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MEMORANDUM

TO: OMB, Alex Hunt

FROM: M/AS/IRD, Joanne Paskar

SUBJECT: USAID FY 2000 Population Assistance
Certification; Request for Emergency Processing

The purpose of this memorandum is to request emergency processing of the attached USAID submission under the Paperwork Reduction Act. The written determination required by 5 CFR Part 1320, Sec. 1320.13 is attached.

USAID asks OMB to approve the subject collection within one week of receipt of this request, preferably on or before January 14, 2000, so that any disruption of programs can be averted.

The Agency has taken all practicable steps to consult with interested agencies and members of the public in order to minimize the burden of the collection of information. In the 27 working days since the law was signed by the President, USAID has consulted to the extent feasible with other U.S. government agencies, a number of major contractors who work with covered organizations overseas, and representatives of covered organizations in order to minimize the burden of the collection.

USAID requests a waiver of the required Federal Register notice, as the urgency of implementing the new statutory certification requirement does not allow time to comply with this procedure.

Also included in the request package are:

- the completed Paperwork Reduction Act Submission Form, OMB Form 83-I;
- the Supporting Statement for Approval under the Paperwork Reduction Act;
- a copy of Section 599D of P.L. 106-113; and

- the proposed certification form; and
- copies of draft documents for implementation of the certification requirements, including guidance, a USAID policy notice, request letters for non-U.S. and U.S. prime awardees, a Contract Information Bulletin, and related contract clause and grant provision. These documents have been approved by responsible senior officials in USAID, the State Department, OMB, and the White House.

We request your prompt approval of this information collection and assignment of a control number to be included on the certification form. We request that OMB assign a control number valid for the maximum period permitted by law.

Attachments a/s

Attachment 1

Emergency Processing Determination

Pursuant to 5 CFR 1320.13, I hereby determine that:

1. Collection of the FY 2000 Population Assistance Certification Forms and related information must be initiated prior to the expiration of the 30-day notice period (after publication in the Federal Register) and the standard 60-day OMB approval period established by 5 CFR 1320.10. The minimum two to three-month delay entailed in OMB's normal approval process would cause serious disruption in implementation of USAID's international family planning program, as outlined below.

2. Collection of the certification forms is essential to the mission of USAID. Assistance for family planning programs has been a longstanding priority among USAID's overseas development programs and is critical to the Agency's strategic objective of stabilizing population and protecting human health in the countries receiving USAID assistance. If the certifications are not collected, over one-quarter of USAID's FY 2000 budget for population assistance to as many as 1,500 covered organizations could not be obligated, estimated at about \$90 million. In almost every country assisted by USAID, program activities which rely heavily on the participation of local NGOs would be abruptly curtailed.

3. USAID cannot reasonably comply with the normal clearance procedures under this part because public harm is reasonably likely to result if these procedures are followed. Failure to provide timely FY 2000 funding to the covered organizations as planned would inevitably lead to disruption in the family planning and related health services they provide to women and their families. Increases in unintended pregnancies, maternal and infant deaths, and abortions would result.

Ken Schofield
Senior Deputy Assistant Administrator
Global Bureau

Date

Clearances:

AA/G,PWhite _____ date _____

GC,PRamsey _____ date 1/10/00

DAA/G/PHN,RKirkland (Acting) (draft) date 1/6/00

G/PHN/POP,SRadloff (draft) date 1/6/00

Drafted: GC,PRamsey; G/PHN/POP,BCrane:2-5839:1/5/00, rev.
1/10/00

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USAID FY 2000 Population Assistance Certifications

Supporting Statement for Approval under the Paperwork Reduction Act

Summary: USAID requests that OMB approve collection of certifications from non-U.S., non-governmental and multilateral organizations scheduled to receive FY 2000 population assistance funds. The certification pertains to abortion-related activities carried out by the organizations with either USAID or non-USAID funds. USAID would also collect information on planned funding levels for subawardees that do not certify.

Section A. Justification

1. Why collection is necessary

Section 599D of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 2000 (as enacted in Public Law 106-113), prohibits USAID from providing FY 2000 population assistance funds appropriated under the statute to non-U.S., non-governmental organizations, whether non-profit or profit-making, and multilateral organizations (hereafter "covered" organizations), unless they certify that they will not engage in certain abortion-related activities during the period the funds are available for obligation. The requirement applies to covered organizations receiving FY 2000 population funds either directly from USAID or as subcontractors or sub-grantees and to activities funded with either USAID or non-USAID funds. Although the President has exercised statutory authority to waive this requirement, only a limited amount of funding may be provided under the law—a total of \$15 million for population activities worldwide—to covered organizations that do not certify. When certifications cannot be obtained, funding may be provided to non-certifying, covered organizations only within the limited \$15 million cap.

To implement the law and continue support for international family planning activities, USAID must obtain certifications from as many covered organizations as possible. Without the certifications, USAID would be unable to obligate a substantial portion of the population assistance funds available for FY 2000 and unable to attain Agency objectives in international family planning. In addition, USAID needs information on the level of financial support planned for covered organizations that do not certify. Without this information, USAID would be unable to ensure that funding for non-certifying covered organizations remains within the \$15 million cap.

2. How the information will be collected, by whom and for what purpose

USAID plans to collect the necessary information by requiring all prospective covered prime awardees to furnish a signed certification form, prior to receiving FY 2000 population funds, indicating whether the organization certifies or declines to certify. In addition, USAID proposes to require all prime awardees receiving FY 2000 population funds, whether they are covered or not, to collect certification forms from their covered subawardees at all levels below the prime award. Finally, USAID will require all prime awardees to provide information on planned funding levels for covered subawardees that do not certify.

With the assistance of a contractor, John Snow, Inc. (JSI), USAID population officers in Washington and at field missions will collect certification forms from prime awardees. Prime awardees will collect

certification forms from subawardees, based on guidance provided by USAID. USAID population officers will also collect information from prime awardees on planned funding levels for non-certifying subawardees. To facilitate the collection process, USAID has developed a certification form, certification guidance, explanatory cover letters directed to prime awardees, related contract and grant/cooperative agreement clauses as well as official Agency guidance to population officers and contract, grant and agreement officers involved in the collection process. These documents are included in the present approval request.

With JSI's assistance, USAID will track and maintain copies of certification forms received from covered organizations for the purpose of demonstrating compliance with the new law. In addition, USAID will analyze information on planned funding levels for covered organizations that do not certify for the purpose of ensuring compliance with the \$15 million cap. USAID will ensure the cap is not exceeded by requiring specific approval by the Director of USAID's Office of Population in the Global Bureau, Center for Population, Health and Nutrition. (Because this is a new collection, there are no data on how this information is currently used.)

3. Use of information technology for collection

USAID expects to make very limited use of automated, electronic or other technological means for collecting the certification forms. Except for U.S.-based intermediaries, which play a role in the collection process, the vast majority of respondents are relatively small, non-U.S. organizations which have limited or unreliable access to advanced information technology. Some may be able to receive the form electronically. The certification form which must be submitted is itself quite simple, requiring only a signature in one of two signature blocks. Accordingly, submission of the signed form is not considered onerous. USAID will allow JSI to work with faxed copies of original certifications provided to primes by subawardees. USAID cannot develop reliable mechanisms for electronic submissions by foreign organizations and ensure prompt implementation of the new law.

Collection of the information on expected funding levels for non-certifying organizations will rely almost entirely on electronic means and is expected to involve a relatively small data base of fewer than 50 organizations.

4. Duplication

No information is currently available which would meet the requirement for certifications prior to obligation of most of USAID's FY 2000 population assistance funds. Similarly, no information is currently available on planned funding for organizations engaged in abortion-related activities financed with non-USAID resources.

5. Impact on small entities

The majority of covered organizations completing the certification form are small entities. However, the requirement to complete the form, in itself, will have little or no financial impact on their operations. Prime awardees, which will collect certifications and maintain copies of certification forms from their subawardees, are generally not small entities.

6. Consequences if the collection is not conducted

If USAID does not collect certifications from covered organizations, it will be unable, legally, to obligate a substantial portion, estimated at approximately \$90 million, of the population assistance funds available for FY 2000 and that would be directed to family planning services and related activities conducted by the covered organizations. Moreover, it will be unable to attain Agency objectives in international family planning. If USAID does not collect information on planned funding for non-certifying subawardees, USAID will be unable to control amounts going to such organizations and will be unable ensure funding for such organizations remains within the statutory \$15 million cap. Failure to collect the certification forms or the related financial information would result in either a violation of statute or serious damage to USAID's population assistance programs around the world.

The statutory requirement to collect certifications is included in a provision appropriating funds for a two-year period. USAID plans to collect a certification form once from each covered organization during that period, prior to the award of FY 2000 population funds. USAID has asked JSI to compile and maintain lists of organizations that have certified so that such organizations will not be asked to certify more than once. Similarly, USAID expects to collect information on individual planned subawards to non-certifying covered organizations once during the period that funds are available. Less frequent collection would not be consistent with the statute.

7. OMB guidelines

The collection will be conducted in a manner consistent with OMB guidelines.

8. Notice and public comment

To avoid undue delay in implementation of the new statute and its FY 2000 population program, USAID requests approval of the present information collection under emergency procedures. The reasons for use of emergency procedures and the need to waive standard public notice and public comment requirements are set forth in a separate memorandum.

