



AGENCY FOR INTERNATIONAL DEVELOPMENT

22 CFR Part 203

RIN 0412-AA91

**Streamlining the Private Voluntary Organization
Registration Process**

AGENCY: U.S. Agency for International Development.

ACTION: Proposed rule.

SUMMARY: USAID is publishing this proposed rule to rescind agency rules in support of streamlining the Private Voluntary Organization (PVO) registration process. Foreign assistance circumstances have evolved since the establishment of the PVO registration process, and a careful review of USAID's business practices has concluded that there is no longer a need for the current, time-consuming and costly Agency-wide process. The remaining USAID programs that legislatively require PVOs to be registered as a condition of eligibility have incorporated a simplified registration process into each of their program's applications.

DATES: Comments must be received no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

ADDRESSES: Address all comments concerning this notice to Daniel Grant, USAID, Bureau for Economic Growth, Education, and Environment, Office of Local Sustainability (E3/LS), 1300 Pennsylvania Avenue NW, Washington, DC 20523. Submit comments, identified by title of the action and Regulatory Information Number (RIN) by any of the following methods:

1. Federal eRulemaking Portal:

<http://www.regulations.gov>, following the instructions for submitting comments.

2. Email: Submit electronic comments to rulemaking@usaid.gov.

3. Mail (not advisable due to security screening):

Daniel Grant, USAID, Bureau for Economic Growth, Education, and Environment, Office of Local Sustainability (E3/LS), 1300 Pennsylvania Avenue NW, Washington, DC 20523.

FOR FURTHER INFORMATION CONTACT: Daniel Grant, Telephone: 202-712-0497 or e-mail: dgrant@usaid.gov

SUPPLEMENTARY INFORMATION: PVOS applying for the Limited Excess Property Program (LEPP), the Ocean Freight Reimbursement Program (OFR), or to other agencies under Section 607(a) of the Foreign Assistance Act must complete and submit to USAID a self-certification form indicating that the organization meets the conditions to register as a PVO. The self-certification form requires that the PVO confirm whether it is registered as a U.S.-based organization or an international PVO and must be signed by an authorized representative of the applicant organization. Rescission of this rule is expected to significantly reduce the burden on the public and produce an estimated annual cost savings of \$779,000 to USAID and significant projected savings for the PVO community, ranging from \$2 million to \$11.2 million per year.

A. Instructions:

All comments must be in writing and submitted through one of the methods specified in the "Addresses" section above. All submissions must include the title of the action and RIN for this rulemaking. Please include your name, title, organization, postal address, telephone number, and email

address in the text of the message. Please note that USAID recommends sending all comments to the Federal eRulemaking Portal because security screening precautions have slowed the delivery and dependability of surface mail to USAID/Washington. At the end of the comment period and until finalization of the action, all comments will be made available at <http://www.regulations.gov> for public review without change, including any personal information provided. We recommend you do not submit information that you consider Confidential Business Information (CBI) or any information that is otherwise protected from disclosure by statute. USAID will only address substantive comments on the rule. Comments that are insubstantial or outside the scope of the rule may not be considered.

B. Background.

USAID is issuing this proposed rule to rescind 22 CFR part 203. The regulation codifies the rules for PVO registration with USAID. More specifically, 22 CFR part 203 provides the registration process for PVOs, including the conditions for registration and documentation required to be submitted to USAID to complete a registration, as

well as the annual renewals and termination processes.

The rule is being rescinded because the current PVO registration process is not needed for the majority of programs open to PVOs across the Agency and therefore has been streamlined to apply only to the Agency programs that require registration by statute (Limited Excess Property Program, Ocean Freight Reimbursement Program, and U.S. Government agencies seeking to provide foreign assistance in accordance with Section 607(a) of the Foreign Assistance Act).

USAID's PVO Registration process was originally created for purposes of designating that an organization met the definition of a PVO and specific organizational standards. Today, USAID examines all potential partner organizations, PVOs or otherwise, via a pre-award assessment in accordance with Agency policy (ADS 303: Grants and Cooperative Agreements to Non-Governmental Organizations; and ADS 302: USAID Direct Contracting), and as required by relevant regulations (i.e. 2 CFR 200.205 for assistance, and FAR Part 9 for contracts). This process is carried out by

warranted USAID Agreement/Contract Officers.

