***TO BE PUT ON LETTERHEAD***

RE: Solicitation/Award No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Dear\_\_\_\_\_\_\_\_:

# The U.S. Government has recently re-instated and expanded the provisions of the Mexico City Policy. Per the January 23, 2017 Presidential Memorandum Regarding the Mexico City Policy, on 15 May 2017 the U.S. State Department issued a new standard provision for health assistance awards - Protecting Life In Global Health Assistance (May 2017). This new standard provision reflects changes needed to extend the provisions of the Mexico City Policy beyond just Family Planning to all global health assistance.

The Mexico City policy blocks [U.S. federal funding](https://en.wikipedia.org/wiki/Administration_of_federal_assistance_in_the_United_States) for foreign non-governmental organizations that perform or actively promote abortion as a method of family planning. The policy requires us to certify that the non-U.S. NGOs with which we work will not engage in any of the foregoing activities as a condition for receiving any U.S. global health assistance, including but not limited to [PEPFAR](https://en.wikipedia.org/wiki/PEPFAR), Presidential Malaria Initiative (PMI), zika, and maternal and child health (MCH) assistance.

Attached to this letter is the full text of the Protecting Life In Global Health Assistance provision. The following is a summary of the requirements for your review. Please let us know in writing if your organization is willing to sign an agreement that includes:

1. Protecting Life StandardProvisions that prohibit, as a condition of receiving funds, the following:

* Performing, actively promoting, or conducting public information campaigns about abortions as a method of family planning in USAID-recipient countries;
* Lobbying or promoting changes to legalize abortion or keep it legal;
* Providing counseling or information about and offering referral for abortion as a family planning option; and
* Providing financial support to any other NGO that conducts such activities.

1. The broad right of JHU and/or the Federal funding department or agency to:

* Inspect health activity documentation such as reports, brochures and service statistics;
* Observe health activities;
* Consult with healthcare personnel; and
* Review the audited financial statement, if one exists.

Please do not hesitate to contact me if you have any questions or concerns.

Respectfully,

**TO BE SENT TO SUBRECIPIENT BY DEPT**

**CERTIFICATION**

This certification must be executed below, by an individual authorized to bind the Offeror. The Offeror makes the forgoing Certification as a part of its proposal.

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, have read and understood

*(Name, Title) (Offeror name)*

the Protecting Life In Global Health Assistance standard provisions, and

can certify  cannot certify

that Offeror is compliant with the provisions.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature Date

Name:

Title:

USAID ATTACHMENT\*

PROTECTING LIFE IN GLOBAL HEALTH ASSISTANCE

(MAY 2017)

*APPLICABLITY: This provision is applicable to those awards using federal funding predictably for international health activities with a primary purpose or effect of benefitting a foreign country, typically funded from the GHP, ESF, AEECA, or successor accounts, as applicable, including awards reported on under the Health category of the Foreign Assistance Standardized Program Structure (except those under program area HL.8, Water Supply and Sanitation, and the American Schools and Hospitals Abroad Program). This provision applies whenever implementation of the activity involves assistance to or implemented by foreign non-governmental organizations.*

(a.) Ineligibility of Foreign Non-governmental Organizations that Perform or Actively Promote Abortion as a Method of Family Planning

This provision is in two parts: I, applicable to foreign non-governmental organizations; and II, applicable to U.S. non-governmental organizations. Both part I and part II should be included in awards.

