



November 12, 2020

The Honorable Mike Pompeo
Secretary of State
U.S. Department of State
2201 C Street NW
Washington, DC 20520

The Honorable Alex M. Azar II
Secretary of Health and Human Services
U.S. Department of Health and Human Services (HHS)
200 Independence Avenue SW
Washington, DC 20201

RE: FAR Case 2018-002, Protecting Life in Global Health Assistance

Secretary Pompeo and Secretary Azar:

On behalf of American Jewish World Service (AJWS), we submit these comments in response to the proposal to amend the Federal Acquisition Regulation (FAR) rule from the Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA) to implement the Protecting Life in Global Health Assistance policy, as published in the Federal Register on Monday, September 14. The proposed rule would extend the administration’s Protecting Life in Global Health Assistance Policy (also known as the Expanded Mexico City Policy or global gag rule) to U.S. global health contracts.

Founded in 1985, AJWS is the leading Jewish organization committed to pursuing human rights and justice in the Global South. Each year, we invest more than \$30 million in over 500 local grassroots partners in 18 countries across Asia, Africa, and Latin America and the Caribbean. AJWS grantees promote civil and political rights to amplify the voices of marginalized and persecuted minorities. They defend the land and water rights of indigenous communities most affected by climate change. They aid vulnerable communities in the aftermath of devastating natural disasters and humanitarian crises. And AJWS grantees work tirelessly to advance sexual and reproductive health and rights for marginalized groups, including women, girls, LGBTQI+ people and sex workers who face systemic barriers to care.

Our direct work with partners from across the globe has illustrated that the global gag rule is not merely bad policy; it is actively damaging and undermines the rights of communities across the world. Based on stories provided to our organization from our global partners, AJWS has documented the challenges that the global gag rule has posed for global health and human rights around the world. Our research includes reviewing the outsized impacts of this policy on those in the LGBTQI+ and sex worker communities, who have seen a decline in both access to health care services and broader advocacy work on human rights issues due to this draconian policy.¹ And our research does not stand

¹ American Jewish World Service (AJWS). Impacts of the Global Gag Rule on LGBTQI Persons and Sex Workers. June 2019. <https://globalphilanthropyproject.org/2019/06/27/impacts-of-the-global-gag-rule-on-lgbtqi-persons-and-sex-workers/>

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alone; several other organizations and institutions have researched the harms of the global gag rule, finding that the policy undermines U.S. foreign assistance and global health programming.

Unfortunately, the Trump administration has turned a blind eye to evidence- and rights-based programming that would promote, rather than curtail, the health and dignity of the most marginalized communities. In fact, as soon as President Trump assumed office, he dramatically expanded the global gag rule to apply to all U.S. global health dollars, implicating more than \$11 billion dollars in U.S. foreign assistance. This expansion, given its breadth across U.S. foreign assistance, has increased the harms that were already documented, trickling into HIV/AIDS programming, nutrition, water and sanitation, and other areas of health care services, creating inefficiencies and injustices in global health programs. Now, the Trump administration is seeking to increase the harms of this policy once again by applying the global gag rule to global health contracts, impacting foreign contractors and subcontractors. The Kaiser Family Foundation has estimated that close to 40% of all global health funding has been channeled through contracts in recent years.²

As a faith-based organization committed to supporting and promoting the human rights of the most vulnerable across the globe, we vehemently oppose the proposed regulation to expand the global gag rule beyond its current application to grants and cooperative agreements, to include global health contracts for the first time. We know that the global gag rule, and any expansion proposed, will only put the lives of women, girls, LGBTQI+ people, sex workers and other vulnerable groups at greater risk. The global gag rule has disrupted global health service delivery, undermined access for the most vulnerable groups, and silenced civil society organizations fighting for access to their human rights across the globe. The expansion would also further increase compliance burdens and inefficiencies in U.S. foreign assistance; in tandem with the ongoing COVID-19 pandemic, we have deep concerns that this harmful policy will only exacerbate the global health and human rights challenges around the world.

For these reasons, which we have detailed below, AJWS opposes the expansion of the global gag rule and we do not support the changes contained within the proposed rule (FAR Case 2018-002).

I. The proposed rule to expand the global gag rule to contracts – administered in all areas of global health – will compound the damages already caused by the global gag rule to global health service delivery.