The 22 CFR part 203 due diligence process for PVO registration process is duplicative of these pre-award assessments. In addition, PVOs invest a substantial amount of time and money to obtain and maintain registration.

Only three USAID activities are required by statute to have PVOs register with USAID as a condition of eligibility: the Limited Excess Property Program (LEPP), the Ocean Freight Reimbursement Program (OFR) (see FAA section 123 generally and FAA section 607(a)), and granting approval to U.S. Government agencies seeking to provide foreign assistance under FAA Section 607(a). Combined, these programs serve fewer than 50 organizations. USAID has established a simplified registration process for users of the three activities (consisting of self-certification) to save considerable time and resources.

Finally, USAID's PVO registration has historically played the role that private rating organizations now play - publishing data on PVOs and other types of non-governmental

organizations. The extensive information publicly available through other providers has eliminated the need for the Agency to produce information on the sector through the maintenance and publication of a registry.

C. Impact assessment.

1) Executive Orders 12866 and 13563 - Regulatory Planning and Review.

Under E.O. 12866, USAID must determine whether a regulatory action is "significant" and therefore subject to the requirements of the E.O. and subject to review by the Office of Management and Budget (OMB). USAID has determined that this rule is not an "economically significant regulatory action" under Section 3(f)(1) of E.O. 12866. This proposed rule is not a major rule under 5 U.S.C. 804.

E.O.s 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches

that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Streamlining the duplicative Agency-wide registration program eliminates thousands of labor hours and saves hundreds of thousands of dollars for USAID and the estimated 550 PVOs currently registered with USAID.

USAID utilizes a contractor to manage the PVO registration process, costing the Agency approximately \$700,000 per year. In addition, internal USAID labor costs related to the registration process amount to \$79,406 in burdened salary and benefit expenses (50% of a GS-13 FTE). With the proposed deregulation, USAID anticipates that it would save \$779,406 in government costs per year.

Moreover, USAID estimates that the deregulation will generate significant cost savings for PVOs affected. USAID recently surveyed all PVO registrants (550 in total) to quantify the burden associated with the registration

process. Within the past ten years, the number of PVOs registering with USAID on an annual basis has been consistent, ranging from 550 to 553 PVOs per year. Based on survey results, USAID estimates that all 550 PVO registrants spent 4,378 hours to prepare and file registration forms.

Using market research, USAID estimates that the burdened labor cost for PVO staff to conduct tasks related to registration ranges from \$40 to \$80 per hour.¹ Applying those rates to the total 4,378 personnel-hours yields an estimated cost ranging from \$175,120 to \$350,240 for PVO staff to register.

In addition, with rescission of the rule, USAID concludes that PVOs would achieve significant further cost savings since a component of the PVO registration process is the conduct of a financial audit. USAID estimated the total amount of audits that were conducted for PVO registration purposes but not used to range from 183 (low estimate) to 363 (high estimate). This estimated range refers to PVOs

¹ Calculated based on nationwide data on nonprofit program manager salaries (https://www.glassdoor.com/Salaries/nonprofit-program-manager-salary-SRCH_KO0,25.htm), with employee benefit costs added into the hourly rates (<https://www.bls.gov/news.release/ecec.nr0.htm>).

that obtained audits for PVO registration only but did not receive an award from USAID. Based on market research², past experience, and consultations with registered PVOs, the average cost of an audit ranges from \$10,000 to \$30,000. USAID then calculated a low estimate and high estimate of cost savings. For the high estimate, USAID applied the rate of \$30,000 to 363 registrants (two-thirds of the 550 total registrants) that do not receive an award. This yields an annual total of \$10,890,000 in expenses avoided. For the low estimate, we applied the \$10,000 rate as the audit cost and added the assumption that half of registrants without awards would have procured financial audits, even in absence of the rule. Multiplying \$10,000 by 183 (one-third of 550 total registrants) yields a total of \$1,830,000 for our low cost estimate of cost savings associated with avoided audit expenses. When estimates for PVO staff time and financial audits are combined, the cost savings for affected PVOs ranges from \$2,005,120 to \$11,240,240. When added to the expected costs internal to USAID of \$779,406, this yields an annual total of incremental cost savings as a result of the rescission from

