



AGENCY FOR INTERNATIONAL DEVELOPMENT

OMB Submission: Safeguarding Against Exploitation, Sexual Abuse, Child Abuse, and Child Neglect

AGENCY: Agency for International Development.

ACTION: Notice of information collection.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the U.S. Agency for International Development (USAID) seeks the Office of Management and Budget (OMB) approval for the new information collection for safeguarding against exploitation, sexual abuse, child abuse, and child neglect.

DATES: Submit comments on or before June 24, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function.

Written comments for this information collection should be sent within 30 days of publication of this notice via:

1. Web: Through the Federal eRulemaking Portal at <http://www.regulations.gov>. This website provides instructions and includes the ability to type short comments directly into the comment field or attach a file for lengthier comments.
2. Email: For comments sent via email, please address them to compliance@usaid.gov and cite OMB Submission: Safeguarding Against Exploitation, Sexual Abuse, Child Abuse, and Child Neglect in the subject line of the email.

FOR FURTHER INFORMATION CONTACT: Kathleen Stohs, compliance@usaid.gov, (202) 216-3183

SUPPLEMENTARY INFORMATION:

A. Need and Uses

The purpose of this collection is to enable the U.S. Agency for International Development to respond to allegations of exploitation, sexual abuse, child abuse, and child neglect and institute appropriate standards of behavior. Submissions will be required from recipients to comply with pending award requirements to safeguard against exploitation, sexual abuse, child abuse, and child neglect in USAID-funded programming. Information submitted by recipients as part of this collection will be presumed to be confidential. USAID takes the protection of personally identifiable information (PII) seriously and takes precautions to ensure the confidentiality and security of PII, consistent with USAID's Automated Directives System (ADS) Chapter 508 and does not request PII in this information collection. Agency staff must only share information on individual responses on a need-to-know basis and take steps to protect any sensitive information, including redacting sensitive information and limiting access.

Notification: A pending standard provision for assistance awards to nongovernmental organizations (NGOs) will require the recipient to (1) immediately inform, in writing, the Bureau for Management, Office of Management Policy, Budget, and Performance, Responsibility, Safeguarding, and Compliance Division (M/MPBP/RSC) at partnerdisclosures@usaid.gov and USAID Office of Inspector General (OIG), with a copy to the Agreement Officer whenever the recipient receives credible information from any source that alleges the recipient, subrecipient, employee, agent, intern, or any other person provided access or contact with beneficiaries under the award has engaged in any exploitation, sexual abuse, child abuse, and child neglect of any person, and supported or advanced these actions, or intentionally ignored or failed to act upon allegations of these actions; and (2) as soon as practicable, the recipient must provide in writing, as specified above: (i) additional information on any actions planned or taken in response to the allegation; and (ii) any actions planned or taken to assess, address, or mitigate factors that contributed to the incident.

Information in the notification may include: award title and number, organization name and sub-awardee name, if applicable, location of the program and the incident, the type of allegation, the date of the incident and/or allegation, information about the survivor - such as whether the survivor is a program participant, member of the community, staff, or other, and information about the subject of complaint such as whether they are a senior leader, employee, agent, intern, volunteer, or other. It may also identify: any actions taken or next steps to respond to the incident, resources available or provided to the survivor, steps taken to ensure the safety of the survivor(s) or whistleblower(s), the status of the investigation, any established organizational procedures or framework, interim measures or final measures taken or planned to address the subject of complaint, and any protective measures or organizational reforms, such as changes to applicable policies and procedures. The specific information provided may differ in each notification and will be up to each partner to determine, and the examples provided above are illustrative. Notifications should not include PII.

Compliance Plan: For awards exceeding \$500,000, the recipient must develop, implement, and maintain a compliance plan, either in conjunction with or separate from the Trafficking in Persons Compliance Plan, that details risk analysis and mitigation measures that will be implemented during the period of performance of the award to prevent and address exploitation, sexual abuse, child abuse, and child neglect of any person. The recipient's compliance plan must be appropriate to the size and complexity of the award and to the nature and scope of the activities, including the particular risks presented by the operating context. The plan must include, at a minimum, the following:

- (i) reasonable measures to reduce the risk of exploitation, sexual abuse, child abuse, and child neglect. Where implementation of projects under this award may involve children, this includes limiting unsupervised interactions with children and complying with applicable laws, regulations, or customs regarding harmful image-generating activities of children;
- (ii) an awareness program to inform employees, agents, interns, or any other person provided access or contact with beneficiaries about the requirements of this provision,

including the activities prohibited, the action that will be taken in response to violations, and the mechanism(s) for reporting allegations;

(iii) a description of how beneficiaries and local community members:

A. are made aware of the prohibited activities,

B. how they may report allegations, and

C. how (A) and (B) are carried out in a manner which is inclusive, culturally appropriate, and sensitive to the context;

(iv) safe, accessible, and publicly available reporting mechanism(s) that may be integrated with any existing or similar such mechanisms, for anyone to confidentially report exploitation, sexual abuse, child abuse, and child neglect, with appropriate safeguards to protect whistle-blowers and survivors, including express protection against retaliation for reporting, and documented procedures for protecting personally identifiable information (PII) from unauthorized access and disclosure; and

(v) appropriate measures to protect survivors of or witnesses to any exploitation, sexual abuse, child abuse, and child neglect of any person and not prevent or hinder cooperating fully with U.S. Government authorities.

The recipient must provide a copy of the compliance plan to the Agreement Officer upon request.

B. Annual Burden

Notifications:

Respondents: 218.

Total Annual Responses: 436.

Total Burden Hours: 1,744 hours.

Compliance Plan:

Respondents: 165

Recordkeepers: 2,365.

Total Annual Responses/Records: 2,530.

Total Burden Hours: 56,925 hours

C. Discussion of Comments

A 60-day notice was published in the Federal Register at 86 FR 44684, on August 13, 2021. Eight five (85) comments were received.

Comment: The Agency received two comments requesting the basis and text of the new standard provision.

Response: USAID has made a series of commitments to strengthen protections for sexual exploitation and abuse, including the Recommendation on Ending Sexual Exploitation, Abuse, and Harassment in Development Co-operation and Humanitarian Assistance: Key Pillars of Prevention and Response, adopted by the Development Assistance Committee of the Organization for Economic Co-operation and Development (OECD-DAC) in 2019; and the Commitments of the 2018 United Kingdom Safeguarding Summit. Congress has shown continual interest in these topics. Consistent with section 7019(e) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2021 (Div. K, P.L. 116-260) and the accompanying Joint Explanatory Statement, State and USAID jointly submitted a report on allegations of, and steps to prevent and respond to, sexual exploitation and abuse committed by implementing partners of foreign assistance funds appropriated for State and USAID in Fiscal Year (FY) 2020 – the third consecutive report annually requested by Congress on this subject. The USAID Office of Inspector General also recommended that the Agency establish a mandatory reporting requirement for sexual exploitation and abuse as part of an audit of USAID’s response to sexual exploitation and abuse. The provision will incorporate the existing USAID Child Safeguarding Standards provision to strengthen protections for children, while providing clarity and consistency for partners.

The new standard provision, Safeguarding Against Exploitation, Sexual Abuse, Child Abuse, and Child Neglect, will be publicly available following the completion of the Information Collection process. The provision will be applicable to all U.S. and non-U.S. awards NGOs, including fixed amount awards and the full text of the provision will be provided in USAID’s Automated Directive System (ADS) 303maa M20, 303mab M15, and 303mat M6. The provision includes requirements for the recipient to have and implement a set of publicly available standards, policies, or procedures to prevent, detect, address, and respond to allegations of exploitation, sexual abuse, child abuse, and child neglect that:

- (1) prohibit employees, agents, interns, or any other person provided access or contact with beneficiaries, from engaging in any exploitation, sexual abuse, child abuse, and child neglect of any person during the period of performance, supporting or advancing these actions, or intentionally ignoring or failing to act upon allegations of these actions;
- (2) are consistent with the Inter-Agency Standing Committee’s Six Core Principles Relating to Sexual Exploitation and Abuse, as amended, available at <https://psea.interagencystandingcommittee.org/update/iasc-six-core-principles> and the Keeping Children Safe Standards, available at <https://www.keepingchildrensafe.global/accountability/>;
- (3) require reporting of suspicions or concerns related to any exploitation, sexual abuse, child abuse, and child neglect of any person to the recipient;
- (4) require a “survivor-centered approach” for responding to alleged violations of the prohibitions. Such an approach must ensure the survivor’s dignity, experiences, considerations, needs, and resiliencies are placed at the center of the process;
- (5) when a child is involved, require a “best interest of the child determination” for responding to alleged violations of the prohibitions. This determination considers the best possible outcome for a vulnerable child who has been exposed to violence, abuse, exploitation or neglect;