USAID has consulted on an informal basis with respondent organizations, both in Washington and overseas, particularly with regard to the clarity of instructions. None of the comments received have raised concern with respect to the cost or time burden associated with providing the information. USAID will continue to consult on an informal basis with respondents and clarify guidance if it becomes necessary.

9. Payment or gift

No payment or gift will be provided to respondents, other than normal remuneration of contractors, grantees or recipients.

10. Assurance of confidentiality

USAID has not given respondents any assurance of confidentiality with respect to the information to be collected.

11. Justification for questions of a sensitive nature

Some organizations will consider inquiries into abortion-related activities they or their subawardees conduct with non-USAID funds to be

sensitive. Since the inquiries are not directed to individuals, but rather to organizations, they are not matters of personal privacy. Moreover, the inquiries which are inherent in the certification process are required by law. USAID has developed certification guidance and related explanatory cover letters to prime awardees to explain the legal requirements and USAID's need for the information. The certification form provides covered organizations the option to certify or decline to certify.

12. Estimate in hours of the burden of collection

USAID estimates the total number of respondents to be approximately 1540.

Of these, the number of covered organization respondents is estimated to be 1500. Each covered organization will, under normal circumstances, be required to complete the certification form once during the two year period of availability of FY 2000 funds, prior to executing an agreement under which such funds would be furnished.

Intermediary organizations that are also respondents, whether covered or not, would be required to collect forms and, prior to making subawards to non-certifying organizations, provide information to USAID on planned funding levels for these subawards. The number of covered organizations that are intermediaries with subawardees that would need to certify, is not known, although among the 1500 covered organizations, it is expected that fewer than 50 are primes with subawards.

There are about 40 large intermediary U.S.-based, non-covered, "prime awardees" that will be collecting forms from their covered subawardees.

(Others involved in collecting the forms include approximately 50 USAID country missions, the USAID/Washington Office of Population, and a contractor, John Snow, Inc., engaged by USAID to help in processing the forms and recording them in a database.)

USAID plans to collect most of this information by the end of March 2000. Subsequent submissions of certification forms and financial information would be required only in connection with awards or subawards to new organizations, not previously identified as prospective recipients of FY 2000 population funds.

The response time will vary for respondents. The wide variation in the time required to provide information reflects the fact that only some organizations are involved in activities described in the certification form; other variation stems from the different roles of the certifying and intermediary organizations in the collection, reporting, and recordkeeping process.

Respondent organizations and intermediaries will not require additional staff or equipment to provide the requested information.

The vast majority of covered organizations, estimated at 1450, are not engaged in activities described in the certification form. We estimate such organizations will require approximately 4 person hours to review the form and guidance, sign and transmit the form to the appropriate USAID official or intermediary organization. A small number, perhaps 50 organizations, may be engaged in activities described in the certification and/or have subawardees from whom they need to collect certifications. These organizations could require up to 40 person hours to review the form and guidance, consider their own activities, meet

internally and decide whether or not to certify for themselves, and/or contact their subawardees to obtain their certifications.

$$(2450 \text{ organizations} \times 4 \text{ hours}) + (50 \text{ organizations} \times 40 \text{ hours}) = 5800 + 2000 = 7,800 \text{ hours.}$$

The 40 U.S.-based intermediary organizations may require an average of 80 person hours each for all tasks: reporting (explaining the certification form to their subawardees and collecting and transmitting the forms to the appropriate USAID official or to JSI); recordkeeping (maintaining the original forms and copies in appropriate files); and providing expected FY 2000 funding levels for non-certifying subawardees.

$$40 \text{ organizations} \times 80 \text{ hours} = 3,200 \text{ hours}$$

Total annual hours requested for all respondents:

$$7,800 + 3,200 = 11,000$$

We estimate the total cost to respondents and intermediaries of this one-time information collection at \$273,000, based on the average hour burden shown above and an average hourly wage rate for non-U.S. covered organization staff of \$15, and an average hourly wage rate for staff of U.S. intermediary organizations of \$30.

$$7,800 \times \$15 = \$117,000$$

$$3,200 \times \$30 = \$96,000$$

$$\$117,000 + 96,000 = \$273,000$$

13. Annual cost burden to respondents or recordkeepers

(a) Total capital and start-up cost: The present collection will not require special capital or start-up costs for respondents. Recordkeepers may have some minimal costs associated with maintaining filed copies of the forms. The USAID contractor, John Snow, which will collect all of the respondent forms, maintain them in a central file, and develop a database on the returned forms will incur some costs, including file space, computer time, copying and faxing time, estimated at about \$4,000. No new equipment purchases for this purpose should be needed.

(b) Total operations, maintenance, and purchase of services: Respondent organizations are not expected to incur any significant additional costs in connection with maintaining certification forms and related documentation for the standard three-year period for retaining contract and grant-related records.

14. Estimated cost to Federal government

As noted above, USAID has engaged the services of JSI to assist in tracking and collecting certification forms. The total cost of JSI's assistance is estimated at \$100,000.

$$8 \text{ person-weeks} \times 40 \text{ hours} = 3200 \text{ person hours}$$

$$3200 \text{ hours} \times \$30 \text{ wage including fringe and overhead} = \$96,000$$

$\$96,000 \text{ time plus } \$4,000 \text{ capital costs} = \$100,000$

USAID field missions may require an average of 80 person hours each for all tasks: reporting (explaining the certification form to prime awardees and collecting and transmitting the forms to the appropriate USAID official or to JSI); recordkeeping (maintaining the original forms and copies in appropriate files); and providing expected FY 2000 funding levels for non-certifying awardees and subawardees.

$50 \text{ USAID field missions} \times 80 \text{ hours} = 4000 \text{ hours}$

$4000 \text{ hours} \times \$30 \text{ wage} = \$120,000$

A good deal of USAID headquarters staff time has been and will be consumed in the process of developing the form and the guidance and related communications, costs not calculated here. For the collection process itself, the time and cost for handling the forms and the funding information could be estimated as follows:

$6 \text{ person weeks} \times 40 \text{ hours} = 240 \text{ person hours}$

$240 \times \$30 \text{ wage} = \7200

However, no new equipment is needed and no new staff will be hired to assist with the collection process.

Other expenses to the government could include telephone, faxing, copying, and filing at \$10 per form:

$2500 \times \$10 = \$25,000$

Total cost to the Federal government:

$\$252,200$

Total cost to the Federal government and respondents:

$\$252,200 + 213,000 = \$465,200$

15. Program changes or adjustments

This is a new collection.

16. Publication plans

USAID has no plans to publish this information.

17. Display of expiration date

USAID requests approval not to display the expiration date of OMB approval on the certification forms. USAID is pursuing the present approval under emergency procedures, which are necessary to avoid serious delays in implementation of the Agency's FY 2000 population activities. We are seeking the maximum approval period of 180 days. USAID will request further approvals as necessary to ensure compliance with statute. USAID is concerned that display of the 180-day expiration

date would mislead non-U.S. organizations that must respond to the certification form and complicate USAID's efforts to collect the forms in compliance with the law. For example, organizations might mistakenly believe that the requirements to comply with the certification expire on the date indicated on the form.

18. Exceptions to the certification statement

USAID takes no exception to the certification statement in OMB 83-I.

19. Burden statement

USAID requests approval not to use either of the burden statement formats provided in Attachment 1 to the Instructions for Paperwork Reduction Act Submission. As described above, the respondents handling the certification form and receiving the letters of request to provide certifications have varying roles and circumstances. The description of tasks (e.g., "searching existing data sources") also is not applicable in this situation. We propose an alternate burden statement that reflects the specifics of this collection. Our proposed statement provides information about where to send comments on the burden estimate or any other aspect of this collection of information.

Section B. Collections of Information Employing Statistical Methods

Not applicable. USAID will not employ statistical methods for the present information collection.

11/15/99 Albright Briefing on UN Arrears

MR. LOCKHART: Good evening again, everyone. As promised at the last briefing, the Secretary of State, Madeleine Albright, joins us now. She'll have a brief statement and take some questions.

SECRETARY ALBRIGHT: Thank you. Well, I think we've had a very good day in foreign policy. First of all, the President, I think, had a very successful day here in Turkey, talking with President Demirel and Prime Minister Ecevit, and his address now to the assembly. And then, on a wider front, you've heard that we have been able to conclude the WTO deal, that the Cyprus talks are going to be launched. And then George Mitchell called to say that Northern Ireland, there had been some progress, important progress on that.

And, now, I would like to say that we have had a breakthrough in terms of our U.N. dues. And I'm pleased to report that a tentative agreement has been reached by the White House and congressional negotiators that would pave the way for the United States to pay our U.N. bills. For years, the Clinton administration has been urging Congress to meet our obligations to the U.N. in order to protect our national security interests and preserve American influence within the organization and around the world.

The agreement we are seeking would enable us to move in that direction by implementing the Helms-Biden bill, which authorizes the payment of arrears contingent on further progress towards U.N. reform. I expect that as details of the agreement emerge, that it will meet our goal in minimizing the practical impact on U.S. support for women's health programs around the globe. I caution, though, at this point that final agreement has not yet been reached. It is essential that fully adequate provisions be included for international debt relief, and that the payment of our U.N. obligations not be subjected to unreasonable conditions.