The global gag rule forces organizations to choose between providing accurate and legal information and services for abortion care and maintaining U.S. funding for their global health programming. For many organizations, this difficult choice can result in the closures of clinics, a reduction in services, and other disruptions to health care delivery. In fact, research and evidence have illustrated that the global gag rule has prevented individuals from accessing a wide range of health information and services that they want and need, including but not limited to legal abortion care.

With the drastic expansion of the global gag rule across all U.S. global health assistance under the Trump administration, we are deeply concerned that the dangers of this policy will only be exacerbated. While AJWS does not, itself, implement global health programs, we work closely with civil society organizations that seek to promote access to global health programs, including family

² PAI. Taking Out a Contract: Trump Administration Arranges Global Gag Rule Hit on Global Health Contracts. September 17, 2020. <https://globalgagrule.org/resource/taking-out-a-contract-trump-administration-arranges-global-gag-rule-hit-on-global-health-contracts/>

planning and reproductive health, HIV/AIDS treatment and prevention, maternal, newborn, and child health, and nutrition programs, all of which have seen disruptions under the Trump administration due to the global gag rule and its harms.

For instance, Family Health Options Kenya has had to discontinue their outreach services that reached 76,000 women per year, leaving patients without their antenatal care, family planning, and HIV and AIDS counseling and testing.³ Kitengela clinic, one of the health center run by Family Health Options Kenya outside Nairobi, provided free HIV testing, anti-retroviral medication, family planning, and reproductive health care. As a result of the global gag rule, the entire clinic closed, all staff were terminated, and the people in the community who relied on it were left without alternatives.⁴ Meanwhile, providers in Kenya noted a shortage in referral options for clients for family planning and non-abortion sexual and reproductive health care services.⁵ Unfortunately, individuals in Kenya also noted that government-run institutions were unable to fill these gaps, as they lacked commodities and friendly services to marginalized populations.⁶

There are similar experiences for organizations in Uganda working on family planning and reproductive health who lost funding due to the global gag rule. One organization was forced to cut or scale back mobile outreach teams that were providing long-acting contraceptives to women, while another organization had to close community health facility and end several other programs, including community education on family planning methods.⁷

The expansion of the global gag rule to PEPFAR programming has had serious repercussions on the fight against HIV/AIDS. In a survey conducted by amfAR, approximately one-third of the organizations who were aware of the policy reported changes to their organization due to it. For many of these organizations, a reduction in sexual and reproductive health information, including pregnancy counseling, was the most commonly reported change.⁸ The survey also documented reductions in information on legal abortion, sexual and reproductive health community trainings, contraception counseling and referrals, HIV services, cervical cancer screenings and adolescent health guidance.

These changes to PEPFAR programs and services are evident from examples in several countries, including those in which we work. In Eswatini, amfAR documented that due to the global gag rule, one clinic which provided a significant number of voluntary medical male circumcisions to hit PEPFAR targets was unable to provide these services, resulting in a missed target in 2018. For

³ IWHC, *Crisis in Care: Year Two Impact of Trump's Global Gag Rule* (2019), available at https://31u5ac2nrwj6247cya153vw9-wpengine.netdna-ssl.com/wp-content/uploads/2019/06/IWHC_GGR_Report_2019-WEB_single_pg-2.pdf

⁴ Dixon, Brian. (2018, October 15, accessed 2018, December 18). "Opinion: Trump's First Blow Against Reproductive Rights Was in the Developing World." Devex [Online] <https://www.devex.com/news/opinion-trump-s-first-blow-against-reproductive-rights-was-in-the-developing-world-93576>.

⁵ Boniface Ayanbekongshie Ushie, Kenneth Juma, Grace Kimemia, Maggie Magee, Emily Maistrellis, Terry McGovern & Sara E. Casey. Foreign assistance or attack? Impact of the expanded Global Gag Rule on sexual and reproductive health and rights in Kenya. August 2020. *Sexual and Reproductive Health Matters*, 28:3, DOI: 10.1080/26410397.2020.1794412. <https://www.tandfonline.com/doi/full/10.1080/26410397.2020.1794412>

⁶ Ibid.

⁷ Giorgio M et al., Investigating the early impact of the Trump administration's global gag rule on sexual and reproductive health service delivery in Uganda, *PLOS ONE*, 2020, 15(4):e0231960, doi:10.1371/journal.pone.0231960.