1. Grants and Cooperative Agreements with Foreign Non-governmental Organizations
2. The recipient agrees that it will not, during the term of this award, perform or actively promote abortion as a method of family planning in foreign countries or provide financial support to any other foreign non-governmental organization that conducts such activities. For purposes of this paragraph (a), a foreign non-governmental organization is a for-profit or not-for-profit non-governmental organization that is not organized under the laws of the United States, any State of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, or any other territory or possession of the United States.
3. The recipient agrees that authorized representatives of USAID may, at any reasonable time, announced or unannounced, consistent with 2 CFR Part 200: (i) inspect the documents and materials maintained or prepared by the recipient in the usual course of its operations that describe the health activities of the recipient, including reports, brochures and service statistics; (ii) observe the health activities conducted by the recipient, (iii) consult with healthcare personnel of the recipient; and (iv) obtain a copy of audited financial statements or reports of the recipient, as applicable.
4. In the event USAID has reasonable cause to believe that the recipient may have violated its undertaking not to perform or actively promote abortion as a method of family planning, the recipient must make available to USAID such books and records and other information as USAID may reasonably request to determine whether a violation of that undertaking has occurred, consistent with 2 CFR Part 200.
5. Health assistance furnished to the recipient under this award must be terminated if the recipient violates any undertaking required by this paragraph (a), and the recipient must refund to USAID any unexpended amounts furnished to the recipient under this award, plus an amount equivalent to that used by the recipient to perform or actively promote abortion as a method of family planning while receiving funding under this award. The amount to be refunded to USAID under this subparagraph (4) may not exceed the total amount of health assistance furnished under this award.
6. The recipient may not furnish health assistance under this award to another foreign non-governmental organization (the sub-recipient) unless: (i) sub-recipient agrees, by entering into such subaward, that it does not perform or actively promote abortion as a method of family planning in foreign countries and will not provide financial support to any other foreign non-governmental organization that conducts such activities; and (ii) such foreign non-governmental organization’s agreement contains the same terms and conditions as described in subparagraph (6), below.
7. Prior to entering into an agreement to furnish health assistance to a foreign non-governmental organization under this award, the recipient must ensure that such agreement with sub-recipient includes the following terms:
8. The sub-recipient will not, while receiving assistance under this award, perform or actively promote abortion as a method of family planning in foreign countries or provide financial support to other foreign non-governmental organizations that conduct such activities;
9. The recipient and authorized representatives of USAID may, at any reasonable time, announced or unannounced, consistent with 2 CFR Part 200: (A) inspect the documents and materials maintained or prepared by the sub-recipient in the usual course of its operations that describe the health activities of the sub-recipient, including reports, brochures and service statistics; (B) observe health activities conducted by the sub-recipient; (C) consult with healthcare personnel of the sub-recipient; and (D) obtain a copy of audited financial statements or reports of the sub-recipient, as applicable;
10. In the event that the recipient or USAID has reasonable cause to believe that a sub-recipient may have violated its undertaking not to perform or actively promote abortion as a method of family planning, the recipient will review the health program of the sub-recipient to determine whether a violation of such undertaking has occurred. The sub-recipient must make available to recipient such books and records and other information as may be reasonably requested to conduct the review. USAID may review the health program of the sub-recipient under these circumstances, and sub-recipient must provide access on a timely basis to USAID to such books and records and other information upon request, consistent with 2 CFR Part 200;
11. Health assistance provided to the sub-recipient under this award must be terminated if the sub-recipient violates any award terms under subparagraphs (6)(i)-(iii), above, and the sub-recipient must refund to the recipient any unexpended amounts furnished to the sub-recipient under this award, plus an amount equivalent to that used by the sub-recipient to perform or actively promote abortion as a method of family planning while receiving funding under this award, up to the total amount of health assistance furnished to the sub-recipient under this award; and
12. The sub-recipient may furnish health assistance under this award to another foreign non-governmental organization only if: (A) such foreign non-governmental organization agrees, by entering into such agreement, that it will not perform or actively promote abortion as a method of family planning in foreign countries and will not provide financial support to any other foreign non-governmental organization that conducts such activities and (B) such foreign non-governmental organization’s agreement contains the same terms and conditions as those provided by the sub-recipient to the recipient as described in subparagraphs (6)(i)-(iv), above.
13. Where the terms and conditions of the award require USAID approval of subawards, the recipient must include a description of the due diligence performed by the recipient on the sub-recipient before furnishing health assistance under this award.
14. The recipient is liable to USAID for a refund for a violation by the sub-recipient of any requirement of this paragraph (a) only if: (i) the recipient knowingly furnishes health assistance under this award to a sub-recipient that performs or actively promotes abortion as a method of family planning, or (ii) the sub-recipient did not abide by its award terms required by subparagraphs (6)(i)-(iii), above, and the recipient failed to make reasonable due diligence efforts prior to furnishing health assistance to the sub-recipient, or (iii) the recipient knows or has reason to know, by virtue of the monitoring that the recipient is required to perform under the terms of this award, that a sub-recipient has violated any of the award terms required by subparagraphs (6)(i)-(iii), above, and the recipient fails to terminate health assistance to the sub-recipient, or fails to require the sub-recipient to terminate assistance furnished under a subaward that violates any award terms required by subparagraphs (6)(i)-(iii), above.
15. Recipient acknowledges that USAID may make independent inquiries in the community served by the recipient or a sub-recipient under this award regarding whether it performs or actively promotes abortion as a method of family planning.
16. The following definitions apply for purposes of paragraph (a):
17. Abortion is a method of family planning when it is for the purpose of spacing births. This includes, but is not limited to, abortions performed for the physical or mental health of the mother and abortions performed for fetal abnormalities, but does not include abortions performed if the life of the mother would be endangered if the fetus were carried to term or abortions performed following rape or incest.
18. “To perform abortions” means to operate a facility where abortions are provided as a method of family planning. Excluded from this definition is the treatment of injuries or illnesses caused by legal or illegal abortions, for example, post-abortion care.
19. “To actively promote abortion” means for an organization to commit resources, financial or other, in a substantial or continuing effort to increase the availability or use of abortion as a method of family planning.
20. This includes, but is not limited to, the following activities:
21. Operating a service-delivery site that provides, as part of its regular program, counseling, including advice and information, regarding the benefits and/or availability of abortion as a method of family planning;