President Clinton and I have worked, basically, for seven years to come to this time where we will be able to regain our leadership role in the United Nations, and I'm very grateful to the President for all the effort that he has put into this, and I'm very, very grateful to Ambassador Holbrooke, who has really been dogging this issue from the moment that he was confirmed. And so I hope very much that this tentative agreement will, in fact, become final.

I have to go to the State Dinner, but I'll be happy to answer a couple of questions.

Q Madame Secretary, Congresswoman Pelosi says that it's not compromise, it's capitulation on the U.N. arrears deal. What do you say to her?

SECRETARY ALBRIGHT: Well, Congresswoman Pelosi has been, and is, a great friend of the administration and of this family planning issue. Let me just say that it is my sense that what is going -- the agreement that I hope will come out will not interfere with family planning around the world, and that it will have minimal effect.

Q What is the abortion language in the tentative deal?

SECRETARY ALBRIGHT: I am not -- I can't give it to you at this stage. As I said, the details of this are still being worked out, but we do believe that there is a way that with minimal effect on family planning, that this will not only allow the U.N. money to go forward, it will not go into permanent law. And it will allow the President to carry out his family -- our family, U.S. family planning policy around the world.

Q Will he be speaking with family planning groups and so forth to try to reassure them on this point?

SECRETARY ALBRIGHT: Well, we have been doing that. In Washington, I will be, yes. And I think that they will see, once this is down on paper and evident to everybody, that it will not interfere with the family planning programs around the world.

Q Madame Secretary, can you tell us to what extent the WTO agreement today took into consideration China's status as a developing country? And, second, how important was this agreement in the overall scheme of trying to right badly strained Sino-American relations?

SECRETARY ALBRIGHT: I understand you've had a full briefing on all of this from Sandy Berger. All I would like to say is that I think it's a big step forward, and obviously very useful in Sino-American relations.

MR. LOCKHART: We'll take one more.

Q Can I ask about debt relief? If you could be more explicit about what the status of that is?

SECRETARY ALBRIGHT: Well, again, I think that they are in the process of negotiating that. And what I'd like to say is that we have to have international debt relief, and that the payment of that debt

relief not be subjected to any unreasonable conditions.

Q Do you think the U.N. would accept the deal that you're trying to work out with Congress? The U.N. has to approve this as well.

SECRETARY ALBRIGHT: Well, it's my sense, first of all, that the U.N. has been waiting a long time for this. When I first became Ambassador to the U.N., what had happened was that as a result of the large number of peacekeeping operations that had been undertaken, there was a large debt that had been accumulated. And we have worked very hard to try to figure out a way to pay that. And it has been a consistent effort for seven years to try to make sure that we would be able to get the U.N. reformed at the same time, because that was very much part of the agenda that President Clinton asked me to undertake when I was U.N. Ambassador, that he asked Ambassador Richardson to continue, and Ambassador Holbrooke to continue.

So we have worked on this. There were those that felt that with Boutros-Ghali as Secretary General, we would not be able to move forward. We got Kofi Annan, who was more reform-minded. And I think that generally we are now on a path where the U.N. is accepting the various reforms that we have suggested. They have not all been done, but some of the steps that have been taken have been necessary, perhaps not sufficient.

But we believe it is very important now that we get this language and everything agreed to. And I do believe -- I would be very surprised if the U.N. were not very pleased that they were going to, over a period of three years, get \$926 million.

Q Madame Secretary, just a little confusion. Is the reduction in aid that the family planning centers would get, is it 3 percent or 6 percent?

SECRETARY ALBRIGHT: I'm not going to go into the details of this. When it's all finalized, you'll have all the details of it. But let me just say again that I do consider this a breakthrough, because we have been working at this for seven years, and it's a very important decision for our national security. I have been very concerned about the fact that our lack of payment of our U.N. dues and arrears has impeded our ability to have the kind of influence that we need to have at the U.N. And, therefore, for national security reasons, I think this tentative agreement is very important, which is why I believe that it is appropriate to call it a breakthrough. Thank you very much.

MR. LOCKHART: Anything else for me? Yes?

Q What are the conditions that the money can't be attached to unreasonable conditions? What kind of conditions are they deemed unreasonable?

MR. LOCKHART: This is -- both the debt relief and the U.N. arrears are both what we're now trying to go from a tentative agreement to a formal agreement. And that's -- on debt relief in particular, Secretary Summers has been leading our effort, and I think they're better placed to be doing the work they're doing now in the negotiations, and we hope that sometime soon, we'll be able to provide details on each of these things in addition to the family planning issue.

Q But you can't give an example to what kind of conditions are unacceptable on debt relief?

MR. LOCKHART: I don't know what specifics they're talking about in the negotiations, only that these three issues are linked, and we'll move forward and have a formal agreement when each of the details is worked out.

Q Way off the topic, one of the wires reported this morning that former Labor Secretary Robert Reich is going to endorse Bill Bradley, rather than Al Gore. Is the President aware of that and does it concern him?

MR. LOCKHART: It's been a very busy day and that was not high on our list of briefing items. (Laughter.) Thank you, Mark. I thought it was funny.

Last chance. See you tomorrow.

Q Do you want to look ahead to tomorrow?

MR. LOCKHART: I think one of our senior administration officials did that. I mean, obviously, we're going to be focusing on the disaster relief that the U.S. and other countries around the world have provided. And the President will get a firsthand look at those efforts and hear directly from people the plight of those who have been displaced and those who have lost many family members.

Q Can you clarify whether there's just going to be actual, additional aid, or whether it's just going to be a re-jiggering of existing --

MR. LOCKHART: No, I think what they're talking about is some new aid, that we've obviously already provided some, but there are some new things here.

Q Joe, the U.N. money and the abortion deal is tentative because it is also tied to debt relief, and no agreement --

MR. LOCKHART: It is tentative because there are a number of language issues that need to be worked out, including on U.N. arrears and including on debt relief.

Q Well, where are the abortion terms -- I mean, can you rough describe the language on family planning

MR. LOCKHART: I'm not going to get into the exact provisions, beyond saying that I think when you see them, you'll understand that there will be no interference in the work of international family planning.

Q But what did you give the conservatives, then? I mean, what did you give the people who --

MR. LOCKHART: I think we'll wait until we have a final agreement to get into the details, but having some familiarity with them, I think you'll share our assessment at the end of the day, if they get their work done, that this won't interfere with those groups that do work in international family planning.

Q Secretary Albright used the words, minimal impact. Does that mean that a little money that otherwise would have gone to these groups might not be going to --

MR. LOCKHART: I think the point that the Secretary made, I'm trying to make and others have made is, you'll see when the -- there are details, there will be a minimal impact; but, importantly, you'll see at the end of the day that they won't interfere with the ability of international family groups to do their work. And that's what's important to us.

Q -- enough money would be held back to really impact.

MR. LOCKHART: I think that would be a fair guess.

Q Joe, the Secretary said she would be meeting, when she gets back in Washington, with womens' groups and that sort of thing the talk this through. Does the administration have any other plan on how you're

going to deal with objections likely to come from --

MR. LOCKHART: Yes, I think that in the absence of details, there has been a lot of concern. I think as we're able to fill in the details, we hope we can address that concern, and we'll be aggressive in reaching out to interested groups who have raised concern at all levels, including from the White House, from the State Department and from all the places that were involved in this.

Q Joe, did the Secretary tell the President that she would take the blame from family planning groups because of this deal?

MR. LOCKHART: I read that in the paper, but I wasn't in the meeting that it supposedly happened, so I can't address that.

Q Joe, what special qualifications does she bring in addressing this issue to those groups? The President is very pro-choice, as well. Why does she have to do this? Is it just her gender?

MR. LOCKHART: Listen, having not been able to answer Mark's question, I certainly can't answer that one.

Okay, I'm losing the attention of this side of the room.

Q Joe, she would not necessarily be the point person, Joe?

MR. LOCKHART: I think there will be a wide-ranging effort and I think she brings a lot to the table on this, as well as a number of others in the administration.

Thank you.

11/12/99 Lockhart Briefing

Q Joe, can you give us an update on the U.N. arrears and the abortion issue and those negotiations?

MR. LOCKHART: Those discussions have been ongoing for some time. Clearly, we have an obligation to pay our dues, and our back dues to the United Nations, to continue our leadership around the world and to keep us from becoming put in the same category as countries like Iraq and Sudan, who the U.N. has dealt with quite harshly.

We don't believe that a side issue of international family planning

should hold up U.N. dues. There is a faction of the hard right in Congress that has held this up for several years. We are working to try to find a solution that allows us to pay our dues, but also allows us to keep our commitments on international family planning.

Q Would the Secretary of State be willing to reach out to abortion rights group if, indeed, you do decide it's necessary to give up this funding?

MR. LOCKHART: You'll have to ask the Secretary of State that. I don't have any information on that.

Q But, Joe, on that point, is the U.S. position non-negotiable, or is the U.S. willing to compromise a little bit on this issue?

MR. LOCKHART: We are talking to the leaders on the Hill involved in this issue to find a way to pay our dues and accommodate their concerns. But I can't predict where that will go.

International Family Planning: New Restrictions and Budget Cut

In November 1999, the Clinton Administration reluctantly accepted a law imposing new restrictions on aid to overseas family planning groups. Despite limited authority in the law for a Presidential waiver, the law's restrictions and other provisions limit the rights of private groups to free speech in their own countries and reduce funding for programs that are vital to women's health.