⁸ amfAR. *The Effect of the Expanded Mexico City Policy on HIV/AIDS Programming: Evidence from the PEPFAR Implementing Partners Survey*. January 2019. https://www.amfar.org/uploadedFiles/_amfarorg/Articles/On_The_Hill/2019/IB-1-31-19a.pdf

organizations that also seek to provide comprehensive health care, research has demonstrated that the global gag rule has hindered the integration of HIV and sexual and reproductive health services. One organization in Kenya noted that USAID was “pushing [them] toward HIV treatment and care,” while another organization that had implemented integrated family planning, HIV, maternal health, and sexual transmitted infection services to young women, girls, and sex workers were directed to drop other sexual and reproductive health services and focus exclusively on HIV testing, treatment, and care.⁹

While research has not yet indicated the extent to which the Trump administration’s expanded global gag rule has impacted the rates of unwanted pregnancies, unsafe abortion rates and poorer health outcomes, the significant closures and decreased access to sexual and reproductive health services will undoubtedly have far-ranging impacts. Under the iteration of President George W. Bush’s policy, a study of the global gag rule – a policy that was much smaller in scope – demonstrated a decrease in access to contraceptives and a 40% increase in abortion rates, many of which were unsafe.¹⁰ Research is also showing this under the Trump administration’s global gag rule; for example, in Madagascar, an organization was forced to close clinics, end outreach to rural areas, terminate a program that provided free contraceptives to 17,000 women and girls, and saw stockouts of family planning commodities. Local health practitioners have also reported that many women are now seeking to treat the complications of unsafe abortions¹¹ – an effect that runs contrary to the administration’s desired goals for this draconian policy. Rather, the Trump administration should be seeking to support education, the use of effective contraception, and the provision of safe and legal induced abortion and timely care following abortion to achieve better health outcomes, lower rates of unwanted pregnancies, and the reduction of unsafe abortions, globally. The global gag rule prevents stands in the way of achieving these ends.

Given these concerns regarding disruptions to global health service and delivery, AJWS asks the following questions:

1. Have the Departments of State and HHS considered the potential impact of this proposed rule on these existing service disruptions?
2. Have the Departments of State and HHS considered what additional impacts that this proposed rule may have on global health programs?
3. How might global health supply chains be further impacted by the proposed expansion of the global gag rule to global health contracts? To what degree will this impact contraceptive commodities, vaccines, antiretrovirals and other essential medicines?
4. How many prime contractors and subcontractors do the Departments of State and HHS estimate will not comply with this proposed regulation? What plans are in place to replace any contractors who do not comply?

⁹ Boniface Ayanbekongshie Ushie, Kenneth Juma, Grace Kimemia, Maggie Magee, Emily Maistrellis, Terry McGovern & Sara E. Casey. Foreign assistance or attack? Impact of the expanded Global Gag Rule on sexual and reproductive health and rights in Kenya. August 2020. *Sexual and Reproductive Health Matters*, 28:3, DOI: 10.1080/26410397.2020.1794412. <https://www.tandfonline.com/doi/full/10.1080/26410397.2020.1794412>

¹⁰ Nina Brooks, Eran Bendavid, and Grant Miller. USA aid policy and induced abortion in sub-Saharan Africa: an analysis of the Mexico City Policy. *The Lancet Global Health*. August 2019. [https://www.thelancet.com/journals/langlo/article/PIIS2214-109X\(19\)30267-0/fulltext](https://www.thelancet.com/journals/langlo/article/PIIS2214-109X(19)30267-0/fulltext)

¹¹ McGovern, Terry. US Global Gag Rule increases unsafe abortion. *The Lancet Global Health*. July 2020. [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)30921-1/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)30921-1/fulltext)

5. How did the U.S. reallocate funding refused by organizations who were unable to comply with the global gag rule and does the U.S. estimate that several of these organizations will receive additional funding should other organizations be unable to comply?
6. How do the Departments of State and HHS intend to ensure that providers are giving clients accurate information on reproductive health care to ensure that the rights of those served by U.S. global health assistance are upheld?

II. The global gag rule, and a further expansion of it, disproportionately impacts vulnerable populations – particularly adolescent girls, LGBTQI+ individuals and sex workers who face systemic barriers to care— resulting in a loss of health services and trusted providers.