² <https://www.councilofnonprofits.org/nonprofit-audit-guide/what-is-independent-audit>,
<http://www.financialexecutives.org/ferf/download/2015%20Final/2015-018.pdf>

\$2,784,526 to \$12,019,646. Rescission of our PVO registration rule benefits USAID and our PVOS by streamlining processes and achieving significant cost savings.

2. Executive Order 13771.

This proposed rule is considered an E.O. 13771 deregulatory action. Details on the estimated cost savings of this rule can be found in the rule's economic analysis.

3. Regulatory Flexibility Act.

Because the rescission of this regulation removes rather than imposes collection of information, USAID certifies that the proposed rescission will not have a significant economic impact on a substantial number of small entities.

4. Paperwork Reduction Act.

The Paperwork Reduction Act (44 U.S.C. Chapter 3507) applies to this rule since this rule removes information collection requirements formerly approved by the Office of Management and Budget (OMB). Rescission of this rule will significantly reduce paperwork and eliminate information

collection requirements on the 550 PVOs that register with the Agency. USAID collects information from all registered PVOs as part of the registration requirement, such as data on their organization, including financial information and provision of a costly financial audit, in order to determine whether the PVO meets the conditions of registration. Under the revised approach, only organizations applying for the Agency's LEPP, OFR awards, or are working with other U.S. government agencies seeking to provide foreign assistance (about 50 organizations in total) would be required to certify that they meet USAID's PVO requirements through the new certification process described earlier. No other data or financial audits would be collected.

USAID previously collected information for PVO registration purposes under the OMB-approved AID Form 1550-2 (OMB Approval Number 0412-0035) but inadvertently operated in non-compliance with the Paperwork Reduction Act (PRA) when OMB approval of this form expired, and USAID did not seek extension of the OMB approval when the Agency moved to an online system for PVO registration. USAID's online PVO

registration system required that PVOs provide the same information requested on AID Form 1550-2, including financial data. As such, the public reporting burden for collection of information remained the same under the online system.

5. Administrative Procedures Act.

The Agency plans to issue this deregulatory action since the purpose of the rule is to remove an unneeded hurdle to doing business with the Agency that imposes unnecessary and excessive costs on the private sector with no value to the Government. The rule proposed for rescission originally called for the collection of information, such as a company's volunteer make-up - a requirement for PVOs that has since been obviated once the volunteer requirement was removed by law. Apart from that requirement, statutory references to registration of PVOs (such as those in FAA sections 123 or 607) provide no further guidance or requirements to the Agency on what such registration should entail. By rescinding this rule, the Agency is free to simplify and streamline registration to remove costly barriers to doing business with the Agency.

The Agency also conducted surveys of the primary stakeholders to the registration process - that of Agency internal stakeholders and the PVO community. Surveys of registered PVOs in 2012 and in 2017 showed that the PVO community did not see significant value in the registration program delineated by the rule at issue, and internal stakeholders for the Agency determined that the information collected in accordance with the rule at issue served no purpose for the Agency. These findings contributed to the decision to remove both the registration program and the rule that required such a rigorous registration process. Additionally, no new rule is being put in place in lieu of the present rule.

For the Limited Excess Property Program, the Ocean Freight Reimbursement Program, and PVOs who are affiliated with U.S. Government agencies seeking to provide foreign assistance under FAA Section 607(a), which all still require registration due to legislative requirements, as provided above, the Agency has developed a simplified

registration process to be implemented as part of the application process.

Dated: December 21, 2018.

James Peters,

Acting Senior Deputy Assistant Administrator, Bureau for
Economic Growth, Education, and Environment,
U.S. Agency for International Development

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