In a compromise on the fiscal year 2000 budget, the Administration accepted the restrictions in exchange for lawmakers' support for payment of U.S. debts to the United Nations. Non-payment of U.N. debts would have resulted in the loss of the U.S. vote in the U.N. General Assembly. As Secretary Albright described it, it was a "no-win choice between protecting our national security interests at the U.N. and maintaining full support for programs that helped save women's lives."

The restrictions place in law the "Mexico City policy" previously implemented by the Reagan and Bush Administrations. The policy prohibited family planning funding for nongovernmental organizations (NGOs) if they provided -- *using their private funds* -- legal abortion services or advocated for women's access to legal abortion. President Clinton reversed the policy when he took office in early 1993.

Specifically, the budget accord for fiscal year 2000 does the following:

- Writes into law for the first time new restrictions that go beyond longstanding laws that no USAID funds can be used to perform or lobby for abortion.

- Restricts foreign NGOs and multilateral organizations (such as the World Health Organization) from receiving USAID family planning funds unless they go through a certification process and state that they will not provide abortion services or advocate for changes in abortion laws or policies, even using their private funds.

- Gives limited authority to the President to waive implementation of that policy, allowing only a total of \$15 million in funding worldwide for organizations that do not certify.
- Reduces USAID's family planning funds by \$12.5 million should the Presidential waiver be exercised, redirecting these funds to child survival activities.

The same day he signed the law, President Clinton also signed the waiver, which under the law triggered the budget cut of \$12.5 million. Upon signing the waiver, the President stated: "I have instructed USAID to implement the new restrictions on family planning money in such a way as to minimize to the extent possible the impact on international family planning efforts and to respect the rights of citizens to speak freely on issues of importance in their countries, such as the rights of women to make their own reproductive decisions. As I have stated before, I do not believe it is appropriate to limit foreign NGOs' use of their own money, or their ability to participate in the democratic process in their own countries. Thus, I will oppose inclusion of this restriction in any future appropriations bill."

(continued on back)

Waiver limitations jeopardize NGO programs and funding

- Implementation of the \$15 million cap requires a burdensome certification process to determine which USAID-funded organizations are or plan to be involved in abortion-related activities in their own countries with non-U.S. funds. These same activities -- performing abortions and participation in the policymaking process -- are legal in the United States. However, organizations that certify will be prohibited from undertaking these activities in their own or other foreign countries, even when it is legal to do so.
- The cap also may require USAID to reduce funding for non-certifying organizations that have proven to be effective providers of family planning information and services to poor women and their families.

Family planning assistance promotes women's and children's health

- Offering family planning is the best way to help a woman prevent an unintended pregnancy, and thus avoid recourse to abortion. Research also demonstrates that access to family planning is one of the most effective ways to reduce the nearly 600,000 maternal deaths and millions of infant deaths that occur *each year* as a result of complications from pregnancy and childbirth.
- Family planning programs are also a critical weapon in the global effort to reduce the transmission of HIV/AIDS and other sexually-transmitted diseases.
- When access to family planning services is reduced, unintended pregnancies, maternal

and infant deaths, and abortions have been shown to increase.

International family planning is already underfunded

For the past three years (fiscal years 1997-99), USAID international family planning assistance has been set at \$385 million, a level 30% lower than it was in fiscal year 1995. For fiscal year 2000, this level is reduced even further, to \$372.5 million.

Though family planning services are more widely available than ever, unmet need for such services is high and continues to increase. At least 150 million couples in the developing world want to limit or space their children, but are not using modern methods of contraception. At the same time, the largest youth generation in history -- over 1 billion young men and women between the ages of 15-24 -- are entering their reproductive years. On January 8, 2000, President Clinton stated:

"My budget for 2001 will increase funding for international family planning by almost \$170 million [to the fiscal year 1995 level of \$541.6 million]. I am asking Congress to support these funds, and to provide them without restrictions that hamper the work of family planning organizations, and even bar them from discussing or debating reproductive health policies.

We all agree that we want to save lives, help women and children stay healthy and empower families to take responsibility for their own choices. Supporting reproductive health and family planning is one of the very best ways to do that. We know it works. At home and abroad, we don't have a woman's life -- or a child's healthy start -- to waste."

Prepared January 2000.

Family Planning Matters

USAID's family planning program is recognized as one of the most successful components of U.S. foreign assistance. For over 30 years, the United States has played a critical role in the global effort to meet unmet need for family planning. USAID also remains the technical leader in designing and delivering voluntary family planning services and related health information to more than 60 countries throughout the developing world.

Enabling women to have their desired number of children at a time when they want them is central to the quality of women's lives and the well-being of their families. Family planning is also an effective means of saving lives:

- Maternal mortality is the leading cause of death for women of reproductive age in developing countries, killing almost 600,000 a year. One in four of these maternal deaths could be prevented by family planning. (1)
- Family planning could also prevent 25% of the 11 million infant deaths in the developing world each year by spacing births at least two years apart. (1)

Family Planning Funding, FY 1995-2000*
(millions of dollars)

	USAID	UNFPA
FY 95	\$541.6	\$35.0
FY 96	356.0	22.8
FY 97	385.0	25.0
FY 98	385.0	20.0
FY 99	385.0	0
FY 00	372.5	25.0**

*USAID also funds other reproductive health activities, including maternal health and HIV/AIDS. In FY 1999, funding for these activities was \$185 million, with an additional \$472 million devoted to child survival and other health activities.

**Subject to withholding restrictions.

- Family planning can also help prevent the spread of HIV/AIDS and other sexually transmitted diseases by providing condoms and other barrier methods.

- Use of modern family planning methods is the most effective way to reduce unintended pregnancies and abortions.

Although family planning services are more widely available than ever, it is estimated that more than 150 million married women (aged 15-49) in the developing world still want to space or limit childbearing but do not use modern methods of contraception. In addition, more than one billion young men and women aged 15-24 – the largest youth generation in history – are entering their childbearing years.

Funding Facts and Figures

- USAID support for family planning programs reached its highest level ever at \$542 million in fiscal year 1995, following the landmark International Conference on Population and Development.
- In FY 1996, international family planning assistance was cut by 35% to \$356 million.
- From FY 1997 through FY 1999, USAID funding for international family planning assistance was capped each year at \$385 million.
- For FY 2000, the President and Congress reached a compromise resulting in a further cut of \$12.5 million, down to a level of \$372.5 million.
- In FY 1999, Congress zeroed out U.S. funding for the United Nations Population Fund (UNFPA), an important USAID partner. Funding was restored to \$25 million in FY 2000, subject to withholding restrictions.

Milli
ons

While most Americans think we spend much more, less than 1% of the total U.S federal budget goes to foreign aid. Less than half of that goes to economic development and humanitarian assistance.

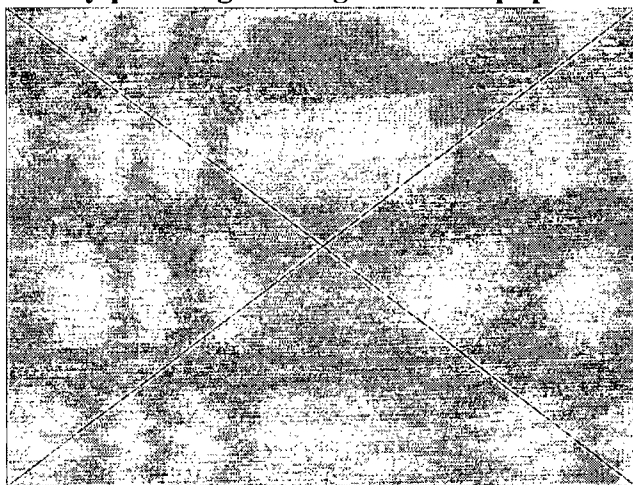
Approximately two-hundredths of one percent (.02%) of the federal budget goes to international family planning. This is the equivalent of less than 3 cents a week for each American.

Source: Office of Management and Budget and USAID, 1999.

When the impact of increasing number of reproductive age are account, the overall “power” of USAID su international family declined since the 19

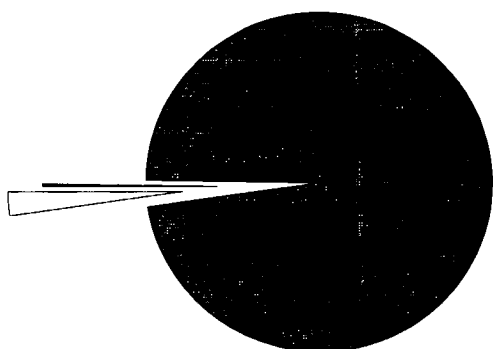
Source: USAID.

Family planning funding has not kept pace with increasing need



Less than 1%

Other Federal
Government
Spending



International
Family Planning
0.02%

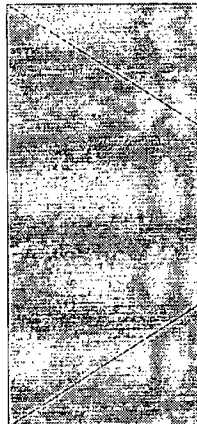
Foreign Aid
0.7%

Sources: (1) Popul
Family Planning S
1997.

Although the U.S. is the largest and richest donor country, the U.S. ranks last among all donors with .09% of official development assistance (ODA) as a percentage of gross national product (GNP).

