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12/15/99, 9:50 a.m.

Sample Letter No. 1

Request for 599D Certifications to Non-U.S. NGO Prime with Non-U.S. NGO or private commercial firm Subs

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

USAID is considering your organization for direct funding with USAID population assistance funds appropriated for fiscal year 2000. In addition, we anticipate that your organization may provide such funds to other non-U.S. organizations through subagreements. A new law* requires non-U.S., non-governmental organizations (NGOs), private firms, and multilateral organizations to certify that they will not engage in certain abortion-related activities, before they can be eligible to receive FY 2000 population funds.

Although the President has exercised statutory authority to waive this requirement, USAID may provide only a limited amount of funding under the law—a total of \$15 million for population activities worldwide—to non-U.S. NGOs (and private and multilateral organizations) that do not certify. To comply with the \$15 million limitation, it is necessary for USAID to obtain certifications, whenever possible, from non-U.S. NGOs that would receive FY 2000 population funds, either directly from USAID or as sub-grantees or subcontractors. When certifications cannot be obtained, USAID funding can only be provided within the limited \$15 million cap.

We therefore request your assistance on two actions below:

- 1) We ask that you review the enclosed 599D Certification Form and related Certification Guidance with respect to the activities of your own organization. After selecting one of the options and obtaining the signature of an authorized representative, please return the form.
- 2) USAID must also ask your organization to collect certification forms from your non-U.S. NGO subgrantees and subcontractors that you expect to receive FY 2000 population assistance under your planned agreement with USAID. Such subgrantees and subcontractors should be asked to complete the Certification Form, based on the Certification Guidance. Failure to obtain completed forms from these organizations could delay or jeopardize planned FY 2000 funding actions. Please forward the completed forms to USAID at the address indicated.

You are asked to collect and send the requested certification forms as soon as possible, but no later than March 31, 2000. Forms should be sent (mailed or faxed???) to the following address:

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

Please remember that receiving these forms on time is essential to our decision-making regarding allocation of the \$15 million, and that funding for organizations that do not certify under Option 1 is very limited.

If you have questions concerning this letter or the enclosures, please contact:

Sincerely,

Mission PHN Officer (?)

*Section 599D of the Foreign Operations, Export Financing, and Related Programs Act, 2000

\\599D\\LETTER1.DOC

DRAFT DRAFT DRAFT

12/15/99, 9:45 a.m.

Sample Letter No. 2

Request for 599D Certifications to U.S. NGO Prime with Non-U.S. NGO or private commercial firm Subs

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

USAID is considering your organization for direct funding with USAID population assistance funds appropriated for fiscal year 2000. In addition, we anticipate that your organization may provide such funds to non-U.S. organizations through subagreements. A new law* requires non-U.S. non-governmental organizations (NGOs), private firms, and multilateral organizations to certify that they will not engage in certain abortion-related activities, before they can be eligible to receive FY 2000 population funds.

Although the President has exercised statutory authority to waive this requirement, USAID may provide only a limited amount of funding under the law—a total of \$15 million worldwide—to non-U.S. NGOs (and private and multilateral organizations) that do not certify. To comply with the \$15 million funding limitation, it is necessary for USAID to obtain certifications, whenever possible, from non-U.S. NGOs that would receive FY 2000 population funds, either directly from USAID or as sub-grantees or subcontractors. When certifications cannot be obtained, USAID funding can only be provided within the limited \$15 million cap.

While the certification procedure does not apply to U.S. organizations such as yours, it does apply to non-U.S. NGOs and private commercial firms receiving FY 2000 population assistance funds from your organization under your planned agreement with USAID. Accordingly, USAID must ask your organization to collect certifications from such sub-grantees and subcontractors. Please ask your current or prospective non-U.S. NGO sub-grantees and subcontractors to review the enclosed Certification Guidance and complete the 599D Certification Form and provide it to you. Failure to obtain certification forms from lower tier organizations could delay or jeopardize planned FY 2000 funding actions.

You are asked to collect and send the requested certification forms as soon as possible, but no later than March 31, 2000. Forms should be sent (mailed or faxed???) to the following address:

John Snow, Inc.
1616 North Fort Meyer Drive, 11th Floor
Arlington, VA 22209
Attention: (name to be determined)

Tel: 703-528-7474

Fax: 703-528-7480

Please remember that receiving these forms on time is essential to our decision-making regarding allocation of the \$15 million, and that funding for organizations that do not certify under Option 1 is very limited.

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

Sincerely,

(name to be determined, a USAID/W
official)

*Section 599D of the Foreign Operations, Export Financing, and Related Programs Act,
2000

\599DLETTER2.DOC

DRAFT DRAFT DRAFT

12/15/99, 1:45 p.m.

\certguide.doc

Section 599D Certification Guidance

The following guidance is provided to assist non-U.S., non-governmental organizations to understand and complete the 599D Certification Form for purposes of receiving USAID FY 2000 Population Funding.

1. Who is asked to complete the certification?

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

that anticipate receiving funds from USAID's FY 2000 population assistance account, either directly from USAID through a contract, grant or cooperative agreement, or as subgrantees or subcontractors.

Organizations that are not asked to certify include: U.S. government and U.S. private organizations; foreign governments; organizations that receive only in-kind assistance, e.g., in the form of technical assistance or commodities; organizations that will not receive funds from USAID's FY 2000 population assistance account; and commercial firms that are not engaged in family planning programs (for example, firms which supply goods and services of an administrative nature, such as suppliers of computer equipment, office supplies, maintenance or printing services).

2. To whom does the certification of activities apply?

To the organization whose duly authorized representative has signed the certification.

3. What period does the certification cover?

It covers the period beginning on the date the certifying organization signs an agreement under which it will receive funding from USAID's FY 2000 population assistance account through the last date on which such funds are available for obligation by USAID, that is, September 30, 2001.

4. What are the elements of the certification provision on performing abortions?

The certifying organization certifies that it will not perform abortions in any foreign country (that is, 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 does not restrict organizations from treating injuries or illnesses caused by legal or illegal abortions.

5. What are the elements of the certification provision on violating the laws of a foreign country concerning abortion?

The certifying organization certifies that it will comply with the laws of the foreign countries in which it operates, 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 such laws to their activities.

6. 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 alter the laws or policies of foreign governments (or governmental agencies) with respect to the circumstances under which abortion is permitted, regulated, or prohibited. It 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.

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 and government officials, which support proposals or recommendations to alter laws or governmental policies of a 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 laws or governmental policies; or
- Organizing meetings, mass demonstrations (e.g., rallies or marches), or media events aimed at altering laws or governmental policies concerning abortion.

The above quoted language does not include activities in opposition to coercive abortion or involuntary sterilization. Because the restriction applies to efforts to alter laws and policies “concerning the circumstances under which abortion is permitted, regulated or prohibited”, it does not include activities or efforts intended to alter legal penalties applied to women who obtain abortions (e.g., “decriminalization”.) Similarly, given the language “engage in activities and efforts”, the definition would not include an activity or effort of a *de minimis* (that is, minimal or negligible) or incidental nature. 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 does not include the following types of activities and efforts, which may be undertaken within the terms of the certification provisions:

- a) Research and dissemination of information on the incidence, causes, or consequences of abortion or the status of abortion laws or policies;
- b) Incidental statements in publications, meetings, workshops or communications to the mass media that are not part of activities or efforts (see above) by the organization intended to alter the abortion laws or policies of foreign countries;
- c) Statements or actions by an individual employee or officer of an organization which are clearly undertaken in a personal capacity and not on behalf of or under the auspices of the organization;
- d) Provision of information on existing laws or policies, engaging in efforts to maintain existing laws or policies or to ensure implementation of existing laws or policies;
- e) Interactions with legislators or government officials in which the organization is responding to a request for factual information or contacting a legislator or government official to obtain factual information, provided that such interactions are not part of activities or efforts intended to alter abortion laws or policies;
- f) Activities and efforts related to laws or policies specifically affecting treatment of injuries or illnesses caused by legal or illegal abortions;
- g) Attendance by an organization's representatives at meetings 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;
- h) Sponsorship of meetings where altering abortion laws or policies may be discussed, provided that such discussions are de minimus;
- i) The organization's membership in a network of organizations, provided such membership does not involve any active participation by the organization in activities or efforts of the network to alter the abortion laws or government policies of a foreign country; or
- i) A multilateral organization's response to a request from a member state for assistance relative to its abortion laws or policies.

7. What if my organization cannot or does not certify?

Organizations which are covered by the certification procedure (see Question 1 above), but which cannot or do not certify, will be considered for FY 2000 population funding, but subject to the availability of funds capped in the aggregate for all such organizations worldwide at \$15 million.