(II) Providing advice that abortion as a method of family planning is an available option or encouraging women to consider abortion (passively responding to a question regarding where a safe, legal abortion may be obtained is not considered active promotion if a woman who is already pregnant specifically asks the question, she clearly states that she has already decided to have a legal abortion, and the healthcare provider reasonably believes that the ethics of the medical profession in the host country requires a response regarding where it may be obtained safely and legally);

1. Lobbying a foreign government to legalize or make available abortion as a method of family planning or lobbying such a government to continue the legality of abortion as a method of family planning; and
2. Conducting a public information campaign in foreign countries regarding the benefits and/or availability of abortion as a method of family planning.
3. Excluded from the definition of active promotion of abortion as a method of family planning are referrals for abortion as a result of rape or incest, or if the life of the mother would be endangered if she were to carry the fetus to term. Also excluded from this definition is the treatment of injuries or illnesses caused by legal or illegal abortions, for example, post-abortion care.
4. Action by an individual acting in the individual’s capacity shall not be attributed to an organization with which the individual is associated, provided that the individual is neither on duty nor acting on the organization’s premises, and the organization neither endorses nor provides financial support for the action and takes reasonable steps to ensure that the individual does not improperly represent that he or she is acting on behalf of the organization.
5. Furnishing health assistance to a foreign non-governmental organization includes the transfer of funds made available under this award or goods or services financed with such funds, but does not include the purchase of goods or services from an organization or the participation of an individual in the general training programs of the recipient or sub-recipient.
6. To “control” an organization means to possess the power to direct, or cause the direction of, the management and policies of an organization.
7. In determining whether a foreign non-governmental organization is eligible to be a recipient or sub-recipient of health assistance under this award, the action of separate non-governmental organizations shall not be imputed to the recipient or sub-recipient, unless, in the judgment of USAID, a separate non-governmental organization is being used purposefully to avoid the provisions of this paragraph (a). Separate non-governmental organizations are those that have distinct legal existence in accordance with the laws of the countries in which they are organized. Foreign organizations that are separately organized shall not be considered separate, however, if one is controlled by the other. The recipient may request the USAID Agreement Officer’s approval to treat as separate the health activities of two or more organizations, which would not be considered separate under the preceding sentence. The recipient must provide a written justification to USAID that the health activities of the organizations are sufficiently distinct to warrant not imputing the activity of one to the other.
8. Health assistance may be furnished under this award by a recipient or sub-recipient to a foreign government or parastatal even though the government or parastatal includes abortion in its health program, provided that no such assistance may be furnished under this award in support of the abortion activity of the government or parastatal and any funds transferred to the government or parastatal must be placed in a segregated account to ensure that such funds may not be used to support the abortion activity of the government or parastatal.
9. For the avoidance of doubt, in the event of a conflict between a term of this paragraph (a) and an affirmative duty of a healthcare provider required under local law to provide counseling about and referrals for abortion as a method of family planning, compliance with such law shall not trigger a violation of this paragraph (a).
10. Grants and Cooperative Agreements with U.S. Non-governmental Organizations
11. The recipient (A) agrees that it will not furnish health assistance under this award to any foreign non-governmental organization that performs or actively promotes abortion as a method of family planning in foreign countries; and (B) further agrees to require that such sub-recipients do not provide financial support to any other foreign non-governmental organization that conducts such activities. For purposes of this paragraph (a), a foreign non-governmental organization is a for-profit or not-for-profit non-governmental organization that is not organized under the laws of the United States, any State of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, or any other territory or possession of the United States.
12. Prior to entering into an agreement to furnish health assistance to a foreign non-governmental organization (sub-recipient) under this award, recipient must ensure that such agreement with sub-recipient includes the following terms:
13. The sub-recipient will not, while receiving assistance under this award, perform or actively promote abortion as a method of family planning in foreign countries or provide financial support to other foreign non-governmental organizations that conduct such activities;