Source: Organization for Economic Cooperation and Development, 1997.

Official develo



Although the U.S. is the largest and richest donor country, the U.S. ranks last among all donors in terms of official development assistance (ODA) as a percentage of gross national product (GNP).

Source: Organization for Economic Cooperation and Development.

Clinton Speaks Out on U.S. and International Family Planning Programs

RADIO ADDRESS OF THE
PRESIDENT
TO THE NATION
As delivered from The White House,
Saturday, January 8, 2000

"Good morning. January is the time of year when many of us make New Year's resolutions, and work hard to keep them. Today, I want to talk about steps we're taking to keep a resolution of mine -- making sure women and men get the health care they need to have strong children and healthy families.

"First, our administration has worked hard to make sure all women have access to prenatal care. We know when women get medical attention before a baby is born, that child is much more likely to be born healthy. And good health is the most precious gift we can offer a child or a family.

"Second, we worked with Congress to make sure that every woman covered by federal government health insurance has reproductive health care coverage -- including prescription contraceptives. That was a significant step for more than a million American women, and it set a standard for insurance coverage around the country.

"Third, when I took office, we faced an epidemic of teen pregnancy -- children having children. Over the last seven years,

we have reached out to community groups, schools and health professionals working in an amazing network of American citizens from all walks of life. And, together, the American people have cut teen pregnancy by 15 percent.

"Fourth, we've made a broad range of family planning and sex education programs more widely available for all Americans. And by making sure women have family planning choices, we are helping to make abortion more rare.

"Today I am glad to announce we will be increasing funds for family planning and reproductive health care by \$35 million next year. My budget for 2001 will include \$274 million in grants for clinics and community-based health services that reach more than 5 million women and families.

"America has also been a leader in providing health and family planning assistance for women and families in developing

***countries. We do this because it's
right, and because it will help
build the kind of world we want
for our own children."***

continued on next

page

"That money will help make contraceptives available, and keep them affordable. It will fund counseling for teenagers, and support educational programs that encourage young people to postpone sexual activity. It will help more than 4,600 clinics screen for cancer, AIDS and other diseases. And it will fund partnerships with community organizations and health care professionals who are reaching out to teenagers and others at risk.

"My budget for 2001 will increase funding for international family planning by almost \$170 million. I am asking Congress to support these funds, and to provide them without restrictions that hamper the work of family planning organizations, and even bar them from discussing or debating reproductive health policies."

"These services make a critical difference in people's lives. They help working women who otherwise could not afford medical tests that may save their lives. They help AIDS patients who desperately need counseling and assistance. They provide support and information to young people who may not know the basics of caring for a newborn child. They give women access to the full range of reproductive health care -- before and during pregnancy. It's in the interest of every American that no one miss out on this kind of care -- and that no child miss the chance for a healthy start.

"America has also been a leader in providing health and family planning assistance for women and families in

developing countries. We do this because it's right, and because it will help build the kind of world we want for our own children.

"Around the world, 150 million women would like to choose the timing of their pregnancies, but have no access to family planning of any kind. In the developing world, the complications of pregnancy kill more than one woman every single minute, because so many lack the most basic health care. These are personal tragedies, and they have profound consequences for families and communities. Where children are born healthy, and mothers and families gain power over their lives, communities are stronger. Economic progress is faster. And the future is brighter for everyone.

"My budget for 2001 will increase funding for international family planning by almost \$170 million. I am asking Congress to support these funds, and to provide them without restrictions that hamper the work of family planning organizations, and even bar them from discussing or debating reproductive health policies.

"We all agree that we want to save lives, help women and children stay healthy and empower families to take responsibility for their own choices. Supporting reproductive health and family planning is one of the very best ways to do that. We know it works. At home and abroad, we don't have a woman's life -- or a child's healthy start -- to waste."

USAID Policy Notice

Subject: Implementation of FY 2000 Population Certification Requirements

Section 599D of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 2000 (as enacted in Public Law 106-113), prohibits USAID from providing FY 2000 population funds appropriated under the statute to non-U.S., non-governmental organizations, whether non-profit or profit-making, and multilateral organizations (hereafter, for convenience, called "covered" organizations), unless they certify that they will not engage in specified abortion-related activities during the period the funds are initially available for obligation, that is, through September 30, 2001. The requirement applies to covered organizations receiving FY 2000 population funds either directly from USAID or as subcontractors or subgrantees and to activities conducted by such organizations with either USAID or non-USAID funding. The certification requirement does not apply to U.S. prime awardees, other U.S. entities, foreign governments and certain others.

Although the President has exercised statutory authority to waive this requirement, only a limited amount of population funding may be provided under the law—a total of \$15 million for population activities worldwide—to covered organizations that do not certify. Covered organizations that do not certify may receive USAID funding only to the extent it is available within the limited \$15 million cap.

To implement the law, USAID is requiring all covered prime awardees (under contracts, grants or cooperative agreements) to complete a certification form, prior to receiving FY 2000 population funds. The form will indicate whether the prime certifies or declines to certify. In addition, USAID will require all prime awardees receiving FY 2000 population funds, both U.S. and non-U.S., to collect certification forms from their covered subawardees at all levels below the prime award. USAID/G/PHN must specifically approve the level of FY 2000 population funding for non-certifying organizations receiving funds through prime or sub-award instruments. The FY 2000 Population Assistance Certification Form and Guidance for FY 2000 Population Assistance Certification are Attachments 1 and 2 to this

*Call to
action
regt.*

notice. For U.S. entities, foreign governments and covered organizations that certify, obligations may proceed without regard for the \$15 million cap.

Population, Health and Nutrition (PHN) staff in Washington and in field missions will be responsible for collecting certification forms from their respective prime awardees and, through the primes, from their subawardees. PHN staff will also provide guidance to their primes on collecting certification forms from their subawardees. At this time, USAID/W and mission officers responsible for PHN activities are asked to:

- 1. identify those organizations that your operating unit manages at the prime award level, which are expected to receive FY 2000 population funds, and determine which organizations are covered by the certification procedure and/or will have covered subawardees;*
- 2. distribute the Certification Form and related Guidance to all prospective prime awardees, together with an appropriate request letter asking for certifications by March 17, 2000 (Request letters to prospective non-U.S. and U.S. prime awardees are provided as Attachments 3 and 4, respectively. It is recommended that request letters be signed by the mission officer responsible for PHN activities.); and*
- 3. respond to questions from prime awardees to facilitate and ensure their collection of certification forms from their covered subawardees.*

G/PHN has engaged the services of John Snow, Inc. (JSI) to help track and maintain copies of certification forms. In accordance with the attached sample request letters, centrally-managed U.S. primes, including those funded through the field support mechanism, will be required to collect and maintain original certification forms from their covered subawardees and fax one copy of each form received directly to JSI, by March 24, 2000. Mission-managed primes, both U.S. and non-U.S., will be required to provide original forms to the mission officer responsible for PHN activities or his/her designee and maintain copies on file. Mission staff must:

- 4. retain original certification forms on file and fax, by March 24, 2000, one copy of each form received to:*

John Snow, Inc.
1616 North Fort Myer Drive, 11th Floor
Arlington, VA 22209
Attention: (name to be determined)
Tel: 703-528-7474
Fax: 703-528-7480

To assist with tracking and avoid requiring organizations to complete multiple forms, JSI will compile names of organizations that certify and make this information available upon request to G/PHN/POP, missions and prime awardees for reference. (In the event that a covered subawardee receives funding from more than one prime, it is recommended that PHN staff identify a lead prime to obtain the certification and coordinate with JSI to ensure a copy is distributed to all primes that require it.) JSI will forward copies of forms for organizations that decline to certify immediately to G/PHN/POP.

To allow USAID to allocate funds within the \$15 million cap, prime awardees are also required to provide to their CTOs anticipated FY 2000 funding levels for non-certifying subawardees, including those that elect not to complete the form. The Request Letters in Attachments 3 and 4 require primes to provide this information to their CTOs by March 24, 2000. Upon receipt,

5. *CTOs are required to provide this information, as well as proposed FY 2000 funding levels for any covered prime organization that does not certify or complete the form, to Scott Radloff, USAID/G/PHN/POP, by March 31, 2000.*

Once USAID/G/PHN/POP has collected certification forms and analyzed funding requirements for non-certifying covered organizations, it will coordinate with other Agency units to set approved levels of FY 2000 population funding for non-certifying organizations, at both prime and subaward levels. Written approvals will normally be conveyed by email from G/PHN/POP. Timely receipt of forms and related financial information is essential to avoid delays in implementing the FY 2000 population program.

PHN staff should impress upon partner organizations the importance of collecting certifications in a timely manner from every covered organization that is prepared to provide one. If the worldwide demand for funding from non-certifying, covered organizations exceeds \$15 million, some or all individual awards to such organizations will have to

be reduced.

Organizations that will not receive FY 2000 funding are not requested to certify. In some instances, due to pipelines and normal budgetary considerations, organizations receiving FY 1998 or FY 1999 funds are not currently scheduled to receive any FY 2000 funds and therefore will not be asked to certify. However, in making funding decisions, particularly for organizations that do not certify, USAID operating units and prime awardees are to proceed according to current schedules and must not circumvent the certification procedure through use of prior year funds. PHN officers should reiterate this point with their intermediaries.