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

The Certification Form states that the certification is a material fact upon which USAID and its intermediary organizations rely in providing FY 2000 population assistance funds. This means that USAID, and the intermediaries, must rely on the truth and accuracy of the certification statement, which is an essential or "material" piece of information in the decision to provide funds outside the limited \$15 million cap. USAID will require that agreements, subagreements and related amendments which provide FY 2000 population assistance funds to certifying organizations include standard remedies available when a certifying organization fails to comply with the terms of a certification. Such remedies are necessary to ensure that the \$15 million funding cap is observed. This is consistent with the way USAID and other federal agencies ensure compliance by grantees, contractors and recipients with certification requirements.

To: B. A. Rudolph@AID.A@AIDW, Barbara Turner@G.AA@AIDW, Dana Peterson@AID.A@AIDW, Duff Gillespie@G.PHN.DAA@AIDW, Internet[casella_m@a1.eop.gov], Internet[kissingewd@ms.state.gov], Internet[m.pollack@state.gov], Joyce Holfeld@PPC.CCI@AIDW, Scott Radloff@G.PHN.POP@AIDW, Suzanne Palmieri@LPA@Aidw

From: Barbara Crane@G.PHN.POP@AIDW

Originated by: Patricia Ramsey@GC@Aidw

Cc: Bob Lester@GC@Aidw, Dottie Stoltz@G.AA@AIDW, Kathleen Hearne@LPA@Aidw, Pamela White@G.AA@AIDW, Patricia Ramsey@GC@Aidw

Subject: fwd: POP LEGISLATION - Certification Documents

Attachment: CERTGUIDE.DOC, 599D CERTIFICATION.DOC, 599DLETTER1.DOC, 599DLETTER2.DOC, BEYOND.RTF

Date: 12/15/1999 1:50 PM

Attached are the latest versions of the documents on the certification process for NGOs under the FY 2000 population assistance appropriations. The fourth document, which is the certification guidance (\certguide) contains the definition of what is included or excluded in lobbying and may be the one on which to focus your attention. As I believe all of you are aware, a meeting is planned with Hill staffers tomorrow morning at 11:00 a.m. to discuss this process. Suzanne Palmieri is also holding an internal meeting at 3:30 p.m. today to plan for the Hill meeting tomorrow.

Margaret Pollack will help assure that Barbara Larkin and Susan Jacobs in State/H also receive these documents this afternoon. We will also bring them in hard copy or fax them to all addressees to make sure they are received.

If there are comments on the contents of the documents, it might be helpful if they are routed both to Pat Ramsey (tel: 712-1903) and to me.

Barbara Crane

Barbara B. Crane, Ph.D.
Senior Policy Adviser
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U.S. Agency for International Development
1300 Pennsylvania Avenue, N.W.
Washington, D. C. 20523-3600
Tel: 202-712-5839
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From: Patricia Ramsey@GC@Aidw, on 12/15/1999 1:42 PM:
To: Barbara Crane@G.PHN.POP@AIDW

Here are the latest revisions per our discussions today.

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

November 29, 1999

November 29, 1999

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: International Family Planning Waiver

Pursuant to the authority vested in me by section 599D(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000, as enacted by section 1000(a)(2) of Division B of H.R. 3194, the Consolidated Appropriations Act for Fiscal Year 2000, I hereby waive the restrictions contained in subsection 599D(b) to the full extent authorized by subsection 599D(c). This waiver shall take effect immediately and shall continue until the expiration of subsection 599D(b).

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

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

WILLIAM J. CLINTON

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international organizations. The bill includes most of the funds requested for U.N. arrears, as well as the United Nations Reform Act, which authorizes payment of these arrears contingent upon certain U.N. reforms. My Administration is committed to making sure that all of our debts are paid, and, while doing so, pressing for reforms that will make the U.N. more efficient and effective.

International peacekeeping activities in this bill are funded at a level of \$500 million, \$300 million above the level in the bill that I vetoed. This additional funding is crucial and will support the United States' response to emergent peacekeeping requirements in Kosovo, Asia, and Africa. In each of these places, the United States has worked with allies and friends to end conflicts that have claimed countless innocent lives and thrown whole regions into turmoil. This funding will help America do its part to make and keep the peace in troubled regions.

On a number of other critical foreign policy priorities, we were able to achieve bipartisan agreements that will directly affect the lives of Americans and others alike. We fully funded a new initiative that will significantly expand our efforts to stem the spread of HIV/AIDS in Africa and elsewhere in the developing world. We significantly increased funding for programs aimed at reducing the threat of weapons of mass destruction in the former Soviet Union and elsewhere. We agreed to a significant package of assistance to Kosovo and Southeastern Europe that will help to solidify the fragile peace that we and our NATO allies have secured. We initiated new programs that will help to provide alternatives to the child labor practices that are still too prevalent in much of the world. I am particularly pleased the bill provides my full request for embassy security to protect the men and women who serve our country abroad.

There are still important commitments and goals that were not adequately addressed in this bill. I am disappointed that we did not achieve all of the funding that we need to fully implement the multilateral portion of the Cologne debt initiative, and that we were not able to meet our commitments to provide multilateral environmental assistance through the Global Environment Facility. However, in total, this bill demonstrates that the bipartisan consensus that America must remain engaged in global affairs, which has guided our interaction with the rest of the world since the end of the Second World War, is still very much alive and well, and I am hopeful that it will continue to guide our foreign policy into the 21st Century.

I continue to believe that various provisions prohibiting implementation of the Kyoto Protocol in this bill are unnecessary, as my Administration has no intent of implementing the Protocol prior to ratification. Furthermore,



Barry J. Toiv

11/30/99 06:33:46 PM

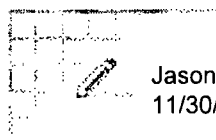
Record Type: Record

To: Martha Foley/WHO/EOP@EOP, Michelle Peterson/WHO/EOP@EOP

cc:

Subject: Statement by the President: H.R. 3194, the Consolidated Appropriations Act for FY 2000

----- Forwarded by Barry J. Toiv/WHO/EOP on 11/30/99 06:33 PM -----



Jason H. Schechter

11/30/99 03:55:42 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: Statement by the President: H.R. 3194, the Consolidated Appropriations Act for FY 2000

THE WHITE HOUSE

Office of the Press Secretary
(Aboard Air Force One en route San Francisco, California)

For Immediate Release

November 30, 1999

STATEMENT BY THE PRESIDENT

I have signed into law H.R. 3194, the Consolidated Appropriations Act for FY 2000. I am pleased that my Administration and the Congress were able to reach agreement on the first budget of the 21st Century -- producing a hard-won victory for the American people.

This legislation makes progress on several important fronts. It puts education first, honoring our commitment to hire 100,000 qualified teachers to lower class size in the early grades and doubling the funds for after school and summer school programs.

It makes America a safer place. The bill provides an acceptable funding level for my 21st Century Policing Initiative, which builds on the success of the Community Oriented Policing Services (COPS) program. To date, the COPS

program has funded more than 100,000 additional police officers for our streets. This bill funds the first increment of the 21st Century Policing initiative, which will place an additional 30,000 to 50,000 police officers on the street over the next 5 years, while expanding the concept of community policing to include community prosecution and law enforcement technology assistance. I appreciate the Congress' efforts to forge a bipartisan commitment to the program, which will build upon our successful efforts to reduce crime in our communities.

The bill strengthens our effort to preserve natural areas and protect our environment by its support of my Lands Legacy Initiative. I am very pleased that the bill does not include most of the environmental riders that would have put special interests above the national interest.

This budget agreement also strengthens America's leadership role in the world by paying our dues and arrears to the U.N.; by meeting our commitments to the Middle East peace process; by making critical investments in debt relief for the poorest countries, by enhancing the security of our over-seas personnel; by providing for new, critical peacekeeping missions; and by funding efforts to safeguard nuclear weapons in Russia.

Labor/Health and Human Services/Education Bill

Specifically, I am pleased that the legislation provides \$1.3 billion for the second installment of my plan to help reduce class size in the early grades. The Republican proposal did not guarantee funding for the teachers hired last year and would have instead allowed Class Size dollars to be used for virtually any activity, including vouchers. The final budget agreement supports the over 29,000 teachers hired last year plus an additional 2,500 teachers.

The bill appropriately includes several other high priority education initiatives. One million students will continue to be served by the Reading Excellence Initiative and 375,000 more students than last year will have access to 21st Century Community Learning Centers. By providing \$145 million for Public Charter Schools, approximately 650 more schools than last year will receive startup funding.

I commend the Congress for providing increases to several programs in my Hispanic Education Agenda that address the disproportionately low educational achievement and high dropout rates of Latino and limited English proficient students. The Hispanic Education Agenda includes programs such as Title I Grants to Local Education Agencies (LEAs), Adult Education, Bilingual Education, the High School Equivalency and College Assistance Migrant Programs (HEP/CAMP), Hispanic-serving Institutions, and support services to promote the graduation of low-income college students (TRIO).

Federal prosecutors the ability to prosecute hate crimes that are based on sexual orientation, gender, or disability, along with those based on race, color, religion, and national origin.