14. The recipient, and authorized representatives of USAID may, at any reasonable time, announced or unannounced, consistent with 2 CFR Part 200: (A) inspect the documents and materials maintained or prepared by the sub-recipient in the usual course of its operations that describe the health activities of the sub-recipient, including reports, brochures and service statistics; (B) observe the health activities conducted by the sub-recipient; (C) consult with healthcare personnel of the sub-recipient; and (D) obtain a copy of audited financial statements or reports of the sub-recipient, as applicable;
15. In the event that the recipient or USAID has reasonable cause to believe that a sub-recipient may have violated its undertaking not to perform or actively promote abortion as a method of family planning, the recipient will review the health program of the sub-recipient to determine whether a violation of such undertaking has occurred. The sub-recipient must make available to recipient such books and records and other information as may be reasonably requested to conduct the review. USAID may review the health program of the sub-recipient under these circumstances, and sub-recipient must provide access on a timely basis to USAID to such books and records and other information upon request, consistent with 2 CFR part 200;
16. Health assistance provided to the sub-recipient under this award must be terminated if the sub-recipient violates any award terms required by subparagraphs (2)(i)-(iii), above, and the sub-recipient must refund to the recipient any unexpended amounts furnished to the sub-recipient under this award, plus an amount equivalent to that used by the sub-recipient to perform or actively promote abortion as a method of family planning while receiving funding under this award, up to the total amount of health assistance furnished to the sub-recipient under this award; and
17. The sub-recipient may furnish health assistance under this award to another foreign non-governmental organization only if: (A) such foreign non-governmental organization agrees, by entering into such agreement, that it will not perform or actively promote abortion as a method of family planning in foreign countries and will not provide financial support to any other foreign non-governmental organization that conducts such activities; and (B) such foreign non-governmental organization’s agreement contains the same terms and conditions as those provided by the sub-recipient to the recipient as described in subparagraphs (2)(i)-(iv), above.
18. Where the terms and conditions of the award require USAID approval of subawards, the recipient must include a description of the due diligence performed by the recipient on the sub-recipient before furnishing health assistance under this award.
19. The recipient is liable to USAID for a refund for a violation by the sub-recipient of any requirement of this paragraph (a) only if: (i) the recipient knowingly furnishes health assistance under this award to a sub-recipient that performs or actively promotes abortion as a method of family planning; or (ii) the sub-recipient did not abide by its award terms required by subparagraphs (2)(i)-(iii), above, and the recipient failed to make reasonable due diligence efforts prior to furnishing health assistance to the sub-recipient; or (iii) the recipient knows or has reason to know, by virtue of the monitoring that the recipient is required to perform under the terms of this award, that a sub-recipient has violated any of the award terms required by subparagraphs (2)(i)-(iii), above, and the recipient fails to terminate health assistance to the sub-recipient, or fails to require the sub-recipient to terminate assistance furnished under a subaward that violates any award terms required by subparagraphs (2)(i)-(iii), above.
20. Recipient acknowledges that USAID may make independent inquiries in the community served by a sub-recipient under this award regarding whether such sub-recipient performs or actively promotes abortion as a method of family planning.
21. The following definitions apply for purposes of this paragraph (a):
22. Abortion is a method of family planning when it is for the purpose of spacing births. This includes, but is not limited to, abortions performed for the physical or mental health of the mother and abortions performed for fetal abnormalities, but does not include abortions performed if the life of the mother would be endangered if the fetus were carried to term or abortions performed following rape or incest.
23. “To perform abortions” means to operate a facility where abortions are provided as a method of family planning. Excluded from this definition is the treatment of injuries or illnesses caused by legal or illegal abortions, for example, post-abortion care.
24. “To actively promote abortion” means for an organization to commit resources, financial or other, in a substantial or continuing effort to increase the availability or use of abortion as a method of family planning.
25. This includes, but is not limited to, the following activities:
26. Operating a service-delivery site that provides, as part of its regular program, counseling, including advice and information, regarding the benefits and/or availability of abortion as a method of family planning;