Please note that a Contract Information Bulletin is also being issued to inform contract and grant officers of a new clause/provision to be added to all existing and new agreements and subagreements that commit FY 2000 population funds, describing awardees' obligations with respect to the certification procedures, filing requirements and remedies for non-compliance.

Questions and Additional Guidance: The guidance in Attachment 2 is intended to address questions about the certification procedure and the certification requirements themselves. This guidance cannot anticipate every question or specific factual situation that will arise in the field. Field PHN staff are encouraged to work closely with their Regional Legal Advisors to resolve specific issues and to seek further guidance from G/PHN, GC, or PPC, when necessary. If similar questions are received from several Missions or partner organizations, USAID/W will consider preparing additional guidance on "frequently asked questions".

For further information concerning this notice, please contact Scott Radloff, Acting Director, Office of Population, 202-712-0855.

Attachments:

1. FY 2000 Population Assistance Certification Form
2. Guidance for FY 2000 Population Assistance Certification
3. Request Letter for Non-U.S. Prime Awardee
4. Request Letter for U.S. Prime Awardee

January 2000

Guidance for FY 2000 Population Assistance Certification

Section 599D of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (as enacted in Public Law 106-113), requires that certain organizations (hereafter called "covered" organizations) certify they will not engage in specified abortion-related activities, using either USAID or non-USAID funds, during a specified period, in order to be eligible to receive FY 2000 population funds appropriated by PL 106-113 (hereafter "FY 2000 Population Funds"). Although President Clinton has exercised statutory authority to waive this requirement, only a limited amount of funding may be provided under the law--a total of \$15 million for population activities worldwide--to covered organizations that do not certify.

To implement the referenced law, USAID is asking all covered organizations to complete an FY 2000 Population Assistance Certification Form for purposes of receiving FY 2000 Population Funds. The form provides options for organizations to certify (Option No. 1) or decline to certify (Option No. 2). USAID requires prime awardees that expect to receive FY 2000 Population Funds, both U.S. and non-U.S., to identify their covered subawardees at all levels or "tiers" below the prime agreement and request certification forms from those covered organizations. With the information provided by the forms, USAID will determine which organizations may be funded outside the \$15 million cap and which organizations must be funded within the \$15 million cap.

The present guidance is provided to assist intermediary organizations to implement the certification procedure with subawardees and assist covered organizations to complete the Certification Form.

1. Which organizations are "covered" by the certification procedure and will be asked to complete the Certification Form?

- ◆ Private, non-governmental entities, whether non-profit or profit-making, which are organized under the laws of a country other than the United States, and
- ◆ Multilateral (including global or regional) organizations which consist of member states,

that are scheduled to receive FY 2000 Population Funds, either directly from USAID through a prime contract, grant or cooperative agreement, or as subcontractors or subgrantees (hereafter "subawardees").

2. Which organizations are not "covered" by the certification procedure and will not be asked to complete the Certification Form?

Organizations not covered by the certification procedure include all U.S. government and U.S. private, non-governmental organizations and foreign governments. In addition, under the statute, organizations that receive only in-kind assistance (for example, in the form of technical assistance or commodities) are not covered. Also, commercial firms that are not engaged in family planning activities (for example, firms that supply goods and services of an administrative nature, such as suppliers of computer equipment, office supplies, maintenance or printing services) are not required to complete the certification form.

Organizations that will not receive FY 2000 funding are not requested to certify. In some instances, due to pipelines and normal budgetary considerations, organizations receiving FY 1998 or FY 1999 funds are not currently scheduled to receive any FY 2000 funds and therefore will not be asked to certify. However, in making funding decisions, particularly for organizations that do not certify, USAID operating units and prime awardees are to proceed according to current schedules and must not circumvent the certification procedure through use of prior year funds.

3. What is the meaning of the certification provision stating the organization "will not perform abortions...?"

The certifying organization certifies that it will not perform abortions in any foreign country (that is, in any country outside the U.S.), 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. The certification restricts performance of abortion even in countries where abortion is permitted under local law. Provision, consistent with local law, of information or counseling about all pregnancy options is not restricted by the certification. The certification does not restrict organizations from treating injuries or illnesses caused by legal or illegal abortions ("post-abortion care").

4. What does it mean to "not violate the laws of any

foreign country concerning the circumstances under which abortion is permitted, regulated or prohibited"?

The certifying organization certifies that it will not engage in any activity that violates the laws of any country outside the U.S., with respect to the circumstances under which abortion is permitted, regulated or prohibited. Organizations should seek the advice of local counsel with respect to the application of local laws to their activities.

Note that organizations that certify are required to comply both with the restriction on performing abortions and the restriction on violating local law. In some countries, for example, where abortion is legal under most circumstances, the former restriction will govern. In others, for example, where abortion is prohibited even in cases of rape and incest, the latter restriction will govern.

5. What does it mean to "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"?

The statutory language quoted here refers to activities or efforts by the organization which are intended to change the laws or policies of foreign governments (or governmental agencies) with respect to the circumstances under which abortion is permitted, regulated, or prohibited. With the exception of item (a) below, this language includes an organization's intentional efforts or activities to alter abortion laws or policies, whether the objective is more restrictive or less restrictive laws or policies. It does not include activities or efforts which are not intended to alter abortion laws or policies, but which may have that effect.

The quoted language covers the following types of activities and efforts undertaken by an organization:

- Oral or written communications, directed to a country's legislators, government officials, or political candidates, that support proposals or recommendations to alter laws or governmental policies of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited;
- Public outreach activities or efforts (for example, as

reflected in newsletters, editorials or other mass media communications)
intended to alter such laws or governmental policies; or

- Organizing meetings, mass demonstrations (e.g., rallies or marches), or media events intended to alter such laws or governmental policies.

The quoted language does not cover certain types of activities or efforts as follows.

a. Statutory language expressly excludes activities and efforts undertaken in opposition to coercive abortion or involuntary sterilization.

b. Also not covered are activities and efforts which lack an element of advocacy and are thus not intended to alter laws or policies, such as:

i) Research and dissemination of information, including responses to inquiries, on the incidence, causes, or consequences of abortion or the status of existing abortion laws or policies;

ii) Interactions with legislators or government officials in which the organization is giving or obtaining factual information, provided that such interactions are not part of activities or efforts intended to alter abortion laws or policies; and

iii) A multilateral organization's response to a request from a member state for information or technical assistance relative to its abortion laws or policies.

c. Certain activities are not covered because, although they may involve advocacy, they do not involve altering laws or policies, for example, engaging in efforts to maintain existing laws or policies or to ensure implementation of existing laws or policies.

d. Certain activities are not covered because they do not involve altering laws or policies concerning the circumstances under which abortion is permitted, regulated or prohibited, such as:

i) activities or efforts intended to alter legal penalties applied to women who obtain abortions (e.g., "decriminalization"); and

ii) activities and efforts related to laws or policies specifically addressing treatment of injuries or illnesses caused by legal or illegal abortions (e.g., "post-abortion care").

e. Some activities are not covered because they do not involve actions by an organization, that is, statements or actions by an individual employee or officer of an organization which are undertaken in a personal capacity and not on behalf of or under the auspices of the organization. An individual, or his or her organization, must take reasonable steps to convey that the statements or actions are undertaken in a personal capacity.

f. Finally, based on the language "engage in activities and efforts," an individual activity or effort of a *de minimis* (that is, minimal or negligible) or incidental nature, and which therefore is not reasonably intended by the organization to alter laws and policies, would not be covered. Examples of such an activity or effort would include:

i) An incidental statement in a publication, meeting, workshop or communication to the mass media not part of activities or efforts by the organization intended to alter the abortion laws or policies of foreign countries;

ii) Attendance by an organization's representatives at a meeting where altering abortion laws and policies may be discussed, provided the organization is not engaged in activities or efforts intended to alter abortion laws or policies of foreign countries;

iii) Sponsorship of a meeting where altering abortion laws or policies is not the purpose or focus, but where the subject arises incidentally and ensuing discussions are *de minimis* and not part of activities or efforts by the organization intended to alter the abortion laws or policies of foreign countries; or

iv) The organization's membership in a network of organizations, provided such membership does not involve active participation by the organization in activities or efforts of the network to alter the abortion laws or government policies of foreign countries.

6. If an organization certifies, for what time period are

abortion-related activities restricted?

A certifying organization is restricted from engaging in abortion-related activities specified in the Certification Form from the date the certifying organization signs an agreement under which it will receive FY 2000 Population Funds through the last date on which such funds are initially available for obligation by USAID, that is, September 30, 2001. The date is September 30, 2001, because FY 2000 funds are initially available for obligation over a two-year period.

7. What if an organization certifies, but does not comply with the terms of the certification?

Option No. 1 on the Certification Form states that the certification is a material fact upon which USAID and intermediary funding organizations rely in providing FY 2000 Population Funds. This means that USAID, and the intermediaries, rely on the truth and accuracy of the certification statement, as an essential or "material" piece of information, in the decision to provide funds outside the limited \$15 million cap. USAID will require that all agreements, subagreements and related amendments which provide FY 2000 Population Funds include a clause describing the certification procedure and providing standard remedies available when a certifying organization fails to comply with the terms of a certification, such as refund and termination. This is consistent with the way USAID and other federal agencies ensure compliance by contractors, grantees, recipients and subawardees with other certification requirements and is necessary to ensure that the statutory \$15 million funding cap is observed.