I am pleased that we were able to secure additional funds for the Legal Services Corporation. Adequate funding for legal services is essential to ensuring that all citizens have access to the Nation's justice system. Similarly, through negotiations with the Congress, the funding level for the Equal Employment Opportunity Commission (EEOC) was increased above the FY 1999 enacted level. The additional funds will assist the EEOC in its continued progress in reducing the backlog of employment discrimination cases.

The bill funds my requested \$13 million increase for the Department of Justice's Civil Rights Division. These funds will support law enforcement actions related to hate crimes, the Americans with Disabilities Act, and fair housing and lending.

The legislation contains adequate funding for the decennial census, and includes a compromise on language requiring the Census Bureau to allocate funds among eight functions or frame-works. With the decennial census approaching, I am confident that this language will not inhibit the Census Bureau's ability to actually conduct the census.

The United States has recently entered into the U.S.-Canada Pacific Salmon Agreement. The Agreement ends years of contention between the U.S. and Canada regarding expired fishing harvest restrictions and provides for improved fisheries management. I am pleased that legislative riders that would have hindered implementation of this important Agreement have been modified or removed from the bill. In addition, additional funds have been provided for implementation of the Agreement and for other salmon recovery efforts. These funds will allow us to work cooperatively with our partners -- Canada, a number of western States, and Treaty Tribes -- to implement the Agreement and to restore Pacific coastal salmon runs.

The bill does not provide additional requested funding to the Department of Justice for tobacco litigation, but does not preclude the expenditure of funds for this purpose. We will identify existing resources to pursue this important case. Smoking-related health expenses cost taxpayers billions of dollars each year through Medicare, veterans' and military health, and other Federal health programs. The \$20 million I requested is needed to represent the interests of the tax-payers, who should not have to bear the responsibility for these staggering costs.

Critical funds were added to help our Nation's 24 million small businesses. The bill now includes \$16.5 million for my New Markets Initiative to invest in targeted rural and urban areas. Also, funding levels were increased for the Small

I will consider activities that meet our responsibilities under the ratified U.N. Framework Convention on Climate Change to be consistent with this provision. Finally, to the extent these provisions could be read to prevent the United States from negotiating with foreign governments about climate change, it would be inconsistent with my constitutional authority. Accordingly, I will construe this provision as not detracting from my authority to engage in the many activities, both formal and informal, that constitute negotiations relating to climate change.

This legislation includes a number of provisions in the various Acts incorporated in it regarding the conduct of foreign affairs that raise serious constitutional concerns. These provisions would direct or burden my negotiations with foreign governments and international organizations, as well as intrude on my ability to maintain the confidentiality of sensitive diplomatic negotiations. Similarly, some provisions would constrain my Commander in Chief authority and the exercise of my exclusive authority to receive ambassadors and to conduct diplomacy. Other provisions raise concerns under the Appointments and Recommendation Clauses. My Administration's objections to most of these and other provisions have been made clear in previous statements of Administration policy and other communications to the Congress. Wherever possible, I will construe these provisions to be consistent with my constitutional prerogatives and responsibilities and where such a construction is not possible, I will treat them as not interfering with those prerogatives and responsibilities.

District of Columbia Bill

With respect to the District of Columbia bill, I am pleased that the majority and minority in the Congress were able to come together to pass a version that I can sign. While I continue to object to remaining riders that violate the principles of home rule, some of the highly objectionable provisions that would have intruded upon local citizens' right to make decisions about local matters have been modified from previous versions of the bill. My Administration will continue to strenuously urge the Congress to keep such riders out of the FY 2001 D.C. Appropriations Bill.

I commend the Congress for providing the Federal funds I requested for the District of Columbia. The bill includes essential funding for District Courts and Corrections and the D.C. Offender Supervision Agency and provides requested funds for a new tuition assistance program for District of Columbia residents. The bill also includes funding to promote the adoption of children in the District's foster care system, to support the Children's National Medical Center, to assist the Metropolitan Police Department in eliminating open-air drug trafficking in the District, and for drug testing and treatment, among other programs.

Interior and Related Agencies Bill

With respect to the Department of the Interior and Related Agencies bill, I commend the Congress for agreeing on an acceptable version -- one that does not include most of the highly objectionable provisions that would harm the environment and benefit special interest groups by allowing the inappropriate use of national forests and other public lands and resources.

In particular, we have reached a fair compromise on millsite claims under the 1872 Mining Law. Hardrock mining operations under existing approved plans of operations, as well as applications for new mining plans filed by the date of the Interior Solicitor's Opinion of November 7, 1997, would go forward without the Department of the Interior applying the five-acre-per-mining-claim millsite limitation. The Department of the Interior would impose this limitation on plans for new hardrock mining operations filed after November 7, 1997; it would also impose the limitation on amended plans of operations filed after November 7, 1997, that add millsite acreage.

Our agreement also will allow final rules to take effect in the near future that will provide a fair return to the taxpayers for the development of Federal oil resources; and will ensure more effective environmental protection in hardrock mining on Federal lands.

This bill provides two-thirds of the funds I requested for my Lands Legacy initiative and represents a significant improvement over prior-year funding, allowing us to protect such irreplaceable national treasures as the Baca Ranch in New Mexico, the Everglades in Florida, wilderness lands in the California Desert, and Civil War battlefield sites that are threatened by urban sprawl. There is also adequate support given to the Clean Water Action Plan. I am especially pleased with the additional funding for the Forest Service and for abandoned mine lands reclamation, which would make significant progress in addressing acid mine drainage and watershed problems in the Appalachian region. I look forward to working with the Congress next year to provide full and permanent funding for my Lands Legacy proposal, including full Federal and State funding for the Land and Water Conservation Fund.

My Administration has also been able to secure additional funding for energy conservation, the single largest component of my Climate Change Technology Initiative, which will help us to form the partnerships with industry that are vital to the development of a new generation of ultra-efficient cars, more efficient and affordable housing, and more efficient, less-polluting industrial processes. This progress will help us to address the threat of global warming economically and practically.

I commend the Congress for the historic \$157.2 million increase for Indian health, which is only slightly below the \$172 million increase the Administration sought for the Indian Health Service. This funding increase represents a continuing demonstration of the Federal commitment to improve the health status of Native Americans and Alaska natives. I also commend the Congress for the removal of an objectionable rider that would have infringed on tribal sovereignty, and for providing specific funding to accommodate new contracts with tribes.

Although I am disappointed that the Congress has failed to increase funding for the National Endowment for the Arts for the eighth straight year, I am pleased with the generally positive debate and the first increase in 4 years in funding for the National Endowment for the Humanities.

The bill also contains language on the American Heritage Rivers initiative. I believe that the congressional language is unnecessary and unfortunate. I will direct the Departments funded by this bill, within existing laws and authorities, to continue to support and undertake community-oriented services or environmental projects on rivers I have recognized as part of the initiative.

By increasing critical funding for land conservation efforts and removing harmful environmental provisions, the legislation represents a step forward in efforts to protect the environment and manage Federal lands and resources responsibly.

Disaster Assistance

I am pleased that the bill includes over \$500 million in additional funds for our Nation's farmers, ranchers, and rural communities to help them recover from natural disasters, particularly this year's hurricanes. These funds will help farmers clear their streams and fields for next year's crop, just as the \$2.5 billion in loans provided in the bill will help them secure the financing they need for planting. Vitally needed funds are included to help low-income rural families and farm laborers repair and replace housing damaged by Hurricane Floyd, and low-interest loans will be available to repair and replace farm structures and equipment lost in the storm. In addition, \$186 million is included for additional crop loss payments across the country, including areas in the East that suffered through one of the worst droughts in memory. The bill also provides funding to implement the mandatory livestock price reporting authority included in the Agriculture Appropriations Act, which will make the livestock market more transparent and particularly help small producers get a fair price for their livestock in the market.

Authorization Bills/Other Issues

The bill also includes a provision that would delay the Department of Health and Human Services's Organ Procurement and Transplantation Network Final Rule for a minimum of 42 days from the bill's effective date. This Final Rule is in response to my Administration's belief that the current organ allocation policies by the Organ Procurement and Transplantation Network are inequitable because patients with similar severities of illness are treated differently, depending on where they may live or at which transplant center they may be listed.

The Satellite Home Viewer Improvement Act -- part of the Intellectual Property and Communications Omnibus Reform Act of 1999 -- will increase the ability of satellite companies to compete against cable companies, and will result in more customer choice, lower prices, and increased access to local news and information. This Act puts the TV remote control back into consumers' hands and competition at their fingertips. In addition, the patent reform legislation that the Administration has fought for will help meet the needs of America's inventors and entrepreneurs. It strengthens protection in a number of ways: it extends the term of a patent when there is an administrative delay in the patent process; it requires the timely domestic publication of patent applications that are also filed abroad; and it reinvents the Patent and Trademark Office as a performance-based organization to better serve America's entrepreneurs and innovators.

Unfortunately, the Congress did not fund my additional request to protect the Nation's critical computer and information based infrastructures from a growing threat of cyber attack from hostile nations, terrorists, or criminals.

