmed jointly with DA/Pop funding, reflecting the **realities of the developing world** and to ensure that CSD funds are used appropriately. In most developing countries, health services are integrated – and child health, maternal care, and family planning services are all delivered by the same facility or health worker. Very often, there is only one single health facility within miles (or hundreds of miles) and clients will look to these limited service outlets to supply all their needs. Donor funding, such as USAID, cannot feasibly be provided for only one program component in this context.
- Including child or maternal health services in a program delivering family planning services is an **efficient means for getting key health interventions to the community**. If child/maternal health and family planning programs were not integrated, separate facilities would have to be built, separate staff trained – including physicians, nurses, community workers -- and separate institutions developed. This would mean spending child survival and maternal health resources on setting up duplicative facilities, rather than improving and delivering interventions.
- Separation of funds would lead to **significant costs to the taxpayer** --- in some countries it could nearly double the CSD funds required for the same activities.
- A number of USAID's contractors and grantees receive both CSD and DA/Population funding because they are implementing both child survival/health and family planning related activities. To set up separate contracting or grantee mechanisms to disconnect family planning from child survival would cost the U.S. government a great deal of financial and personnel overhead, reduce funding for core child survival and health interventions, and significantly increase management and administrative costs.

Recommendation: As an alternative to the House restriction on combining CSD funds with other account funds, USAID will strengthen its existing system of checks and balances to ensure that CSD funds are used appropriately. This would include:

- USAID will revise its policy guidelines making clear that all new scopes of work for contracts, grants and cooperative agreements must reflect the guidance on the appropriate use of CSD funds, including the relative balance of CSD funds vs. other funds.
- For jointly funded programs, Congressional Notifications will clearly note what CSD funds are to be used for and what other account funds are to be used for.
- USAID will provide briefing reports for Congressional staff on the CSD fund, including:
 1. CSD Funding allocations by major directive and operating unit for the current year
 2. Allocations by program component for the previous year
 3. Updates on mutually agreed upon issues
 4. Reports from visiting mission health officers
- USAID will prepare a biannual report to Congress on the CSD Fund, incorporating current reports on child survival, HIV/AIDS, and polio into one. The report would include sections on child survival, polio, displaced children and orphans, maternal health, HIV/AIDS, infectious diseases (including tuberculosis), and basic education. This report would also highlight programmatic progress, country level detail, funding information, and future challenges.

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to this account and to be available for obligation until September 30, 2001, for necessary expenses under this paragraph: Provided further, That such reimbursements shall not cover, or be allocated against, direct or indirect administrative costs of the agency.

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 2000, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND DISEASE PROGRAMS FUND

For necessary expenses to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961, for child survival, basic education, assistance to combat tropical and other diseases, and related activities, in addition to funds otherwise available for such purposes, \$715,000,000, to remain available until expended: Provided, That this amount shall be made available for such activities as: (1) immunization programs; (2) oral rehydration programs; (3) health and nutrition programs, and related education programs, which address the needs of mothers and children; (4) water and sanitation programs; (5) assistance for displaced and orphaned children; (6) programs for the prevention, treatment, and control of, and research on, tuberculosis, HIV/AIDS, polio, malaria and other diseases; and (7) up to \$98,000,000 for basic education programs for children: Provided further, That none of the funds appropriated under this heading may be made available for nonproject assistance for health and child survival programs, except that funds may be made available for such assistance for ongoing health programs.

DEVELOPMENT ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of sections 103 through 106, and chapter 10 of part I of the Foreign Assistance Act of 1961, title V of the International Security and Development Cooperation Act of 1980 (Public Law 96-533) and the provisions of section 401 of the Foreign Assistance Act of 1969, \$1,228,000,000, to remain available until September 30, 2001: Provided, That of the amount appropriated under this heading, up to \$5,000,000 may be made available for and apportioned directly to the Inter-American Foundation: Provided further, That of the amount appropriated under this heading, up to \$14,400,000 may be made available for the African Development Foundation and shall be apportioned directly to that agency: Provided further, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive



U.S. Agency For International Development
Washington, D.C. 20523

FACSIMILE TRANSMITTAL COVER SHEET

Date: _____

11/15/99

TO:

ATTENTION: Shelly Peterson

ORGANIZATION: _____

FAX _____
202 456-7024

OFFICE PHONE: 202-456-7804

FROM:

ORIGINATOR: Duff G. Gillespie

ORGANIZATION: USAID/G/PHN

FAX PHONE: 202-216-3485

OFFICE PHONE: 202-712-4120

NUMBER OF PAGES (including this cover sheet):

Shelly,

The question of mixing child survival and population funding has been the subject of a long standing discussion with the House Appropriations Committee staff. In response to FY 2000 HACFO Conference language which included fairly burdensome and restrictive language on mixing the two types of funding, USAID developed some alternative language that outlined steps we would take (and have since taken) to ensure that child survival funds are adequately protected and protect against any alleged inappropriate use of funds. The attached paper was developed in response to the HACFO language, and outlines our concerns and the steps we would take. These steps were shared with HACFO staff, and appeared to offer sufficient assurances for them, as the language did not appear in the final Statement of Managers.