- (6) include remedies for violations;
- (7) monitor subrecipients, employees, agents, interns, or any other person provided access or contact with beneficiaries,
- (8) details the actions that may be taken against subrecipients, employees, agents, interns, or any other person provided access or contact under the award who commit exploitation, sexual abuse, child abuse, and child neglect of any person or who fail to take reasonable steps to prevent it; and;
- (9) provide transparency on hiring, screening, and employment practices, including on rehiring or transfer and referencing for subsequent employers.

For awards exceeding \$500,000, the recipient must develop, implement, and maintain a compliance plan, either in conjunction with or separate from the Trafficking in Persons Compliance Plan, that details risk analysis and mitigation measures that will be implemented during the period of performance of the award to prevent and address exploitation, sexual abuse, child abuse, and child neglect of any person. The recipient's compliance plan must be appropriate to the size and complexity of the award and to the nature and scope of the activities, including the particular risks presented by the operating context. The plan must include, at a minimum, the following:

- (i) reasonable measures to reduce the risk of exploitation, sexual abuse, child abuse, and child neglect. Where implementation of projects under this award may involve children, this includes limiting unsupervised interactions with children and complying with applicable laws, regulations, or customs regarding harmful image-generating activities of children;
- (ii) an awareness program to inform employees, agents, interns, or any other person provided access or contact with beneficiaries about the requirements of this provision, including the activities prohibited, the action that will be taken in response to violations, and the mechanism(s) for reporting allegations;
- (iii) a description of how beneficiaries and local community members:
 - A. are made aware of the prohibited activities,
 - B. how they may report allegations, and
 - C. how (A) and (B) are carried out in a manner which is inclusive, culturally appropriate, and sensitive to the context;
- (iv) safe, accessible, and publicly available reporting mechanism(s) that may be integrated with any existing or similar such mechanisms, for anyone to confidentially report exploitation, sexual abuse, child abuse, and child neglect, with appropriate safeguards to protect whistle-blowers and survivors, including express protection against retaliation for reporting, and documented procedures for protecting personally identifiable information (PII) from unauthorized access and disclosure; and

(v) appropriate measures to protect survivors of or witnesses to any exploitation, sexual abuse, child abuse, and child neglect of any person and not prevent or hinder cooperating fully with U.S. Government authorities.

Comment: The Agency received two comments requesting the definition of safeguarding.

Response: Although not defined in the provision, safeguarding against exploitation, sexual abuse, child abuse, and child neglect refers to the practice of implementing preventative, protection, and compliance measures for populations who may be at an increased risk for harm across an organization's operations, for the purposes of preventing harm, including but not limited to exploitation, abuse, and violence, generally.

Comment: The Agency received two comments requesting the definition of exploitation.

Response: For the purposes of the forthcoming standard provision, exploitation constitutes any actual or attempted abuse of a position of vulnerability, differential power, or trust, including for the purposes of profiting monetarily, socially, or politically. When carried out for a sexual purpose this constitutes sexual exploitation.¹

Comment: The Agency received two comments requesting the definition of sexual abuse.

Response: For the purposes of the forthcoming standard provision, sexual abuse constitutes any actual or threatened physical intrusion of a sexual nature towards another person whether by force or under unequal or coercive conditions. When carried out against a child by an adult, such conduct is considered sexual abuse even in the absence of force or unequal or coercive conditions.¹

Comment: The Agency received two comments requesting the definition of child abuse.

Response: For the purposes of the forthcoming standard provision, child abuse means emotional, physical, sexual, or any other ill-treatment carried out against a child by an adult.²

Comment: The Agency received two comments requesting the definition of neglect.

Response: For the purposes of the forthcoming standard provision, child neglect means a failure to provide for a child's basic needs in the absence of the child's parent or guardian when the care of the child is associated with the award activities.³

Comment: The Agency received two comments requesting the definition of credible information.

Although "credible information" is not defined, under the plain meaning of the term, if the source and circumstances support a reasonable belief that the event(s) described have occurred, the matter shall be referred to the Responsibility, Safeguarding, and Compliance (RSC) Division, the appropriate Agreement Officer, and Inspector General. This is an intentionally low threshold for initial disclosure, which upholds the policy to prohibit exploitation, sexual abuse, child abuse, and neglect.