(II)Providing advice that abortion as a method of family planning is an available option or encouraging women to consider abortion (passively responding to a question regarding where a safe, legal abortion may be obtained is not considered active promotion if a woman who is already pregnant specifically asks the question, she clearly states that she has already decided to have a legal abortion, and the healthcare provider reasonably believes that the ethics of the medical profession in the host country requires a response regarding where it may be obtained safely and legally);

(III)Lobbying a foreign government to legalize or make available abortion as a method of family planning or lobbying such a government to continue the legality of abortion as a method of family planning; and

(IV)Conducting a public-information campaign in foreign countries regarding the benefits and/or availability of abortion as a method of family planning.

1. Excluded from the definition of active promotion of abortion as a method of family planning are referrals for abortion as a result of rape or incest, or if the life of the mother would be endangered if she were to carry the fetus to term. Also excluded from this definition is the treatment of injuries or illnesses caused by legal or illegal abortions, for example, post-abortion care.
2. Action by an individual acting in the individual’s capacity shall not be attributed to an organization with which the individual is associated, provided that the individual is neither on duty nor acting on the organization’s premises, and the organization neither endorses nor provides financial support for the action and takes reasonable steps to ensure that the individual does not improperly represent that he or she is acting on behalf of the organization.
3. Furnishing health assistance to a foreign non-governmental organization includes the transfer of funds made available under this award or goods or services financed with such funds, but does not include the purchase of goods or services from an organization or the participation of an individual in the general training programs of the recipient or sub-recipient.
4. To “control” an organization means to possess the power to direct, or cause the direction of, the management and policies of an organization.
5. In determining whether a foreign non-governmental organization is eligible to be a sub-recipient of health assistance under this award, the action of separate non-governmental organizations shall not be imputed to the sub-recipient, unless, in the judgment of USAID, a separate non-governmental organization is being used purposefully to avoid the provisions of this paragraph (a). Separate non-governmental organizations are those that have distinct legal existence in accordance with the laws of the countries in which they are organized. Foreign organizations that are separately organized shall not be considered separate, however, if one is controlled by the other. The recipient may request the USAID Agreement Officer’s approval to treat as separate the health activities of two or more organizations, which would not be considered separate under the preceding sentence. The recipient must provide a written justification to USAID that the health activities of the organizations are sufficiently distinct to warrant not imputing the activity of one to the other.
6. Health assistance may be furnished under this award by a recipient or sub-recipient to a foreign government or parastatal even though the government or parastatal includes abortion in its health program, provided that no such assistance may be furnished under this award in support of the abortion activity of the government or parastatal and any funds transferred to the government or parastatal must be placed in a segregated account to ensure that such funds may not be used to support the abortion activity of the government or parastatal.
7. For the avoidance of doubt, in the event of a conflict between a term of this paragraph (a) and an affirmative duty of a healthcare provider required under local law to provide counseling about and referrals for abortion as a method of family planning, compliance with such law shall not trigger a violation of this paragraph (a).

(b) This provision shall be inserted *verbatim* in subawards in accordance with the terms of paragraph (a).