Vulnerable populations – including adolescent girls, LGBTQI+ individuals and sex workers – confront systemic barriers to accessing safe and friendly health care services due to stigma, discrimination and violence in their communities.¹² Trusted relationships must be built over time with health care providers to facilitate an environment that adequately meets the unique needs of these populations, including sexual and reproductive health services such as family planning and HIV treatment and prevention, as well as outreach efforts.¹³

Unfortunately, the global gag rule has already undermined access to these very same trusted health care providers and an expansion of the global gag rule to global health contracts will only compound these challenges. Many health providers who serve adolescent girls, LGBTQI+ individuals and sex workers have been forced to close their doors.¹⁴ One example of this is AMODEFA, a national family planning organization in Mozambique, which lost 60% of its budget. AMODEFA is one of the only organizations in the country providing LGBTQI+ perspectives in their work on HIV, including in workshops with young people, leaving a gap in services for these populations.¹⁵ Likewise, Family Health Options Kenya (FHOK) closed their clinics in two communities, reducing outreach efforts to these vulnerable groups that ensured access and information about health care services and commodities, including condoms and other contraceptives.¹⁶ The State Department’s own review of the policy indicated that PEPFAR programs for key populations saw significant disruptions. The report indicated that access to antiretroviral therapy (ART) for key populations at four treatment sites was disrupted for close to two years.¹⁷

¹² U.S. State Department Bureau of Democracy, Human Rights, and Labor. 2019 Country Reports on Human Rights Practices: Kenya. <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/kenya/>

¹³ International Women’s Health Coalition. Crisis in Care: Year Two Impact of Trump’s Global Gag Rule. 2019. https://31u5ac2nrwj6247cya153vw9-wpengine.netdna-ssl.com/wp-content/uploads/2019/06/IWHC_GGR_Report_2019-WEB_single_pg-2.pdf

¹⁴ American Jewish World Service (AJWS). Impacts of the Global Gag Rule on LGBTQI Persons and Sex Workers. June 2019. <https://globalphilanthropyproject.org/2019/06/27/impacts-of-the-global-gag-rule-on-lgbtqi-persons-and-sex-workers/>

¹⁵ Ibid.

¹⁶ International Women’s Health Coalition. Crisis in Care: Year Two Impact of Trump’s Global Gag Rule. 2019. https://31u5ac2nrwj6247cya153vw9-wpengine.netdna-ssl.com/wp-content/uploads/2019/06/IWHC_GGR_Report_2019-WEB_single_pg-2.pdf

¹⁷ U.S. State Department. Review of the Implementation of the Protecting Life in Global Health Assistance Policy. August 2020. <https://www.state.gov/wp-content/uploads/2020/08/PLGHA-2019-Review-Final-8.17.2020-508.pdf>

For gag rule compliant organizations catering to vulnerable groups, the quality of services for adolescent girls, LGBTQI+ individuals and sex workers also suffers. For example, in Cambodia, due to a reduction in a range of integrated and comprehensive services, sex workers and men who have sex with men had less access to essential services and increased concerns around stigma in health care settings. One organization reported a decrease in its drop-in center for these groups from 300 to 100 attendances per quarter in 2018, while NGO outreach workers reported lower condom distribution, fewer referrals to health facilities for HIV and STI testing and increased unsafe abortions.¹⁸

Meanwhile, the global gag rule and a proposed expansion also undermines already under-resourced vulnerable populations, including LGBTQI+ individuals. According to the Global Philanthropy Project, global LGBTQI+ funding comprises only 0.04% of donor government funding in international development efforts and assistance; likewise, foundations funding to global LGBTQI+ groups comprises 0.31% of their funding.¹⁹ Unfortunately, LGBTQI+ groups have been forced to refuse grants that would support their work due to restrictions imposed by the global gag rule. One example is the Gay and Lesbian Coalition of Kenya (GALCK), which had to refuse an advocacy and capacity-building grant due to restrictions on abortion advocacy. This decision came while LGBTQI+ groups were on the frontlines fighting against Kenya's anti-homosexuality laws, which increase stigma and discrimination in the country.²⁰

These documented impacts clearly undermine programming and support for marginalized populations who are most in need; the expansion of the global gag rule to global health contracts runs contrary to U.S. policies seeking to promote the health and rights of these very same communities. Given the proposed rule, AJWS asks the following questions:

1. To what degree has the United States Government consulted with vulnerable communities – particularly organizations that are LGBTQI+, sex worker, or women-led – to ascertain how the global gag rule has exacerbated funding gaps?
2. How is the United States Government seeking to support the building of relationships between vulnerable populations and new health care providers in the wake of clinic closures? Has the United States reviewed whether these facilities are able to provide the same safe, non-discriminatory, and rights-affirming care as others?
3. Has the United States quantified the reduced number of adolescent girls, LGBTQI+ individuals, and sex workers that are being served through U.S.-funded global health programming due to clinic closures and reduced services imposed by the global gag rule?