¹ Section 3 of the UN Secretary-General's Bulletin - Special Measures for Protection from Sexual Exploitation and Sexual Abuse (ST/SGB/2003/13) and USAID Child Safeguarding Standards (Automotive Directives System (ADS) 303maa M27).

² USAID Child Safeguarding Standards (ADS 303maa M27).

³ USAID Child Safeguarding Standards (ADS 303maa M27).

Comment: The Agency received two comments requesting the definition of personnel, two comments requesting the definition of invitee and one comment requesting the definition of agent.

Response: Personnel, invitee, and agent have been replaced with the terms “employees, agents, interns, or any other person provided access or contact with beneficiaries.”

For the purposes of the forthcoming standard provision, employee means individual who is engaged in the performance of this award as a direct employee, consultant, or volunteer of the recipient or any subrecipient.⁴

For the purposes of the forthcoming standard provision, agent means any individual, including a director, an officer, or an independent contractor, authorized to act on behalf of an organization.⁴

Comment: The Agency received two comments requesting the reasoning for allowing the combination of the Safeguarding Compliance Plan with the Trafficking in Persons Compliance Plan. One commenter asks if these requirements should remain separate as the Trafficking in Persons requirement is mandatory and one commenter recommends including Trafficking in Persons and Safeguarding Against Exploitation, Sexual Abuse, Child Abuse, and Child Neglect under one Compliance Plan.

Response: Recipients will maintain a “Safeguarding Against Exploitation, Sexual Abuse, Child Abuse, and Child Neglect Compliance Plan,” either in conjunction with or separate from the Trafficking in Persons Compliance Plan. These options are provided to allow recipients to streamline these administrative requirements and align with their organizational structures and policies as necessary.

Comment: The Agency received one comment requesting clarification regarding the dollar value impacted by the information collection.

If the estimated value of services required to be performed under the award outside the United States exceeds \$500,000, the recipients will maintain a “Safeguarding Against Exploitation, Sexual Abuse, Child Abuse, and Child Neglect Compliance Plan,” either in conjunction with or separate from the Trafficking in Persons Compliance Plan.

Comment: The Agency received one comment requesting the process for the agency determining 253 reports of credible information.

Response: This number of reports is estimated based on the current number of notifications received and the predicted increase in number of reports received once the notification requirement is mandatory. This number has since been adjusted down to 218 based on the most recent data.

Comment: The Agency received two comments requesting the process for the agency determining two responses per respondent.

Response: The number of responses is calculated by the averaged expected number of notifications per instance, not by the individual recipients since that would be impossible to know.

⁴ FAR 52.222-50 Combating Trafficking in Persons.

Comment: The Agency received one comment asking if the Agency has 2,365 awards over \$500,000.

Response: At the time of the information collection notice, the Agency had 2,365 awards over \$500,000, which was used to determine the number of recordkeepers for the Safeguarding Compliance Plan.

Comment: The Agency received one comment requesting the process for the agency determining Agreement Officers will request Compliance Plans 200 times.

Response: Agreement Officers may request Compliance Plans from recipients that have them, and we estimated the number of expected requests to be 165 annually.

Comment: The Agency received two comments regarding solicitation requirements for USAID's Bureau for Humanitarian Assistance related to sexual exploitation and abuse, which recommends consolidating the requirements in the BHA Emergency Application Guidelines.

Response: Recipients would not need to develop a separate plan specifically for each award with overseas work that meets the threshold, as long as they otherwise have a plan in place that is suitable to address the nature and scope of activities to be performed and the size and complexity of the relevant award(s). The standard provision for assistance awards would apply across the Agency.

Comment: The Agency received one comment on ways to minimize the burden of the collection of information on respondents by initiating efforts to increase knowledge and awareness amongst recipients on best practices in collecting this information and preventing and managing safeguarding within their organization.

Response: The Agency will provide additional guidance on safeguarding against exploitation, sexual abuse, child abuse, and child neglect, including reporting guidance as part of its efforts under USAID's Policy on Protection from Sexual Exploitation and Abuse.

Comment: The Agency received one comment appreciating that the proposed collection of information is necessary as it will enable USAID to analyze where safeguarding risks are highest and help to align resources to effectively respond.

Response: The Agency appreciates the comment.