In order that \$68 million in interest accrued by the Abandoned Mine Land Fund (to be transferred to the United Mine Workers of America Combined Benefits Fund -- designated by the Congress as an emergency requirement) not be scored against the discretionary spending caps, I hereby designate that amount as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended. I will shortly be designating other funds in this legislation as emergency requirements.

Finally, there are several provisions in the bill that purport to require congressional approval before Executive Branch execution of aspects of the bill. I will interpret such provisions to require notification only, since any other interpretation would contradict the Supreme Court ruling in INS vs. Chadha.

WILLIAM J. CLINTON

I am disappointed, however, that this legislation does not provide any of the funding that I specifically requested for Troops to Teachers. This lack of funding jeopardizes this program, which would have provided 3,000 new teachers in high-need subject areas and school districts.

I am pleased that the bill funds most of my major proposals for job training, worker protection programs, and grants for working with developing countries to establish core labor standards. For example, \$1.6 billion is included for dislocated worker assistance, enabling the program to provide training and re-employment services to 858,500 dislocated workers. Since 1993, my Administration has succeeded in tripling funding for, and participation in, programs that help dislocated workers return to work.

As authorized in the bipartisan Workforce Investment Act of 1998, the Congress has provided \$140 million to expand services to job seekers at One-Stop centers.

I am pleased that the bill provides the funds I requested for major youth job training programs. Specifically, the bill includes the \$250 million I requested for Youth Opportunity Grants to finance the second year of the 5-year competitive grants that provide education, training, and support services to 58,000 youth in Empowerment Zones and Enterprise Communities. In addition, the bill provides the \$1 billion for Youth Activities Formula Grants to provide training and summer employment opportunities to an estimated 577,700 youth. Also it includes \$55 million for the final year of Federal funding for the School-to-Work initiative. The bill provides \$1.4 billion for the Job Corps program, including financing for enhanced follow-up services for graduates, completion of a four-center expansion initiated in FY 1998, and construction of Head Start child care facilities on five Job Corps campuses.

The bill provides \$83 million, or 8 percent above the FY 1999 enacted level, for labor law enforcement agencies, funding key initiatives to ensure workplace safety, address domestic child labor abuses, encourage equal pay, assist in complying with pension law, and promote family leave.

I am especially pleased that this legislation includes critically needed changes to the Welfare-to-Work program's eligibility requirements. We have worked closely with the Congress to ensure these changes were enacted this year. By simplifying eligibility, this legislation will allow the Welfare-to-Work program, within existing resources, to serve more effectively long-term welfare recipients and noncustodial parents of low-income children. The bill also establishes an alternative penalty that is tough, but fair, for States that have not implemented certain child support enforcement requirements.

This legislation fully funds my request for Head Start, adding up to 44,000 new slots for low-income children and continuing on the path to serve one million children by FY 2002.

Unfortunately, the bill reduces the Social Services Block Grant by \$134 million below the FY 1999 level, undermining programs serving our most vulnerable families.

The bill includes historic investments in biomedical research, mental health, pediatric training, and a number of other critically important public health initiatives. It also makes an essential downpayment on my Safety Net proposal, which is designed to provide financial and technical support to those providing a disproportionate amount of care to the uninsured. Lastly, it provides payment restorations to hospitals, nursing homes, and other providers serving the 39 million elderly and disabled beneficiaries.

It also provides a \$34.5 billion investment in health programs, 11.7 percent above the FY 1999 enacted level, including an historic increase of \$2.3 billion for the National Institutes of Health. These new initiatives will strengthen the public health infrastructure, provide critical prevention and treatment services to individuals with mental illness, and invest in pediatric training programs. Specifically, the bill provides \$40 million to support graduate medical education at freestanding children's hospitals, which play an essential role in the education of the Nation's pediatricians; \$67 million above the FY 1999 funding level for the Mental Health Block Grant, a 23 percent increase over FY 1999 and the largest increase ever; \$30 million for health education, prevention, and treatment services to address health disparities among minority populations; and an additional \$62 million over FY 1999 funding levels to provide critical immunizations to children nationwide. The \$239 million for the Title X Family Planning program will enable family planning clinics to extend comprehensive reproductive health care services to an additional 500,000 clients who are neither Medicaid-eligible nor insured. In addition, the \$25 million for the Health Care for the Uninsured Initiative will support the development of integrated systems of care and address service gaps within these systems.

It provides \$25 million, a full down payment on our proposed \$1 billion investment to develop integrated systems of care for the uninsured. It also dedicates an additional \$15 million to identify the best ways to deliver health care coverage to this population. I am pleased that the bill includes a \$73 million increase in funding for HIV prevention activities to help stop the spread of this disease; an increase of \$183 million in the Ryan White CARE Act, which helps provide primary care and support for those living with HIV/AIDS; and an estimated \$300 million in additional funds for AIDS-related research at the NIH. The bill also includes \$80 million in funding to the Minority AIDS Initiative, which utilizes existing programs to

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The bill includes \$264 million to expand HHS' bioterrorism initiative. It provides \$52 million for the Centers for Disease Control and Prevention's (CDC) national pharmaceutical stockpile and \$123 million for CDC to expand national, State, and local epidemiologic, laboratory, and surveillance planning capacity, as well as to conduct a vaccine study. The bill also fully funds my request to expand the number of Metropolitan Medical Response Systems that can respond to the health and medical consequences of a chemical, biological, or nuclear incident, and to enhance smallpox and anthrax vaccine research and development. I am particularly pleased that the bill funds the creation of a new national electronic disease surveillance system, which will also help detect outbreaks and strengthen the public health delivery system.

I commend the Congress for providing funding for my Nursing Home Initiative, including resources for more rigorous inspections of nursing facilities and improved Federal oversight of nursing home quality, and for funding the 31-percent increase in Home-Delivered Meals that I requested.

Finally, the bill also includes the Balanced Budget Refinement Act of 1999, which invests \$16 billion over 5 years to address the flawed policy and excessive payment reductions resulting from the Balanced Budget Act of 1997. It lifts caps on therapy services, increases payments for very sick nursing home patients, restores teaching hospital funding, and eases the transition to the new prospective payment system for hospital outpatients. It also includes provisions to limit cost-sharing requirements for Medicare beneficiaries and extends coverage of important immunosuppressive drugs. Unfortunately, it includes provisions that are not justifiable, such as a \$4 billion payment increase to managed care plans that are already overpaid according to most experts. This is troubling because any excess payments from the Medicare trust fund put the program at greater risk.

Commerce/Justice/State Bill

Regrettably, the bill does not contain a needed hate crimes provision that was included in the Senate version of the bill. I urge the Congress to pass legislation in a timely manner that would strengthen the Federal Government's ability to combat hate crimes by relaxing jurisdictional obstacles and by giving



Barry J. Toiv

11/30/99 06:33:46 PM

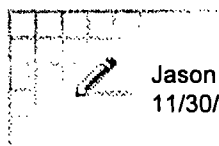
Record Type: Record

To: Martha Foley/WHO/EOP@EOP, Michelle Peterson/WHO/EOP@EOP

cc:

Subject: Statement by the President: H.R. 3194, the Consolidated Appropriations Act for FY 2000

----- Forwarded by Barry J. Toiv/WHO/EOP on 11/30/99 06:33 PM -----



Jason H. Schechter
11/30/99 03:55:42 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: Statement by the President: H.R. 3194, the Consolidated Appropriations Act for FY 2000

THE WHITE HOUSE

Office of the Press Secretary
(Aboard Air Force One en route San Francisco, California)

For Immediate Release

November 30, 1999

STATEMENT BY THE PRESIDENT

I have signed into law H.R. 3194, the Consolidated Appropriations Act for FY 2000. I am pleased that my Administration and the Congress were able to reach agreement on the first budget of the 21st Century -- producing a hard-won victory for the American people.

This legislation makes progress on several important fronts. It puts education first, honoring our commitment to hire 100,000 qualified teachers to lower class size in the early grades and doubling the funds for after school and summer school programs.

It makes America a safer place. The bill provides an acceptable funding level for my 21st Century Policing Initiative, which builds on the success of the Community Oriented Policing Services (COPS) program. To date, the COPS

program has funded more than 100,000 additional police officers for our streets. This bill funds the first increment of the 21st Century Policing initiative, which will place an additional 30,000 to 50,000 police officers on the street over the next 5 years, while expanding the concept of community policing to include community prosecution and law enforcement technology assistance. I appreciate the Congress' efforts to forge a bipartisan commitment to the program, which will build upon our successful efforts to reduce crime in our communities.

The bill strengthens our effort to preserve natural areas and protect our environment by its support of my Lands Legacy Initiative. I am very pleased that the bill does not include most of the environmental riders that would have put special interests above the national interest.

This budget agreement also strengthens America's leadership role in the world by paying our dues and arrears to the U.N.; by meeting our commitments to the Middle East peace process; by making critical investments in debt relief for the poorest countries, by enhancing the security of our over-seas personnel; by providing for new, critical peacekeeping missions; and by funding efforts to safeguard nuclear weapons in Russia.

