

On the Hook: U.S. NGOs Responsible for Enforcing Trump's Global Gag Rule

On the third day of the new administration, a [presidential memorandum](#) was issued reinstating the [Global Gag Rule](#) (GGR).

While those in the family planning and reproductive health community anticipated that any Trump-Pence version of the GGR would be severe, the expansion of GGR to all global health assistance has caught many of our colleagues in other health sectors off guard and in a certain state of denial. For many organizations, having never been impacted by GGR in its past iterations, it has meant trying to quickly get up to speed on the restrictions and assessing the potential implications for their work and operations.



**WASHINGTON
MEMO**

Under the Global Gag Rule (also known as the Mexico City Policy) in place during the Reagan and both Bush administrations, a U.S. nongovernment organization (NGO) funded by USAID to expand access and use of contraception in developing nations was required to certify that it would not “furnish assistance for family planning” to a non-U.S. NGO that was ineligible for U.S. assistance because of its non-U.S. funded abortion-related activities. In other words, U.S. NGOs were charged with enforcement of the GGR on their overseas partners on behalf of the U.S. government. In fact, a set of [standard provisions](#) specifically tailored to U.S. NGOs and foreign NGOs had to be inserted in the respective grants and cooperative agreements depending on the type of organization. Under the Trump GGR presidential memorandum, the same responsibility for monitoring and compliance will presumably be placed on U.S. NGOs but expanded to “global health assistance furnished by all departments or agencies.”

Without implementation guidance, it is impossible to know with certainty how the Trump GGR will be applied. However, from past iterations of GGR, it is demonstrably clear that complying with GGR is quite onerous for both foreign NGOs and for the U.S. NGOs who sub-grant to them. It is important to understand that regardless of whether a foreign NGO that receives U.S. global health assistance (either directly or as a sub-grant) engages in any of the activities prohibited under GGR, each foreign NGO must participate in a certification and compliance process. In cases where the foreign NGO is a sub-grantee of a U.S. NGO, the burden of assuring certification and compliance with GGR falls to the U.S. NGO.

Even if a U.S. NGO working on maternal and child health, HIV/AIDS, or infectious disease does not believe that any of its foreign NGO partners “perform or actively promote abortion as a method of family planning,” a severe administrative burden will be placed on its shoulders along with those of its counterparts in U.S. government agencies charged with developing an implementation “plan” to impose the GGR on global health assistance government-wide.

In past applications of GGR, some of the steps U.S. NGOs have had to take [to ensure compliance](#) include:

- development of procedures for screening foreign NGOs during the preliminary proposal development stage;
- collection of written certifications from sub-grantees stating that the foreign NGO will abide by the policy;

- due-diligence reviews to ensure that foreign NGO certifications are accurate; and
- monitoring of compliance on a continuing basis once a project is underway, including through such activities as field visits by in-country, regional, or headquarters staff and the use of compliance checklists, outside consultants to check for compliance, and/or the reporting of compliance in project progress reports;
- education and training of clinical staff on permissible activities; and
- creation of organizational protocols for identifying suspected violations and taking corrective action.

In practice this would mean, for instance, that if a U.S. NGO has 350 foreign NGOs as sub-grantees, the U.S. NGO would need to follow these steps for each foreign NGO to which it sub-grants.

The understandable lack of readiness in the face of such a dramatic and unanticipated GGR expansion, coupled with the [federal hiring freeze](#) put into place by another Trump presidential memorandum, pose a real problem for departments and agencies—especially those previously unaffected by the GGR—with moving forward on the creation of guidance and for working with their U.S. NGO grantees in implementing a brand new policy and legal directive and in monitoring foreign NGO compliance.

U.S. taxpayer dollars would be far better spent on delivering a broad spectrum of lifesaving health services than diverted to an administrative witch-hunt seeking to root out and deny U.S. help to those foreign NGOs endeavoring to use non-U.S. funds to improve access to safe abortion—a vital health intervention legal in the United States and legal in their own country.