Comment: The Agency received one comment which supported the estimates of burden of the proposed collection of information.

Response: The Agency appreciates the comment.

Comment: The Agency received four comments recommending clarification for the term "tolerated."

Response: In order to be more specific, tolerated has been removed and replaced with the language: "supporting or advancing these actions [exploitation, sexual abuse, child abuse and neglect], or intentionally ignoring or failing to act upon allegations of these actions."

Comment: The Agency received one comment recommending clarification for the phrase "minimum set of policies and internal controls necessary," including any criteria for USAID to assess the minimum standards.

Response: The forthcoming provision includes requirements for the recipient to have and implement a set of publicly available standards, policies, or procedures to prevent, detect, address, and respond to allegations of exploitation, sexual abuse, child abuse, and child neglect. These available standards, policies, or procedures must:

(1) prohibit employees, agents, interns, or any other person provided access or contact with beneficiaries, from engaging in any exploitation, sexual abuse, child abuse, and child neglect of any person during the period of performance, supporting or advancing these actions, or intentionally ignoring or failing to act upon allegations of these actions;

(2) are consistent with the Inter-Agency Standing Committee's Six Core Principles Relating to Sexual Exploitation and Abuse, as amended, available at <https://psea.interagencystandingcommittee.org/update/iasc-six-core-principles> and the Keeping Children Safe Standards, available at <https://www.keepingchildrensafe.global/accountability/>;

(3) require reporting of suspicions or concerns related to any exploitation, sexual abuse, child abuse, and child neglect of any person to the recipient;

(4) require a "survivor-centered approach" for responding to alleged violations of the prohibitions. Such an approach must ensure the survivor's dignity, experiences, considerations, needs, and resiliencies are placed at the center of the process;

(5) when a child is involved, require a "best interest of the child determination" for responding to alleged violations of the prohibitions. This determination considers the best possible outcome for a vulnerable child who has been exposed to violence, abuse, exploitation or neglect;

(6) include remedies for violations;

(7) monitor subrecipients, employees, agents, interns, or any other person provided access or contact with beneficiaries,

(8) details the actions that may be taken against subrecipients, employees, agents, interns, or any other person provided access or contact under the award who commit exploitation, sexual abuse, child abuse, and child neglect of any person or who fail to take reasonable steps to prevent it; and;

(9) provide transparency on hiring, screening, and employment practices, including on rehiring or transfer and referencing for subsequent employers.

Comment: The Agency received one comment recommending that the reporting systems under the Compliance Plan be expanded from "beneficiaries" to "beneficiaries and bystanders."

Response: The Agency considered this comment and expanded the reporting system to allow anyone to report exploitation, sexual abuse, child abuse, and child neglect, and this change is reflected in the reference to local community members in the updated language in this notice.

Comment: The Agency received one comment requesting consolidation of the notification requirements under one section, three comments requesting clarification on the timing for the three parts of the notification requirement, as there will be a time difference between part 1 and parts 2-3, and one comment requesting "immediately notify" be changed to "promptly notify." One commenter recommended specific timelines (e.g., 30 days, etc.).

Response: The Agency has considered this comment and revised the timing to “immediately” for the initial notification of credible information, consistent with the Trafficking in Persons requirement, and “as soon as practicable” for Notifications part (2) as reflected in the Need and Uses section of this notice to allow the necessary flexibility for responses where timelines are case-specific.

Comment: The Agency received one comment asking if the AIDAR 752.7037 Child Safeguarding Standards will be updated to be consistent with the forthcoming standard provision for assistance.

Response: The Agency anticipates that AIDAR 752.7037 and other relevant contract requirements will be updated pursuant to future rulemaking.

Comment: The Agency received one comment requesting the standards of behavior expected in the standard provision and recommending that the requirements for recipients related to exploitation, sexual abuse, child abuse, and child neglect be provided at the beginning of the standard provision that will result from this information collection.

Response: The standards of behavior, as outlined in the forthcoming standard provision, will prohibit employees, agents, interns, or any other person provided access or contact with beneficiaries, from engaging in any exploitation, sexual abuse, child abuse, and child neglect of any person during the period of performance, supporting or advancing these actions, or intentionally ignoring or failing to act upon allegations of these actions.

Comment: The Agency received seven comments requesting the safeguards for reporting confidential information and PII. One commenter recommended that the Standard Provision clearly state that reports to the Agreement Officer do not include PII about a survivor.