Labor/Health and Human Services/Education Bill

Specifically, I am pleased that the legislation provides \$1.3 billion for the second installment of my plan to help reduce class size in the early grades. The Republican proposal did not guarantee funding for the teachers hired last year and would have instead allowed Class Size dollars to be used for virtually any activity, including vouchers. The final budget agreement supports the over 29,000 teachers hired last year plus an additional 2,500 teachers.

The bill appropriately includes several other high priority education initiatives. One million students will continue to be served by the Reading Excellence Initiative and 375,000 more students than last year will have access to 21st Century Community Learning Centers. By providing \$145 million for Public Charter Schools, approximately 650 more schools than last year will receive startup funding.

I commend the Congress for providing increases to several programs in my Hispanic Education Agenda that address the disproportionately low educational achievement and high dropout rates of Latino and limited English proficient students. The Hispanic Education Agenda includes programs such as Title I Grants to Local Education Agencies (LEAs), Adult Education, Bilingual Education, the High School Equivalency and College Assistance Migrant Programs (HEP/CAMP), Hispanic-serving Institutions, and support services to promote the graduation of low-income college students (TRIO).

I am disappointed, however, that this legislation does not provide any of the funding that I specifically requested for Troops to Teachers. This lack of funding jeopardizes this program, which would have provided 3,000 new teachers in high-need subject areas and school districts.

I am pleased that the bill funds most of my major proposals for job training, worker protection programs, and grants for working with developing countries to establish core labor standards. For example, \$1.6 billion is included for dislocated worker assistance, enabling the program to provide training and re-employment services to 858,500 dislocated workers. Since 1993, my Administration has succeeded in tripling funding for, and participation in, programs that help dislocated workers return to work.

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Regrettably, the bill does not contain a needed hate crimes provision that was included in the Senate version of the bill. I urge the Congress to pass legislation in a timely manner that would strengthen the Federal Government's ability to combat hate crimes by relaxing jurisdictional obstacles and by giving

Federal prosecutors the ability to prosecute hate crimes that are based on sexual orientation, gender, or disability, along with those based on race, color, religion, and national origin.

I am pleased that we were able to secure additional funds for the Legal Services Corporation. Adequate funding for legal services is essential to ensuring that all citizens have access to the Nation's justice system. Similarly, through negotiations with the Congress, the funding level for the Equal Employment Opportunity Commission (EEOC) was increased above the FY 1999 enacted level. The additional funds will assist the EEOC in its continued progress in reducing the backlog of employment discrimination cases.

The bill funds my requested \$13 million increase for the Department of Justice's Civil Rights Division. These funds will support law enforcement actions related to hate crimes, the Americans with Disabilities Act, and fair housing and lending.

The legislation contains adequate funding for the decennial census, and includes a compromise on language requiring the Census Bureau to allocate funds among eight functions or frame-works. With the decennial census approaching, I am confident that this language will not inhibit the Census Bureau's ability to actually conduct the census.

The United States has recently entered into the U.S.-Canada Pacific Salmon Agreement. The Agreement ends years of contention between the U.S. and Canada regarding expired fishing harvest restrictions and provides for improved fisheries management. I am pleased that legislative riders that would have hindered implementation of this important Agreement have been modified or removed from the bill. In addition, additional funds have been provided for implementation of the Agreement and for other salmon recovery efforts. These funds will allow us to work cooperatively with our partners -- Canada, a number of western States, and Treaty Tribes -- to implement the Agreement and to restore Pacific coastal salmon runs.

The bill does not provide additional requested funding to the Department of Justice for tobacco litigation, but does not preclude the expenditure of funds for this purpose. We will identify existing resources to pursue this important case. Smoking-related health expenses cost taxpayers billions of dollars each year through Medicare, veterans' and military health, and other Federal health programs. The \$20 million I requested is needed to represent the interests of the tax-payers, who should not have to bear the responsibility for these staggering costs.

Critical funds were added to help our Nation's 24 million small businesses. The bill now includes \$16.5 million for my New Markets Initiative to invest in targeted rural and urban areas. Also, funding levels were increased for the Small

Business Administration's (SBA) operating expenses and disaster loan program. These funds will enable the SBA to provide critical services, including a fast and effective response to Hurricane Floyd.

I regret that a provision is included that would amend the recently enacted Treasury and General Government Appropriations Act, 2000, that could limit the access of Federal government employees to contraceptive coverage.

Foreign Operations Bill and Other International Affairs
Appropriations and Authorizations

I am pleased that we were able to reach bipartisan agreement with the Congress on a level of funding for international affairs programs that supports our continued engagement on key global issues. Most notably, we were able to agree to meet our obligations to the United Nations, which will allow us to keep our vote in the General Assembly. We also obtained additional funding for international peacekeeping efforts seeking to redress the instability and suffering caused by conflicts in East Timor, Kosovo, and Africa.

The bill includes my full request for the Wye River Agreement, which will support our partners in the Middle East as they accelerate their historic attempt to secure a permanent peace. We gained bilateral funding for the new Cologne debt reduction initiative, as well as agreement from the Congress to allow the International Monetary Fund to use existing resources to finance its portion of the initiative, allowing us to begin to lessen the crushing debt burden that many of the world's poorest nations face as they try to implement difficult economic and democratic reforms.

Unfortunately, the bill also includes a provision on international family planning that I have strongly opposed throughout my Administration. This is a one-time provision that imposes additional restrictions on international family planning groups. However, I insisted that the Congress allow for a Presidential waiver provision, which I have exercised today.

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.

The bill takes a step in the right direction in terms of paying our dues and our debts to the United Nations and other

international organizations. The bill includes most of the funds requested for U.N. arrears, as well as the United Nations Reform Act, which authorizes payment of these arrears contingent upon certain U.N. reforms. My Administration is committed to making sure that all of our debts are paid, and, while doing so, pressing for reforms that will make the U.N. more efficient and effective.

International peacekeeping activities in this bill are funded at a level of \$500 million, \$300 million above the level in the bill that I vetoed. This additional funding is crucial and will support the United States' response to emergent peacekeeping requirements in Kosovo, Asia, and Africa. In each of these places, the United States has worked with allies and friends to end conflicts that have claimed countless innocent lives and thrown whole regions into turmoil. This funding will help America do its part to make and keep the peace in troubled regions.

On a number of other critical foreign policy priorities, we were able to achieve bipartisan agreements that will directly affect the lives of Americans and others alike. We fully funded a new initiative that will significantly expand our efforts to stem the spread of HIV/AIDS in Africa and elsewhere in the developing world. We significantly increased funding for programs aimed at reducing the threat of weapons of mass destruction in the former Soviet Union and elsewhere. We agreed to a significant package of assistance to Kosovo and Southeastern Europe that will help to solidify the fragile peace that we and our NATO allies have secured. We initiated new programs that will help to provide alternatives to the child labor practices that are still too prevalent in much of the world. I am particularly pleased the bill provides my full request for embassy security to protect the men and women who serve our country abroad.

There are still important commitments and goals that were not adequately addressed in this bill. I am disappointed that we did not achieve all of the funding that we need to fully implement the multilateral portion of the Cologne debt initiative, and that we were not able to meet our commitments to provide multilateral environmental assistance through the Global Environment Facility. However, in total, this bill demonstrates that the bipartisan consensus that America must remain engaged in global affairs, which has guided our interaction with the rest of the world since the end of the Second World War, is still very much alive and well, and I am hopeful that it will continue to guide our foreign policy into the 21st Century.

I continue to believe that various provisions prohibiting implementation of the Kyoto Protocol in this bill are unnecessary, as my Administration has no intent of implementing the Protocol prior to ratification. Furthermore,

I will consider activities that meet our responsibilities under the ratified U.N. Framework Convention on Climate Change to be consistent with this provision. Finally, to the extent these provisions could be read to prevent the United States from negotiating with foreign governments about climate change, it would be inconsistent with my constitutional authority. Accordingly, I will construe this provision as not detracting from my authority to engage in the many activities, both formal and informal, that constitute negotiations relating to climate change.

This legislation includes a number of provisions in the various Acts incorporated in it regarding the conduct of foreign affairs that raise serious constitutional concerns. These provisions would direct or burden my negotiations with foreign governments and international organizations, as well as intrude on my ability to maintain the confidentiality of sensitive diplomatic negotiations. Similarly, some provisions would constrain my Commander in Chief authority and the exercise of my exclusive authority to receive ambassadors and to conduct diplomacy. Other provisions raise concerns under the Appointments and Recommendation Clauses. My Administration's objections to most of these and other provisions have been made clear in previous statements of Administration policy and other communications to the Congress. Wherever possible, I will construe these provisions to be consistent with my constitutional prerogatives and responsibilities and where such a construction is not possible, I will treat them as not interfering with those prerogatives and responsibilities.