III. The global gag rule has resulted in a “chilling effect” in international programs, creating an environment of fear and uncertainty that undermines programs and

¹⁸ FrontlineAIDS. Early Warning Signs: The actual and anticipated impact of the Mexico City Policy on the HIV response for marginalized people in Cambodia and Malawi. March 2019. <https://frontlineaids.org/wp-content/uploads/2019/03/FrontlineAIDS-MexicoCityPolicy-Report-A4-WEB.pdf>

¹⁹ Global Philanthropy Project. 2017/2018 Global Resources Report: Government and Philanthropic Support for Lesbian, Gay, Bisexual, Transgender, and Intersex Communities. May 2020. https://globalresourcesreport.org/wp-content/uploads/2020/05/GRR_2017-2018_Color.pdf

²⁰ American Jewish World Service (AJWS). Impacts of the Global Gag Rule on LGBTQI Persons and Sex Workers. June 2019. <https://globalphilanthropyproject.org/2019/06/27/impacts-of-the-global-gag-rule-on-lgbtqi-persons-and-sex-workers/>

silences civil society coordination and advancement of abortion care and other community health care needs.

The proposed rule threatens to drastically expand the damage already done to the U.S.'s relationships with civil society, and to cement fractures between long-standing local partnerships. In fact, the global gag rule has resulted in a "chilling effect," disrupting service provision, engagement, and collaboration across coalitions seeking stronger health care systems. Following the announcement of the expanded global gag rule, organizations reported that they had received little guidance from the U.S. government, leading to overreach in implementation and overinterpretation of the policy's restrictions out of fear and uncertainty over compliance. As a result, organizations have self-censored the programs and information, particularly related to abortion and other sexual and reproductive health, that they provide in an effort to ensure that their activities are not misconstrued by the administration, which would put their funding at risk. For instance, research found that one organization discontinued adolescent pregnancy consultations, while another stopped providing emergency contraception and post-abortion care, services which are all permitted under the global gag rule.²¹ The unprecedented expansion of the policy proposed in the rule is likely to again produce significant confusion resulting in a chilling impact on services, information, and partnerships. This will put the lives of individuals across the world at great risk.

At the same time, the Trump administration has alienated civil society and shuttered its access to organizations that provide services that the administration claims to prioritize, including HIV/AIDS prevention and treatment, tuberculosis, and nutrition. In just one example, an organization in Kenya detailed that the partnerships severed by the policy have created gaps around key issues, including HIV services and contraception, that have remained unfilled.²²

The chilling effect also challenges relationships between organizations that do and do not comply with the policy; in fact, these impacts trickle down to a willingness to partner with other organizations, weakening the diversity, strength, and reach of NGO coalitions. For example, partners operating in the Rohingya refugee camps in Bangladesh refuse to accept training and support in the provision of abortion and postabortion care, despite exceptions to perform these services in the case of rape, incest, or life endangerment, from organizations that support access to safe abortion services.²³ In Uganda, the Coalition to Stop Maternal Mortality Through Unsafe Abortion was splintered as some of the coalition members have left the coalition due to fears associated with the policy.²⁴ This is also true in Mozambique, where some organizations within a national sexual and reproductive health and rights coalition have been reticent to engage despite prior participation, declining to attend meetings due to the global gag rule.²⁵

²¹ CHANGE. Prescribing Chaos in Global Health: The Global Gag Rule from 1984-2018. June 2018.

<https://srhrforall.org/download/prescribing-chaos-in-global-health-the-global-gag-rule-from-1984-2018/?wpdmdl=1064&refresh=5fa4176692e391604589414>

²² International Women's Health Coalition. Crisis in Care: Year Two Impact of Trump's Global Gag Rule. June 2019. https://iwhc.org/wp-content/uploads/2019/06/IWHC_GGR_Report_2019-WEB_single_pg-2.pdf

²³ Ipas. Ipas warns U.S. government on harmful impact of global gag rule. February 2019.