8. What if an organization certifies, but never receives FY 2000 population funds?

The certification covers a period beginning on the date an organization signs an agreement to receive FY 2000 population funds. If the organization never signs such an agreement, the certification restrictions will not apply.

9. If a covered organization does not certify, can it still receive FY 2000 funding?

Covered organizations that decline to certify will be considered for financing with FY 2000 Population Funds. However, funding for organizations that do not certify is capped in the aggregate at a total of \$15 million worldwide.

If the demand for funds by organizations that do not certify exceeds the \$15 million available, USAID will be required to reduce funds for some or all of these organizations. Organizations that do not certify should be aware of the risk that their FY 2000 funding could be reduced.

10. What if one or more subawardees of an intermediary organization do not certify?

Funds which are passed on to a subawardee that does not certify must count against the \$15 million cap. Accordingly, funding levels for all such subawardees must receive express, written approval by USAID/G/PHN/POP.

Funds provided to a U.S. prime or to a certifying non-U.S. prime for its own use, and funds to subawardees that are not covered or that certify, will not count against the cap.

11. If an organization does not certify and receives USAID funding under the \$15 million, may it engage in the activities identified in Option 1 in the Certification Form?

A non-certifying organization that receives funding under the \$15 million cap may engage in the activities identified in Option 1 in the Certification Form, provided that the activities are not conducted with USAID funds. Non-certifying organizations and all other organizations receiving USAID funds remain subject to abortion-related restrictions in the standard clause/provision on Voluntary Population Activities (March 1999).

12. What if a covered organization does not wish to complete the Certification Form at all?

Organizations do not have to complete the Certification Form. USAID is aware that some organizations may have reservations about the certification procedure or may be concerned about disclosure of the forms and use of the information contained in them. Such organizations may prefer not to complete the form, either to certify or decline to certify. If an organization does not complete the form, it will be non-certifying for purposes of funding decisions.

**Request Letter for Non-U.S. Prime Awardee
for FY 2000 Population Assistance Certifications**

Dear (Name of Grantee/CA or Contract Representative):

A new U.S. law affecting FY 2000 population funds* requires non-U.S., non-governmental organizations (NGOs), private firms, and multilateral organizations (hereafter called "covered" organizations) to certify that they will not engage in specified abortion-related activities through September 30, 2001. The requirement applies to covered organizations receiving FY 2000 population funds either directly from USAID or as subcontractors or subgrantees, and to activities funded with either USAID or non-USAID funds. Although President Clinton has exercised statutory authority to waive this requirement, only a limited amount of funding may be provided under the law--a total of \$15 million for population activities worldwide--to covered organizations that do not certify.

To implement the law, USAID is asking all covered organizations to complete an FY 2000 Population Assistance Certification Form, which gives covered organizations the option to certify or not certify. This Form and related guidance are attached.

USAID is considering your organization for direct support with FY 2000 population funds and has identified your organization as one covered by the certification procedure. In addition, we anticipate that your organization may provide such funds to other covered organizations through subagreements. We therefore request your assistance on three actions below:

- 1) We ask that you review the enclosed Certification Form and related Certification Guidance with respect to the activities of your own organization. The form provides options for organizations to certify (Option No. 1) or to decline to certify (Option No. 2). After

selecting one of the options and obtaining the signature of an authorized representative, please return the form to me (or other designated USAID mission contact) as soon as possible, but no later than March 17, 2000. If you select Option 2, or if you do not return the form, you will be considered as "non-certifying."

2) USAID must also ask your organization to identify covered subcontractor and subgrantee organizations (subawardees) that you expect to finance with FY 2000 population funds under your planned agreement with USAID. Such subawardees should be asked to complete the Certification Form, based on information contained in the Certification Guidance. Please forward the completed forms to me (or other designated USAID mission contact) as soon as possible, but no later than March 17, 2000. All forms should include at the top the appropriate contact names for your organization as the prime contractor/grantee.

3) For all covered subawardees that do not certify, provide the estimated level of USAID FY 2000 population funds that your organization expects to provide. If you are uncertain, indicate the likely minimum and maximum amounts. This information should be sent to your Cognizant Technical Officer (or other designated USAID mission officer) by March 24, 2000, for forwarding to USAID/Washington. Organizations that do not certify are only eligible for funding with prior approval from USAID/W.

USAID will use the forms and related financial information to determine which organizations may be funded outside the \$15 million cap and which organizations must be funded within the \$15 million cap and at what levels. Receiving the requested information on time is essential to USAID's decision-making regarding allocation of the \$15 million. Although the time required for covered organizations to review the guidance and complete the form will vary, it is expected that most will require approximately four person-hours. The collection of forms from subawardees should take less than 40 hours on average.

Also, remember that funding for organizations that do not certify is firmly capped at \$15 million. If the demand for funds by organizations that do not certify exceeds the

\$15 million available, USAID will be required to reduce funding for some or all of these organizations. Organizations that do not certify should be made aware of the risk that their FY 2000 funding could be reduced. Organizations that do certify may receive FY 2000 funds without regard for the \$15 million cap.

Implementation of the new FY 2000 requirements will be monitored by USAID/Washington and the U.S. Congress. When you commit your USAID population funds, please track funding for your subgrantees and subcontractors carefully. Accurate accounting will be necessary to ensure that commitments of FY 2000 population funds can be identified and distinguished from prior year funds as well as from funds received from other USAID accounts or from non-USAID sources.

Please note that a new clause/provision will be added to all existing and new agreements and subagreements that commit FY 2000 population funds, describing awardees' obligations with respect to the certification procedures, filing requirements and remedies for non-compliance.

The text of this letter and enclosures may also be found on (websites -- USAID and/or John Snow Int'l.)

We very much appreciate your cooperation in helping us to comply with these new requirements. If you have questions concerning the letter or the enclosures, please contact: (the mission officer signing the letter, or other designated contact).

Sincerely,

(name of mission officer
responsible for PHN
activities)

Enc:

Guidance for FY 2000 Population Assistance Certification
FY 2000 Population Assistance Certification Form

*Section 599D of the Foreign Operations, Export Financing,
and Related Programs Appropriations Act, 2000, enacted in
P.L. 106-113

**Request Letter for U.S. Prime Awardee
(with non-U.S. Covered Subawardees)
for FY 2000 Population Assistance Certification**

Dear (Name of Grantee/CA or Contract Representative):

A new U.S. law affecting FY 2000 population funds* requires non-U.S., non-governmental organizations (NGOs), private firms, and multilateral organizations (hereafter called "covered" organizations) to certify that they will not engage in specified abortion-related activities during the period funds are initially available for obligation, that is, through September 30, 2001. The requirement applies to covered organizations receiving FY 2000 population funds either directly from USAID or as subcontractors or subgrantees, and to activities funded with either USAID or non-USAID funds. Although President Clinton has exercised statutory authority to waive this requirement, only a limited amount of funding may be provided under law--a total of \$15 million for population activities worldwide--to covered organizations that do not certify.

To implement the law, USAID is asking all covered organizations to complete an FY 2000 Population Assistance Certification Form, which gives covered organizations the option to certify or not certify. The Form and related guidance are attached.

USAID is considering your organization for direct support with FY 2000 population funds. As a U.S. entity, your organization is not covered by the certification procedure. However, we anticipate that your organization would provide FY 2000 population funds to covered non-U.S. organizations through subagreements under your planned agreement with USAID. To implement the certification procedure for covered organizations receiving FY 2000 USAID population funds as subawardees, we request your assistance on three actions below:

- 1) Please review the enclosed Certification Guidance and identify covered subawardee organizations that you expect to finance with FY 2000 population funds under your planned agreement with USAID.

2) Ask all covered subawardee organizations to review the enclosed Certification Guidance, complete the Certification Form, and provide it to you. We ask that you collect the requested certification forms as soon as possible. Note that all forms should include the appropriate contact names for your agency as the prime contractor/grantee. [For centrally-managed U.S. primes: Please retain original signed forms in your files and fax copies of all forms received to the following address, no later than March 24, 2000:

John Snow, Inc.
1616 North Fort Myer Drive, 11th Floor
Arlington, VA 22209
Attention: (name to be determined)
Tel: 703-528-7474
Fax: 703-528-74802)]

OR

[For mission-managed primes: Please forward the completed forms to me (or other designated USAID mission contact) as soon as possible, but no later than March 17, 2000.]

3) For all covered subawardees that do not certify, provide the estimated level of USAID FY 2000 population funding that your organization expects to provide. If you are uncertain, indicate the likely minimum and maximum amounts for FY 2000. [For centrally-managed U.S. primes: This information should be sent to your CTO by March 24, 2000, who will provide it to G/PHN/POP.]

OR [For mission-managed U.S. primes: This information should be sent to your CTO and provided to me (or other designated USAID mission contact) by March 24, 2000, for forwarding to USAID/Washington.] Organizations which select Option 2 on the Certification Form or which do not return the form are only eligible for funding with prior approval from USAID/W.

USAID will use the forms and related financial information to determine which organizations may be funded outside the \$15 million cap and which organizations must be funded within the \$15 million cap and at what levels. Receiving the requested information on time is essential to USAID's decision-making regarding allocation of the \$15

million. Also remember that funding for organizations that do not certify is firmly capped at \$15 million. If the demand for funds by organizations that do not certify exceeds the \$15 million available, USAID will be required to reduce funding for some or all of these organizations. Organizations that do not certify should be made aware of the risk that their FY 2000 funding could be reduced. Organizations that do certify may receive FY 2000 funds without regard for the \$15 million cap.