District of Columbia Bill

With respect to the District of Columbia bill, I am pleased that the majority and minority in the Congress were able to come together to pass a version that I can sign. While I continue to object to remaining riders that violate the principles of home rule, some of the highly objectionable provisions that would have intruded upon local citizens' right to make decisions about local matters have been modified from previous versions of the bill. My Administration will continue to strenuously urge the Congress to keep such riders out of the FY 2001 D.C. Appropriations Bill.

I commend the Congress for providing the Federal funds I requested for the District of Columbia. The bill includes essential funding for District Courts and Corrections and the D.C. Offender Supervision Agency and provides requested funds for a new tuition assistance program for District of Columbia residents. The bill also includes funding to promote the adoption of children in the District's foster care system, to support the Children's National Medical Center, to assist the Metropolitan Police Department in eliminating open-air drug trafficking in the District, and for drug testing and treatment, among other programs.

Interior and Related Agencies Bill

With respect to the Department of the Interior and Related Agencies bill, I commend the Congress for agreeing on an acceptable version -- one that does not include most of the highly objectionable provisions that would harm the environment and benefit special interest groups by allowing the inappropriate use of national forests and other public lands and resources.

In particular, we have reached a fair compromise on millsite claims under the 1872 Mining Law. Hardrock mining operations under existing approved plans of operations, as well as applications for new mining plans filed by the date of the Interior Solicitor's Opinion of November 7, 1997, would go forward without the Department of the Interior applying the five-acre-per-mining-claim millsite limitation. The Department of the Interior would impose this limitation on plans for new hardrock mining operations filed after November 7, 1997; it would also impose the limitation on amended plans of operations filed after November 7, 1997, that add millsite acreage.

Our agreement also will allow final rules to take effect in the near future that will provide a fair return to the taxpayers for the development of Federal oil resources; and will ensure more effective environmental protection in hardrock mining on Federal lands.

This bill provides two-thirds of the funds I requested for my Lands Legacy initiative and represents a significant improvement over prior-year funding, allowing us to protect such irreplaceable national treasures as the Baca Ranch in New Mexico, the Everglades in Florida, wilderness lands in the California Desert, and Civil War battlefield sites that are threatened by urban sprawl. There is also adequate support given to the Clean Water Action Plan. I am especially pleased with the additional funding for the Forest Service and for abandoned mine lands reclamation, which would make significant progress in addressing acid mine drainage and watershed problems in the Appalachian region. I look forward to working with the Congress next year to provide full and permanent funding for my Lands Legacy proposal, including full Federal and State funding for the Land and Water Conservation Fund.

My Administration has also been able to secure additional funding for energy conservation, the single largest component of my Climate Change Technology Initiative, which will help us to form the partnerships with industry that are vital to the development of a new generation of ultra-efficient cars, more efficient and affordable housing, and more efficient, less-polluting industrial processes. This progress will help us to address the threat of global warming economically and practically.

I commend the Congress for the historic \$157.2 million increase for Indian health, which is only slightly below the \$172 million increase the Administration sought for the Indian Health Service. This funding increase represents a continuing demonstration of the Federal commitment to improve the health status of Native Americans and Alaska natives. I also commend the Congress for the removal of an objectionable rider that would have infringed on tribal sovereignty, and for providing specific funding to accommodate new contracts with tribes.

Although I am disappointed that the Congress has failed to increase funding for the National Endowment for the Arts for the eighth straight year, I am pleased with the generally positive debate and the first increase in 4 years in funding for the National Endowment for the Humanities.

The bill also contains language on the American Heritage Rivers initiative. I believe that the congressional language is unnecessary and unfortunate. I will direct the Departments funded by this bill, within existing laws and authorities, to continue to support and undertake community-oriented services or environmental projects on rivers I have recognized as part of the initiative.

By increasing critical funding for land conservation efforts and removing harmful environmental provisions, the legislation represents a step forward in efforts to protect the environment and manage Federal lands and resources responsibly.

Disaster Assistance

I am pleased that the bill includes over \$500 million in additional funds for our Nation's farmers, ranchers, and rural communities to help them recover from natural disasters, particularly this year's hurricanes. These funds will help farmers clear their streams and fields for next year's crop, just as the \$2.5 billion in loans provided in the bill will help them secure the financing they need for planting. Vitally needed funds are included to help low-income rural families and farm laborers repair and replace housing damaged by Hurricane Floyd, and low-interest loans will be available to repair and replace farm structures and equipment lost in the storm. In addition, \$186 million is included for additional crop loss payments across the country, including areas in the East that suffered through one of the worst droughts in memory. The bill also provides funding to implement the mandatory livestock price reporting authority included in the Agriculture Appropriations Act, which will make the livestock market more transparent and particularly help small producers get a fair price for their livestock in the market.

Authorization Bills/Other Issues

The bill also includes a provision that would delay the Department of Health and Human Services's Organ Procurement and Transplantation Network Final Rule for a minimum of 42 days from the bill's effective date. This Final Rule is in response to my Administration's belief that the current organ allocation policies by the Organ Procurement and Transplantation Network are inequitable because patients with similar severities of illness are treated differently, depending on where they may live or at which transplant center they may be listed.

The Satellite Home Viewer Improvement Act -- part of the Intellectual Property and Communications Omnibus Reform Act of 1999 -- will increase the ability of satellite companies to compete against cable companies, and will result in more customer choice, lower prices, and increased access to local news and information. This Act puts the TV remote control back into consumers' hands and competition at their fingertips. In addition, the patent reform legislation that the Administration has fought for will help meet the needs of America's inventors and entrepreneurs. It strengthens protection in a number of ways: it extends the term of a patent when there is an administrative delay in the patent process; it requires the timely domestic publication of patent applications that are also filed abroad; and it reinvents the Patent and Trademark Office as a performance-based organization to better serve America's entrepreneurs and innovators.

Unfortunately, the Congress did not fund my additional request to protect the Nation's critical computer and information based infrastructures from a growing threat of cyber attack from hostile nations, terrorists, or criminals.

In order that \$68 million in interest accrued by the Abandoned Mine Land Fund (to be transferred to the United Mine Workers of America Combined Benefits Fund -- designated by the Congress as an emergency requirement) not be scored against the discretionary spending caps, I hereby designate that amount as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended. I will shortly be designating other funds in this legislation as emergency requirements.

Finally, there are several provisions in the bill that purport to require congressional approval before Executive Branch execution of aspects of the bill. I will interpret such provisions to require notification only, since any other interpretation would contradict the Supreme Court ruling in INS vs. Chadha.

WILLIAM J. CLINTON

O: RYN\RYN98.126

B3-28

1 SEC. 1815. FUNDS MADE AVAILABLE UNDER CHAPTER 4 OF
2 PART II OF THE FOREIGN ASSISTANCE ACT
3 OF 1961.

4 Not less than \$2,000,000 shall be made available
5 under chapter 4 of part II of the Foreign Assistance Act
6 of 1961 (22 U.S.C. 2346: relating to the economic support
7 fund), for fiscal years 1998 and 1999 to carry out the
8 programs and activities under the Cuban Liberty and
9 Democratic Solidarity (LIBERTAD) Act of 1996 (22
10 U.S.C. 6021 et seq.) and the Cuban Democracy Act of
11 1992 (22 U.S.C. 6001 et seq.).

12 SEC. 1816. FOREIGN ORGANIZATIONS THAT PERFORM OR
13 PROMOTE ABORTION; FORCED ABORTION IN
14 THE PEOPLE'S REPUBLIC OF CHINA

15 (a) Section 104 of the Foreign Assistance Act of
16 1961 is amended by adding at the end the following new
17 subsection:

18 "(h) RESTRICTION ON ASSISTANCE TO FOREIGN OR-
19 GANIZATIONS THAT PERFORM OR ACTIVELY PROMOTE
20 ABORTIONS.—

21 "(1) PERFORMANCE OF ABORTIONS.—

22 "(A) Notwithstanding section 614 of this
23 Act or any other provision of law, no funds ap-
24 propriated for population planning activities or
25 other population assistance may be made avail-
26 able for any foreign private, nongovernmental,

OARYNRYN98.128

B3-29

1 or multilateral organization until the organiza-
2 tion certifies that it will not, during the period
3 for which the funds are made available, perform
4 abortions in any foreign country, except where
5 the life of the mother would be endangered if
6 the pregnancy were carried to term or in cases
7 of forcible rape or incest.

8 "(B) Subparagraph (A) may not be con-
9 strued to apply to the treatment of injuries or
10 illnesses caused by legal or illegal abortions or
11 to assistance provided directly to the govern-
12 ment of a country.

13 "(2) LOBBYING ACTIVITIES.—(A) Notwith-
14 standing section 614 of this Act or any other provi-
15 sion of law, no funds appropriated for population
16 planning activities or other population assistance
17 may be made available for any foreign private, non-
18 governmental, or multilateral organization until the
19 organization certifies that it will not, during the pe-
20 riod for which the funds are made available, violate
21 the laws of any foreign country concerning the cir-
22 cumstances under which abortion is permitted, regu-
23 lated, or prohibited, or engage in ^{ies} any activity or ef-
24 fort^s to alter the laws or governmental policies of any

1 foreign country concerning the circumstances under
2 which abortion is permitted, regulated, or prohibited.