Response: USAID encourages partners not to share the PII, and the forthcoming provision states that the recipient should not share PII, unless specifically requested by the Agency. Agency staff members must only share information on individual allegation reports related to allegations of misconduct on a need-to-know basis. This means information is only shared when there is a need in order to perform official duties and/or make an agency decision. As part of upholding a survivor-centered approach, USAID will provide internal guidance to USAID staff on responding to reports and safeguarding information related to misconduct allegations for all individuals involved (e.g., survivors, witnesses, subjects of complaints).

The Office of Inspector General maintains their own policies related to the collection of PII and USAID’s policies do not affect OIG’s right to access this information.

Comment: The Agency received two comments requesting clarification on whether the zero-tolerance policy referenced in the awareness program is USAID’s or the recipient’s and recommending that the policy be the recipient’s.

Response: The Safeguarding Compliance Plan will require an awareness program to inform employees, agents, interns, or any other person provided access or contact with beneficiaries about the requirements of this provision, including the activities prohibited, the action that will be taken in response to violations, and the mechanism(s) for reporting allegations. The language has been updated and reflected in the Needs and Uses section of this notice.

Comment: The Agency received two comments requesting clarification on the prohibited behavior to make it clear that these behaviors are prohibited by anyone engaged in delivery of the project and that beneficiaries have the right to be free of these behaviors.

Response: The Agency considered this comment and clarified that the prohibited behavior in this notice covers employees, agents, interns, or any other person provided access or contact with beneficiaries.

Comment: The Agency received one comment on the notification requirement's definition of "immediately notify" to mean following an initial credibility determination.

Response: Under the plain meaning of the term credible, if the source and circumstances support a reasonable belief that the events(s) described have occurred, the appropriate Agreement Officer and Inspector General must be immediately notified.

Comment: The Agency received two comments asking if the compliance plan requirement replaces the need to undergo a Due Diligence review on an annual or bi-annual basis.

Response: The compliance plan is created at the pre-award stage and does not replace annual or other regular reviews.

Comment: The Agency received one comment asking if the Safeguarding Compliance Plan will require specific criteria and one comment requesting a standard template.

Response: The Agency will not be prescriptive in the requirements for the Safeguarding Compliance Plan, to allow Recipients and subrecipients to develop plans appropriate to the size and complexity of the award. The minimum standards USAID will require will be reflected in the provision and are:

(i) reasonable measures to reduce the risk of exploitation, sexual abuse, child abuse, and child neglect. Where implementation of projects under this award may involve children, this includes limiting unsupervised interactions with children and complying with applicable laws, regulations, or customs regarding harmful image-generating activities of children;

(ii) an awareness program to inform employees, agents, interns, or any other person provided access or contact with beneficiaries about the requirements of this provision, including the activities prohibited, the action that will be taken in response to violations, and the mechanism(s) for reporting allegations;

(iii) a description of how beneficiaries and local community members:

A. are made aware of the prohibited activities,

B. how they may report allegations, and

C. how (A) and (B) are carried out in a manner which is inclusive, culturally appropriate, and sensitive to the context;

(iv) safe, accessible, and publicly available reporting mechanism(s) that may be integrated with any existing or similar such mechanisms, for anyone to confidentially report exploitation, sexual abuse, child abuse, and child neglect, with appropriate safeguards to protect whistle-blowers and survivors, including express protection against retaliation for reporting, and documented procedures for protecting personally identifiable information (PII) from unauthorized access and disclosure; and

(v) appropriate measures to protect survivors of or witnesses to any exploitation, sexual abuse, child abuse, and child neglect of any person and not prevent or hinder cooperating fully with U.S. Government authorities.

Comment: The Agency received one comment asking if subrecipients will be required to maintain their own compliance plans.

Response: Recipients and subrecipients that meet the \$500,000 threshold will be required to maintain a compliance plan.

Comment: The Agency received one comment asking if these requirements will apply only to new awards or if it will be retroactive.

Response: Once the standard provision for assistance awards goes into effect, the requirement will apply to new and modified awards.

Comment: The Agency received two comments asking if organizations will be required to “certify” for Safeguarding as they currently are required to do with Trafficking in Persons.

Response: USAID will not require recipients or subrecipients to submit a certification as part of the new standard provision.