Please note that there are two parts to the attachment. The first is part of a formal paper we prepared, offering alternative language for the Conference report. The second is a more detailed discussion of the issues and steps we would take. The latter was discussed with HACFO staff.

Please let me know if you have any questions.

Duff

RECOMMENDATIONS ON THE HOUSE FY 2000 BILL AND REPORT FOR CONSIDERATION DURING CONFERENCE

Several provisions of the House Appropriations Committee Report and Bill for FY 2000 raise significant concerns for USAID, and will impede USAID's ability to improve maternal and child health and reduce mortality. The primary concerns are highlighted below, and where appropriate recommendations are suggested, including possible alternative wording.

1. The section entitled "Preserve the Integrity of the Child Survival and Disease Programs Fund" directs USAID to program CSD funds separately from other account funding, including DA funds, and establish a separate Center for Child Survival and Disease Programs. Separate programming is in conflict with best development practice and basic principles of public health; would lead to a decline in resources available for field programs; and cause an enormous increase in administrative actions for USAID and its partners in the field. Such a separation may not be feasible, given that almost all host country government and private health programs offer a wide spectrum of integrated services.

As an alternative, USAID recommends language for the Statement of Managers along the following lines:

In response to concerns expressed by the House Appropriations Committee about preserving the integrity of the Child Survival and Disease Program Fund, USAID is directed to delineate the kinds of activities Child Survival and Disease Funds are used for in the FY 2001 budget justification and in 2000 notifications of change. If funds from other accounts are also used in the same program, the notification will also identify the activities those other accounts support. USAID is urged to take steps to ensure that operating units are aware of, and apply the guidance on the appropriate use of CSD funds.

USAID is urged to appoint a senior technical professional as a point of contact for the Agency on the Child Survival and Disease Program fund. USAID is further directed to prepare a biennial report to Congress on the implementation of the CSD fund incorporating existing reports on polio, HIV/AIDS and child survival.

2. The House allocations of the Child Survival and Disease account present several problems for USAID: although the House increases the total amount for the CSD account by \$35 million, from \$650 million to \$685 million, the increased sub-earmarks actually result in a DECREASE in money available for child survival interventions. This causes a severe funding crisis for the Agency's basic child survival program, and could lead to the severe curtailment of core child survival activities that prevent some of the primary causes of child mortality, such as

1. Separate programming of CSD and DA/Pop funds

In order to preserve the integrity of the Child Survival and Disease Program Fund, the Committee directs AID to separate the administration and coordination of activities in this account from those of other global activities...the fiscal year 2001 budget justification and 2000 notifications of changes should not combine programs, projects, and activities funded from this account with programs, projects, and activities funded from other funding sources, except with the prior agreement of the Committee.

Issues:

- **USAID strongly opposes** separate programming of CSD and other account resources.
- USAID has a clear **policy on the appropriate uses of CSD funds**, and sends this guidance regularly to mission and operating unit staff. At the mission level, detailed budget and expenditure information on the use of CSD funding already exists. A 1996 GAO audit found that USAID used its child survival funds appropriately.
- CSD account resources are often programmed jointly with DA/Pop funding, reflecting the **realities of the developing world** and to ensure that CSD funds are used appropriately. In most developing countries, health services are integrated – and child health, maternal care, and family planning services are all delivered by the same facility or health worker. Very often, there is only one single health facility within miles (or hundreds of miles) and clients will look to these limited service outlets to supply all their needs. Donor funding, such as USAID, cannot feasibly be provided for only one program component in this context.
- Including child or maternal health services in a program delivering family planning services is an **efficient means for getting key health interventions to the community**. If child/maternal health and family planning programs were not integrated, separate facilities would have to be built, separate staff trained – including physicians, nurses, community workers -- and separate institutions developed. This would mean spending child survival and maternal health resources on setting up duplicative facilities, rather than improving and delivering interventions.
- Separation of funds would lead to **significant costs to the taxpayer** --- in some countries it could nearly double the CSD funds required for the same activities.
- A number of USAID's contractors and grantees receive both CSD and DA/Population funding because they are implementing both child survival/health and family planning related activities. To set up separate contracting or grantee mechanisms to disconnect family planning from child survival would cost the U.S. government a great deal of financial and personnel overhead, reduce funding for core child survival and health interventions, and significantly increase management and administrative costs.

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