3 "(B) Subparagraph (A) shall not apply to ac-
4 tivities in opposition to coercive abortion or involun-
5 tary sterilization.

6 "(3) APPLICATION TO FOREIGN ORGANIZA-
7 TIONS.—The prohibitions of this subsection apply to
8 funds made available to a foreign organization either
9 directly or as a subcontractor or subgrantee, ~~and the~~
10 ~~certifications required by paragraphs (1) and (2)~~
11 ~~apply to activities in which the organization engages~~
12 ~~either directly or through a subcontractor or sub-~~
13 ~~grantee."~~

14 (b) Section 801 of the Foreign Assistance Act of
15 1961 is amended by adding at the end the following new
16 subsection:

17 "(i) LIMITATION RELATING TO FORCED ABORTIONS
18 IN THE PEOPLE'S REPUBLIC OF CHINA.—Notwithstand-
19 ing section 614 of this Act or any other provision of law,
20 no funds may be made available for the United Nations
21 Population Fund (UNFPA) in any fiscal year unless the
22 President certifies that—

23 "(1) UNFPA has terminated all activities in
24 the People's Republic of China, and the United
25 States has received assurances that UNFPA will

B3-31

1 conduct no such activities during the fiscal year for
2 which the funds are to be made available; or

3 "(2) during the 12 months preceding such cer-
4 tification there have been no abortions as the result
5 of coercion associated with the family planning poli-
6 cies of the national government or other govern-
7 mental entities within the People's Republic of
8 China.

9 As used in this section, the term 'coercion' includes phys-
10 ical duress or abuse, destruction or confiscation of prop-
11 erty, loss of means of livelihood, or severe psychological
12 pressure."

13 (c) The President may waive the provisions of section
14 104(h)(1) of the Foreign Assistance Act of 1961, as
15 amended, pertaining to population assistance to foreign
16 organizations that perform abortions in foreign countries,
17 for any fiscal year: *Provided*, That if the President exer-
18 cises the waiver provided by this subsection for any fiscal
19 year, not to exceed \$356,000,000 may be made available
20 for population planning activities or other population as-
21 sistance for such fiscal year: *Provided further*, That the
22 limitation in the previous proviso includes all funds for
23 programs and activities designed to control fertility or to
24 reduce or delay childbirths or pregnancies, irrespective of
25 the heading under which such funds are made available.

Mala

Foreign Organizations that Perform or Promote Abortion; Forced Abortion in China
The House bill (sec. 2101)

The Senate amendment had no comparable provision.

The conference substitute (sec. 1816) combines House bill sections 2101 and 2102. Section 2101 concerns U.S. population assistance to foreign organizations that perform or promote abortions. Section 2102 concerns UN Population Fund (UNFPA) activities in the People's Republic of China in relation to forced abortions carried out in connection with the Chinese government's population program.

The conference substitute prohibits, *inter alia*, population assistance to foreign organizations that "engage in any activity or effort to alter the laws or governmental policies of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited." Such practices include not only overt lobbying for such changes, but also such other activities as sponsoring, rather than merely attending, conferences and workshops on the alleged defects of the abortion laws, as well the drafting and distribution of materials or public statements calling attention to such alleged defects.

DRAFT DRAFT DRAFT

12/14/99, 11:00 a.m.

599D Certification Form for FY 2000 USAID Population Funding

Please review Option Nos. 1 and 2 below and sign in the applicable signature block:

Option No. 1: I, the undersigned, as a duly authorized representative of (name of non-U.S., private, non-governmental organization or multilateral organization expecting to receive FY 2000 USAID funds), have reviewed USAID's Section 599D Certification Guidance, dated January xx, 1999, and do hereby certify that the organization will not:

- 1) perform abortions in any foreign country, except where the life of the mother would be endangered if the pregnancy were carried to term or in cases of forcible rape or incest;
- 2) violate the laws of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited; or
- 3) engage in activities or efforts to alter the laws or governmental policies of any foreign country concerning circumstances under which abortion is permitted, regulated, or prohibited;

from the date the organization receives funding derived from USAID's FY 2000 population assistance account through September 30, 2001, *or the date by which spend the \$, whichever comes first.*

This certification does not restrict the organization's treatment of injuries or illnesses caused by legal or illegal abortion or activities which are in opposition to coercive abortion or involuntary sterilization.

This certification constitutes a material representation of fact upon which reliance is placed by USAID or its intermediary contractors, grantees, and recipients when entering into financing transactions.

Signature Block 1: _____

Name

Title

Date

Option No. 2: My organization is not prepared at this time to certify to the conditions outlined in Option No. 1 above. I understand that USAID may still consider my organization for FY 2000 population funding, within a worldwide limitation of \$15 million.

Signature Block 2: _____

Name

Title

Date

\599D certification.doc

DRAFT DRAFT DRAFT

12/14/99, 12:30 p.m.

\\certguide.doc

Section 599D Certification Guidance

The following guidance is provided to assist non-U.S., non-governmental organizations to understand and complete the 599D Certification Form for purposes of receiving USAID FY 2000 Population Funding.

1. Who is asked to complete the certification?

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

that anticipate receiving funds from USAID's FY 2000 population assistance account, either directly from USAID through a contract, grant or cooperative agreement, or as sub-grantees or subcontractors.

Organizations that are not asked to certify include: U.S. government and U.S. private organizations; foreign governments; organizations that receive only in-kind assistance, e.g., in the form of technical assistance or commodities; and organizations that will not receive funds from USAID's FY 2000 population assistance account.

2. To whom does the certification of activities apply?

To the organization whose duly authorized representative has signed the certification.

3. What period does the certification cover?

From the time that the certifying organization receives funding from USAID's FY 2000 population assistance account through the last date on which the funds are available for obligation by USAID, that is, September 30, 2001.

4. What are the elements of the provision on performing abortions?

The certifying organization certifies that it will not perform abortions in any foreign country (i.e., 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 does not restrict organizations from treating injuries or illnesses caused by legal or illegal abortions.

5. What are the elements of the restriction on violating the laws of a foreign country concerning abortion?

Certifying organizations certify that they will comply with the laws of the foreign countries in which they operate, with respect to the circumstances under which abortion is permitted, regulated or prohibited. Organizations are urged to seek the advice of local counsel with respect to the application of such laws to their activities.

6. 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”?

This language refers to activities or efforts by the organization which are intended to alter the laws or policies of a particular foreign government (or governmental agency) with respect to the circumstances under which abortion is permitted, regulated, or prohibited. It 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 also includes activities or efforts to alter legal penalties applied to women who obtain abortions (e.g., “decriminalization”) or to providers who perform abortions illegally.

The above definition does not include activities in opposition to coercive abortion or involuntary sterilization. In addition, given the language “engage in activities and efforts”, the definition would not include an activity or effort of a *de minimis* (that is, minimal or negligible) or incidental nature. Similarly, it does not include activities or efforts which are not intended to alter abortion laws or policies but which may have that effect.

Activities and efforts included within the above definition are:

- Oral or written communications directed to a country's legislators and government officials, initiated by the organization, in the name of the organization, which make specific proposals or recommendations to alter laws or governmental policies of a foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited, or which provide the organization's viewpoints on others' proposals or recommendations;
- Public outreach activities or efforts (for example, as reflected in newsletters, editorials or other mass media communications) intended to alter laws or governmental policies; or
- Organizing meetings, mass demonstrations (e.g., rallies or marches), or media

events aimed at altering laws or governmental policies concerning abortion.

Examples of activities and efforts ~~not~~ included within the above definition are:

- 1) Research on the incidence, causes, or consequences of abortion or the status of abortion laws or policies;
- 2) Incidental statements in publications, meetings, workshops or communications to the mass media that are not part of activities or efforts (see above) by the organization intended to alter the laws or policies of a particular foreign country concerning abortion;
- 3) Provision of information on existing laws or policies, engaging in efforts to maintain existing laws or policies or to ensure implementation of existing laws or policies;
- 4) Interactions with legislators or government officials in which the organization is responding to a request for factual information or contacting a legislator or government official to obtain factual information, provided that such interactions are not part of activities or efforts intended to alter abortion laws or policies (contacts with legislators and officials on matters unrelated to abortion laws are not affected);
- 5) The organization's participation in or sponsorship of meetings where abortion laws and policies are raised by participants, in a manner not planned by the sponsors, and provided the organization itself is not identified with activities or efforts intended to alter abortion laws or policies;
- 6) The organization's membership in a network of organizations, provided such membership does not involve participation in activities or efforts of the network to alter the laws or government policies of a foreign country; or
- 7) A multilateral organization's response to a request from a member state for assistance relative to its abortion laws or policies.

7. What if my organization cannot or does not certify?

Organizations which are covered by the certification procedure (see Question 1 above), but which cannot or do not certify, will be considered for funding, but subject to the availability of funding capped in the aggregate for all such organizations worldwide at \$15 million.