<https://www.ipas.org/news/ipas-warns-u-s-government-on-harmful-impact-of-global-gag-rule/>

²⁴ CHANGE. Prescribing Chaos in Global Health: The Global Gag Rule from 1984-2018. June 2018.

<https://srhrforall.org/download/prescribing-chaos-in-global-health-the-global-gag-rule-from-1984-2018/?wpdmdl=1064&refresh=5fa4176692e391604589414>

²⁵ Ibid

The global gag rule also disrupts civil society engagement in government fora as well as independent advocacy related to sexual and reproductive health and rights. Organizations that receive U.S. global health assistance and follow the policy are unable to advocate for the liberalization of abortion laws or lobby for the continued legality of abortion. For example, in Malawi where civil society organizations are engaged in reforming the restrictive abortion law, U.S.-funded groups have slowed down long-standing advocacy for reform because of the global gag rule.²⁶ And for our partners in Kenya, who already face challenges in communicating about abortion due to Kenya's constitution and penal code, the global gag rule obfuscates and confuses information available.²⁷

A vibrant civil society is vitally important for the protection of human rights and safeguarding of democracy. The Trump administration has prevented the realization of U.S. foreign policy priorities in global health assistance through these continued attacks on individuals and civil society through these policies. This proposed rule will only expand the damage that the existing policy has already incurred. With these concerns about the impact of the global gag rule on civil society, AJWS asks the following questions:

1. What steps has the U.S. taken to ensure that previous expansions of the global gag rule were understood by primes and subs in implementation rollouts?
2. If the regulation moves forward, how will the U.S. ensure that global health contractors fully understand the restrictions of the policy and what training will it provide?
3. How does the U.S. reconcile its commitment to free speech and its support of policies that restrict this fundamental right for those abroad?

IV. The global gag rule and proposed rule are made even worse by requiring that all those receiving U.S. global health funding ensure that their partners receiving “financial support” also comply with the restrictions of the global gag rule. The proposed rule will result in the loss of critical partnerships that cannot easily be replaced.

The proposed rule is the first time that “financial support” has been formally defined in provisions regarding the global gag rule. The definition matches Secretary of State Pompeo's dramatically expanded reinterpretation of the global gag rule to implicate other bilateral and private donor funding. Under this definition, in order to be compliant with the proposed rule, a foreign U.S. global health contractor or subcontractor is prohibited from providing any funding to any other foreign entity that participates in abortion-related activities that are not permitted by the global gag rule.

The global gag rule has severed partnerships between health care providers, disrupted networks and coalitions of civil society organizations, and, in some cases, severed long-term relationships between organizations. In many cases, the policy has forced organizations to terminate existing partnerships in cases where one partner has signed the policy and the other has not, including cases where prime recipients of U.S. global health funds have been forced to seek new local partners to carry out critical health programs.

²⁶ Beirne Roose-Snyder, Brian Honermann & Tambudzai Gonese-Manjonjo (2020) Call in the lawyers: mitigating the Global Gag Rule, *Sexual and Reproductive Health Matters*, 28:3, DOI: [10.1080/26410397.2020.1815935](https://doi.org/10.1080/26410397.2020.1815935)

²⁷ Boniface Ayanbekongshie Ushie, Kenneth Juma, Grace Kimemia, Maggie Magee, Emily Maistrellis, Terry McGovern & Sara E. Casey. Foreign assistance or attack? Impact of the expanded Global Gag Rule on sexual and reproductive health and rights in Kenya. August 2020. *Sexual and Reproductive Health Matters*, 28:3, DOI: [10.1080/26410397.2020.1794412](https://doi.org/10.1080/26410397.2020.1794412). <https://www.tandfonline.com/doi/full/10.1080/26410397.2020.1794412>

Seeking new implementing partners is a time- and resource intensive process and often results in disruptions of service or changes in availability. Further, finding new partners is not always possible, which has serious implications for ongoing work and service delivery. As with many impacts of the policy, these effects are most sharply felt by women, girls, LGBTQI+ individuals sex workers and other people who already face barriers to accessing health care, including those living in remote areas or who are part of already marginalized communities. Given these impacts, AJWS poses the following questions:

1. How is the U.S. accounting for the additional cost to implementers involved in finding new partners?
2. Is the U.S. documenting and studying the impacts of partner changes mandated by this policy?
3. Can the U.S. justify how forcing recipients of global health funding to endure a costly and often unproductive search for new partners is a good use of funds, particularly when it leads to an overall decline in availability and quality of health services?