Although time required to collect certification forms will vary, most intermediaries are expected to require less than 20 person-hours of time to complete the collection process. John Snow, Inc. (JSI) will retain faxed copies of certification forms for your subawardees. To avoid requiring subawardees to sign multiple forms, JSI will also maintain a list of all certifying organizations for your future reference. Forms for non-certifying organizations will be forwarded immediately by JSI to USAID.

Implementation of the new FY 2000 requirements will be monitored by USAID/Washington and Congress. When you commit your USAID population funds, please track funding for your subgrantees and subcontractors carefully. Accurate accounting will be necessary to ensure that commitments of FY 2000 population funds can be identified and distinguished from prior year funds as well as from funds received from other USAID accounts or from non-USAID sources.

Organizations that will not receive FY 2000 funding are not requested to certify. In some instances, due to pipelines and normal budgetary considerations, organizations receiving FY 1998 or FY 1999 funds are not currently scheduled to receive any FY 2000 funds and therefore will not be asked to certify. However, in making funding decisions, particularly for organizations that do not certify, intermediary organizations are to proceed according to current schedules and must not circumvent the certification procedure through use of prior year funds.

Please note that a new clause/provision will be added to all agreements and subagreements describing awardees' obligations with respect to the certification procedures for FY 2000 population funds and remedies for non-compliance.

The text of this letter and enclosures may also be found on (website -- USAID and/or John Snow International).

We very much appreciate your cooperation in helping us to comply with these new requirements. If you have

questions concerning the letter or the enclosures, please
contact : (names to be determined)

Sincerely,

(name to be determined, a
USAID/W official; or, in the
case of Mission-funded U.S.-
based primes, the mission
officer responsible for PHN
activities)

Enc:

Guidance for FY 2000 Population Assistance Certification
FY 2000 Population Assistance Certification Form

*Section 599D of the Foreign Operations, Export Financing,
and Related Programs Appropriations Act, 2000, enacted in
P.L. 106-113

MEMORANDUM FOR CONTRACTING OFFICERS AND NEGOTIATORS

FROM: M/OP, Rodney W. Johnson, Director

TO: Distribution List FAC

CONTRACT INFORMATION BULLETIN 00-

SUBJECT: Implementation of FY 2000 Population Certification Requirements

Section 599D of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 2000 (as enacted in Public Law 106-113), prohibits USAID from providing FY 2000 population funds appropriated under the statute (hereafter "FY 2000 Population Funds") to non-U.S., nongovernmental organizations, whether non-profit or profit-making, and multilateral organizations (hereafter called "covered" organizations), unless they certify that they will not engage in specified abortion-related activities during the period the funds are initially available for obligation, that is, through September 30, 2001. The requirement applies to covered organizations receiving FY 2000 Population Funds either directly from USAID or as subcontractors or subgrantees, and to activities conducted by such organizations with either USAID or non-USAID funding. Although the President has exercised statutory authority to waive this requirement, only a limited amount of population funding may be provided under the law--a total of \$15 million for population activities worldwide--to covered organizations that do not certify. Thus, when certifications cannot be obtained, USAID may provide funding to non-certifying, covered organizations only within the limited \$15 million cap. The certification requirement does not apply to U.S. prime awardees, other U.S. entities, foreign governments and certain others.

To implement the law, USAID is requesting all covered prime awardees to complete an FY 2000 Population Assistance Certification Form, prior to receiving FY 2000 Population Funds, which indicates whether the prime certifies or declines to certify. In addition, USAID will require all prime awardees receiving FY 2000 Population Funds, whether they are covered or not, to request certification forms from

their covered subawardees at all levels below the prime award. USAID/G/PHN must specifically approve the funding levels of FY 2000 Population Funds for all non-certifying organizations. PHN staff in Washington and the field will be responsible for collecting certification forms from prime awardees, responding to questions from prime awardees to facilitate their collection of certification forms from their covered subawardees, and obtaining approvals of funding levels for non-certifying organizations from USAID/G/PHN.

Prior to making any award to a covered organization funded with FY 2000 Population Funds, COs and Grant/Agreement Officers must obtain written confirmation from the requesting office that a certification is on file or that, in the case of an organization that declines to certify, or does not complete the certification form, USAID/G/PHN has approved funding for the awardee under the \$15 million cap. In addition, Contract/Agreement Officers must include the appropriate clause/provision (attached) in all prime awards committing FY 2000 Population Funds. The clause for use in contracts is Attachment 1. The provision for grants and cooperative agreements is Attachment 2. The Certification Form and Certification Guidance (Attachments 3 and 4) must also be attached to the award document.

Attachment 1

Contract Clause to be included in Part H when FY 2000 population funding may be provided in the contract.

POPULATION ASSISTANCE - FY 2000 Certification (JAN 2000)

(a) Requirement for Certain Organizations to Complete Certification Form. Pursuant to Section 599D of the Foreign Operations, Export Financing, and Related Programs Act, 2000 (P.L.106-113), non-U.S., non-governmental organizations, both non-profit and profit-making, and multilateral organizations ("covered" organizations) must complete a FY 2000 Population Assistance Certification Form, prior to receiving any FY 2000 population funds either directly or through subawards. The related Certification Guidance (January 2000), incorporated herein by reference, explains which organizations are covered. A copy of the guidance is attached or can be obtained from the Contracting Officer.

(b) (1) Prior to the award of any sub-contract or grant to a covered organization that might include FY 2000 population funds, the Contractor must request the potential subawardee to complete the FY 2000 Population Assistance Certification Form. The form provides options for covered organizations either to certify (Option No. 1) or decline to certify (Option No. 2). A copy of the form is attached or can be obtained from the Contracting Officer.

(2) If the subawardee returns the form, the Contractor must forward a copy to the Cognizant Technical Officer. If the subawardee has certified (electing Option No. 1), the Contractor may then make the subaward. If the subawardee has elected Option No. 2, or has not completed the form, the Contractor may not make the subaward until it receives from the Director of USAID's Office of Population, Global Bureau, or his/her designee, written approval of the organization and the amount to be provided.

(3) The Contractor must keep a copy of the completed FY 2000 Population Assistance Certification Form and any USAID approval in its contract files.

(4) USAID may require a refund of any amounts of FY 2000 population funds that the Contractor awards without following the requirements in paragraph (b)(2).

(c) Remedies for Non-compliance: USAID has approved commitment of FY 2000 population funds under this contract in reliance on certification(s) obtained from covered organizations or USAID's express approval of the maximum amount to be provided in the case of an organization which

declines to certify. If a certifying organization materially fails to comply with the terms and conditions of the certification it has provided, USAID or the Contractor may impose standard remedies available in the event of material non-compliance with a required certification, as well as other remedies which may be applicable under the agreement.

(d) This clause must be included in all subawards that allow for providing FY 2000 population funds to covered organizations.

Attachment 2

Provision for Grants and Cooperative Agreements to be included in the agreement when FY 2000 population funds may be provided.

POPULATION ASSISTANCE - FY 2000 Certification (JAN 2000)

(a) Requirement for Certain Organizations to Complete Certification Form. Pursuant to Section 599D of the Foreign Operations, Export Financing, and Related Programs Act, 2000 (P.L.106-113), non-U.S., non-governmental organizations, both non-profit and profit-making, and multilateral organizations ("covered" organizations) must complete a FY 2000 Population Assistance Certification Form, prior to receiving any FY 2000 population funds either directly or through subawards. The related Certification Guidance (January 2000), incorporated herein by reference, explains which organizations are covered. A copy of the guidance is attached or can be obtained from the Agreement Officer.

(b) (1) Prior to the award of any sub-contract, grant, or cooperative agreement to a covered organization that might include FY 2000 population funds, the Recipient must request the potential subawardee to complete the FY 2000 Population Assistance Certification Form. The form provides options for covered organizations either to certify (Option No. 1) or decline to certify (Option No. 2). A copy of the form is attached or can be obtained from the Agreement Officer.

(2) If the subawardee returns the form, the Recipient must forward a copy to the Cognizant Technical Officer. If the subawardee has certified (electing Option No. 1), the Recipient may then make the subaward. If the subawardee has elected Option No. 2, or has not completed the form, the Recipient may not make the subaward until it receives from the Director of USAID's Office of Population, Global Bureau, or his/her designee, written approval of the organization and the amount to be provided.

(3) The Recipient must keep a copy of the completed FY 2000 Population Assistance Certification Form and any USAID approval in its agreement files.

(4) USAID may require a refund of any amounts of FY 2000 population funds that the Recipient awards without following the requirements in paragraph (b)(2).

(c) Remedies for Non-compliance: USAID has approved commitment of FY 2000 population funds under this Agreement in reliance on certification(s) obtained from covered organizations or USAID's express approval of the maximum

amount to be provided in the case of an organization which declines to certify. If a certifying organization materially fails to comply with the terms and conditions of the certification it has provided, USAID or the Recipient may impose standard remedies available in the event of material non-compliance with a required certification, as well as other remedies which may be applicable under the agreement.

(d) This provision must be included in all subawards that allow for providing FY 2000 population funds to covered organizations.