8. *Another Q&A to be added here on penalties of violating certification and contract/grant provisions to be added to all agreements and subagreements.*

DRAFT DRAFT DRAFT
12/14/99, 11:00 a.m.

Sample Letter No. 1

Request for 599D Certifications to **Non-U.S. NGO Prime with Non-U.S. NGO or private commercial firm Subs**

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

USAID is considering your organization for direct funding with FY 2000 population assistance funds. A new law* requires non-U.S., non-governmental organizations (NGOs), private firms, and multilateral organizations to certify that they will not engage in certain abortion-related activities, before they can be eligible to receive USAID population assistance funds appropriated for fiscal year 2000.

Although the President has exercised statutory authority to waive this requirement, USAID may provide only a limited amount of funding under the law—a total of \$15 million for population activities worldwide—to non-U.S. NGOs (and private and multilateral organizations) that do not certify. To comply with the \$15 million limitation, it is necessary for USAID to obtain certifications, whenever possible, from non-U.S. NGOs that would receive FY 2000 population funds, either directly from USAID or as sub-grantees or subcontractors. When certifications cannot be obtained, USAID funding can only be provided within the limited \$15 million cap.

*is it clear applies
only to
those subs
who get USAID
funding?*

We therefore request your assistance on two actions below:

- 1) We ask that you review the enclosed 599D Certification Form and related Certification Guidance with respect to the activities of your own organization. After selecting one of the options and obtaining the signature of an authorized representative, please return the form.
- 2) USAID must also ask your organization to collect certification forms from your non-U.S. NGO subgrantees and subcontractors that you expect to receive population assistance under your planned FY 2000 agreement with USAID. Such subgrantees and subcontractors should be asked to complete the Certification Form, based on the Certification Guidance. Failure to obtain completed forms from these organizations could delay or jeopardize planned FY 2000 funding actions. Please forward the completed forms to USAID at the address indicated.

You are asked to return the requested certification forms as soon as possible, but no later than March 31, 2000. Forms should be sent (mailed or faxed???) to the following address:

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

Please remember that receiving these forms on time is essential to our decision-making regarding allocation of the \$15 million, and that funding for organizations that do not certify under Option 1 is very limited.

If you have questions concerning this letter or the enclosures, please contact:

Sincerely,

Mission PHN Officer (?)

*Section 599D of the Foreign Operations, Export Financing, and Related Programs Act,
2000

\\599DLETTER1.DOC

DRAFT DRAFT DRAFT
12/14/99, 11:00 a.m.

Sample Letter No. 1

Request for 599D Certifications to Non-U.S. **NGO Prime with Non-U.S. NGO or private commercial firm Subs**

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

USAID is considering your organization for direct funding with FY 2000 population assistance funds. A new law* requires non-U.S., non-governmental organizations (NGOs), private firms, and multilateral organizations to certify that they will not engage in certain abortion-related activities, before they can be eligible to receive USAID population assistance funds appropriated for fiscal year 2000.

Although the President has exercised statutory authority to waive this requirement, USAID may provide only a limited amount of funding under the law—a total of \$15 million for population activities worldwide—to non-U.S. NGOs (and private and multilateral organizations) that do not certify. To comply with the \$15 million limitation, it is necessary for USAID to obtain certifications, whenever possible, from non-U.S. NGOs that would receive FY 2000 population funds, either directly from USAID or as sub-grantees or subcontractors. When certifications cannot be obtained, USAID funding can only be provided within the limited \$15 million cap.

We therefore request your assistance on two actions below:

- 1) We ask that you review the enclosed 599D Certification Form and related Certification Guidance with respect to the activities of your own organization. After selecting one of the options and obtaining the signature of an authorized representative, please return the form.
- 2) USAID must also ask your organization to collect certification forms from your non-U.S. NGO subgrantees and subcontractors that you expect to receive population assistance under your planned FY 2000 agreement with USAID. Such subgrantees and subcontractors should be asked to complete the Certification Form, based on the Certification Guidance. Failure to obtain completed forms from these organizations could delay or jeopardize planned FY 2000 funding actions. Please forward the completed forms to USAID at the address indicated.

You are asked to return the requested certification forms as soon as possible, but no later than March 31, 2000. Forms should be sent (mailed or faxed???) to the following address:

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

Please remember that receiving these forms on time is essential to our decision-making regarding allocation of the \$15 million, and that funding for organizations that do not certify under Option 1 is very limited.

If you have questions concerning this letter or the enclosures, please contact:

Sincerely,

Mission PHN Officer (?)

*Section 599D of the Foreign Operations, Export Financing, and Related Programs Act,
2000

\\599DLETTER1.DOC

DRAFT DRAFT DRAFT
12/14/99, 11:00 a.m.

Sample Letter No. 2

Request for 599D Certifications to U.S. **NGO Prime with Non-U.S. NGO or private commercial firm Subs**

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

USAID is considering your organization for direct funding with FY 2000 population assistance funds. A new law* requires non-U.S. non-governmental organizations (NGOs), private firms, and multilateral organizations to certify that they will not engage in certain abortion-related activities, before they can be eligible to receive USAID population assistance funds appropriated for fiscal year 2000.

Although the President has exercised statutory authority to waive this requirement, USAID may provide only a limited amount of funding under the law—a total of \$15 million worldwide—to non-U.S. NGOs (and private and multilateral organizations) that do not certify. To comply with the \$15 million funding limitation, it is necessary for USAID to obtain certifications, whenever possible, from non-U.S. NGOs that would receive FY 2000 population funds, either directly from USAID or as sub-grantees or subcontractors. When certifications cannot be obtained, USAID funding can only be provided within the limited \$15 million cap.

While the certification procedure does not apply to U.S. organizations such as yours, it does apply to non-U.S. NGOs and private commercial firms receiving FY 2000 population assistance funds from your organization under your planned FY 2000 agreement with USAID. Accordingly, USAID must ask your organization to collect certifications from such sub-grantees and subcontractors. Please ask your current or prospective non-U.S. NGO sub-grantees and subcontractors to review the enclosed Certification Guidance and complete the 599D Certification Form. Failure to obtain certification forms from lower tier organizations could delay or jeopardize planned FY 2000 funding actions.

You are asked to return the requested certification forms to USAID as soon as possible, but no later than March 31, 2000. Forms should be sent (mailed or faxed???) to the following address:

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

Fax: 703-528-7480

Please remember that receiving these forms on time is essential to our decisionmaking regarding allocation of the \$15 million, and that funding for organizations that do not certify under Option 1 is very limited.

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

Sincerely,

(name to be determined, a USAID/W
official)

*Section 599D of the Foreign Operations, Export Financing, and Related Programs Act,
2000

\599DLETTER2.DOC

DRAFT DRAFT DRAFT
12/14/99, 11:00 a.m.

Sample Letter No. 1

Request for 599D Certifications to Non-U.S. NGO Prime with Non-U.S. NGO or private commercial firm Subs

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

USAID is considering your organization for direct funding with FY 2000 population assistance funds. A new law* requires non-U.S., non-governmental organizations (NGOs), private firms, and multilateral organizations to certify that they will not engage in certain abortion-related activities, before they can be eligible to receive USAID population assistance funds appropriated for fiscal year 2000.

Although the President has exercised statutory authority to waive this requirement, USAID may provide only a limited amount of funding under the law—a total of \$15 million for population activities worldwide—to non-U.S. NGOs (and private and multilateral organizations) that do not certify. To comply with the \$15 million limitation, it is necessary for USAID to obtain certifications, whenever possible, from non-U.S. NGOs that would receive FY 2000 population funds, either directly from USAID or as sub-grantees or subcontractors. When certifications cannot be obtained, USAID funding can only be provided within the limited \$15 million cap.

We therefore request your assistance on two actions below:

- 1) We ask that you review the enclosed 599D Certification Form and related Certification Guidance with respect to the activities of your own organization. After selecting one of the options and obtaining the signature of an authorized representative, please return the form.
- 2) USAID must also ask your organization to collect certification forms from your non-U.S. NGO subgrantees and subcontractors that you expect to receive population assistance under your planned FY 2000 agreement with USAID. Such subgrantees and subcontractors should be asked to complete the Certification Form, based on the Certification Guidance. Failure to obtain completed forms from these organizations could delay or jeopardize planned FY 2000 funding actions. Please forward the completed forms to USAID at the address indicated.

You are asked to return the requested certification forms as soon as possible, but no later than March 31, 2000. Forms should be sent (mailed or faxed???) to the following

address:

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

Please remember that receiving these forms on time is essential to our decision-making regarding allocation of the \$15 million, and that funding for organizations that do not certify under Option 1 is very limited.

If you have questions concerning this letter or the enclosures, please contact:

Sincerely,

Mission PHN Officer (?)

*Section 599D of the Foreign Operations, Export Financing, and Related Programs Act, 2000

\\599DLETTER1.DOC

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

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