V. The global COVID-19 pandemic poses dangers to global health systems, and the further expansion of the global gag rule at this time would put the lives of many at even greater risk. This is a non-essential rule.

The COVID-19 pandemic is exacerbating challenges faced by vulnerable health care systems, as well as the systemic barriers to care faced by marginalized populations. Clinics and civil society organizations have sought to change the services provided in order to respond to the pandemic, including the transition of outreach or screening activities to online platforms to ensure proper social distancing. For organizations that serve marginalized groups, including LGBTQI+ individuals and sex workers, these changes can be even more difficult, as they may be at greater risk for violence and discrimination during the pandemic as segments of society wrongfully blame these groups for the spread of the disease.²⁸ By finalizing this rule during a global pandemic, organizations may need to choose between continuing to operate life-saving programs and dedicating time and resources to ensuring compliance, risking public health measures for those they are serving. Any organizations that are unable to comply with the policy would also face wide funding gaps, resulting in closures and additional disruptions to services.

Such funding gaps would also be exacerbated by disruptions to supply chains and other health care services caused by COVID-19. For instance, contraceptive commodities may be harder to obtain due to transportation delays and other COVID-19-related disruptions, while equipment and staff may be diverted to fulfill other needs within their communities. Modeling has shown that a 10% proportional decline in the use of long-acting reversible contraceptive methods due to reduced access from the pandemic would result in an additional 49 million women with an unmet need for modern

²⁸ United Nations. UN supports LGBTI community during COVID-19 pandemic. June 2020. <https://www.un.org/en/coronavirus/un-supports-lgbti-community-during-covid-19-pandemic>

contraceptives and 15 million unintended pregnancies.²⁹ Meanwhile, a six-month disruption to antiretroviral therapy due to COVID-19 could lead to more than 500,000 extra deaths from AIDS-related illnesses, in Sub-Saharan Africa.³⁰

Given the serious challenges posed by COVID-19 to global health systems in countries across the world, AJWS poses the following questions:

1. Has the U.S. government examined possible disruptions to COVID-19 response activities caused by this expansion of the global gag rule to global health contracts?
2. Has the U.S. government reviewed the impacts of COVID-19 on access to health care systems for the most vulnerable populations, including women, girls, LGBTQI+ individuals and sex workers, and how this expansion would affect their access?
3. Has the U.S. government examined possible disruptions to COVID-19 related supply chains (personal protective equipment, testing, laboratory equipment, etc.) that may result from any contractors or subcontractors declining to comply with the global gag rule?
4. Has the U.S. government examined how the compliance burden of the proposed global gag rule expansion will direct resources, including monetary and staff time, away from emergency COVID-19 response activities supported by global health contracts?
5. Does the U.S. government plan to take any steps to mitigate the possible impacts of the proposed rule on COVID-19 response?
6. Has the U.S. government considered exemptions to the global gag rule due to the impact of COVID-19 on global health programs?

In closing, AJWS reiterates our deep opposition to the global gag rule and the proposed expansion to global health contracts posed by FAR Case 2018-002. As a faith-based organization, we demand that the Trump administration cease playing politics with the bodies of women, girls, LGBTQI+ individuals and sex workers. It is far past-time for rights-affirming, evidence-based policies to be promoted, rather than for the U.S. to undermine decades of progress. We urge you not to finalize the proposed rule, and instead affirm that sexual and reproductive rights are human rights.

Best,

Rori Kramer
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²⁹ Guttmacher Institute. Estimates of the Potential Impact of the COVID-19 Pandemic on Sexual and Reproductive Health in Low- and Middle-Income Countries. April 2020. <https://www.guttmacher.org/journals/ipsrh/2020/04/estimates-potential-impact-covid-19-pandemic-sexual-and-reproductive-health>

³⁰ Friends of the Global Fight Against AIDS, Tuberculosis, and Malaria. How COVID-19 is affecting the global response to AIDS, tuberculosis, and malaria. Accessed on November 2, 2020. <https://www.theglobalfight.org/covid-aids-tb-malaria/>