Comment: The Agency received two comments requesting clarification on the risk analysis and mitigation measures in the Safeguarding Compliance Plan and whether risk assessments are sufficient.

Response: The Agency will not be prescriptive in the requirements for the Safeguarding Compliance Plan, to allow Recipients and subrecipients to develop plans appropriate to the size and complexity of the award and assess and mitigate risk as appropriate.

Comment: The Agency received two comments noting limited actions that can be pursued with non-employees.

Response: USAID acknowledges that available actions may be fact-specific, including based on the relationship of those involved to the recipient.

Comment: The Agency received one comment requesting the definition of project beneficiaries.

Response: Although not defined in the forthcoming standard provision, “beneficiary” means any foreign national who is a recipient of, derives advantage from, or is helped by USAID foreign assistance. Such individuals are not employees of USAID nor providers of USAID development assistance.⁵

Comment: The Agency received two comments noting that the expansion of the types of concerns, specifically to include “tolerating,” to be reported is a substantial administrative burden.

Response: This increase in the administrative burden is necessary for USAID to respond to instances of exploitation, sexual abuse, child abuse, and child neglect, ensure recipients have appropriate internal controls to prevent and address such instances, and protect beneficiaries from harm.

⁵ USAID ADS Chapter 252.

Tolerated has been removed and replaced with the specific language: supporting or advancing these actions, or intentionally ignoring or failing to act upon allegations of these actions.

Comment: The Agency received two comments noting that a point of contact will be provided at the headquarters level.

Response: Recipients may designate a relevant point of contact based on their organizational structure.

Comment: The Agency received one comment requesting clarification on referral to local authorities in the notification section and whether this would be a requirement.

Response: The potential information that may be contained in a notification is illustrative and may not be required or applicable in every case. The notification provided by recipients may also identify any actions taken to investigate or respond to the allegation, which may include referral to local authorities, but the standard provision does not require referral to local authorities.

Comment: The Agency received two comments requesting clarification on the established organizational procedures or framework in the notification section.

Response: The potential information that may be contained in a notification is illustrative and may not be required in every case. In some instances, recipients may have established organizational policies, standards, frameworks, or procedures for responding to instances of exploitation, sexual abuse, child abuse, and child neglect.

Comment: The Agency received three comments requesting clarification on when the Safeguarding Compliance Plan would be submitted or requested.

Response: The submission of the compliance plan is by request of the Agreement Officer, and an Agreement Officer may ask for a Compliance Plan at their discretion.

Comment: The Agency received one comment on the inclusion of non-sexual child abuse and neglect to mandatory reporting diluting the importance of sexual exploitation and abuse measures.

Response: Strengthening requirements for sexual exploitation and abuse, in coordination with child abuse, exploitation, and neglect, is meant to allow for a consolidated, consistent approach for implementing partners to address safeguarding in the areas of sexual exploitation and abuse, trafficking in persons, and child safeguarding. Addressing these issues in a unified manner strengthens protections for beneficiaries and communities, while reducing duplication for partners.

Comment: The Agency received one comment noting that a “credible information” standard increases the administrative burden and asking if USAID would consider funding for recipients to address the additional burden.

Response: Credible information is the standard consistent with the Counter-Trafficking in Persons standard provision and the burden is consistent with the burden assessed for that requirement. This burden is necessary to enable USAID to respond to allegations of exploitation, sexual abuse, child abuse, and child neglect and institute appropriate standards of behavior. Consistency with existing standards further reduces burden on partners to determine the exact type of misconduct early in the process.

While final decisions on cost allowability, allocability and reasonableness will rest with the cognizant Agreement Officer, USAID recognizes the need to strengthen the aid community's overall capacity for safeguarding against exploitation, sexual abuse, child abuse, and child neglect, including individual organizations' varying levels of existing capacity.

Comment: The Agency received two comments requesting clarification on the difference between the routine reporting requirements in the Need and Uses section and the requirements outlined in the annual burden section of the Federal Register Notice and whether an annual report is required.

Response: The Need and Uses section outlines the new information collection requirements that will be part of the forthcoming standard provision, which is the Notification requirement and the Compliance Plan requirement. The annual burden section calculates the annual administrative burden of these requirements outlined in the Need and Uses section, which includes the burden for reporting notifications to the USAID Inspector General and the cognizant Agreement Officer. No annual report is required.

Comment: The Agency received one comment recommending that USAID notify Recipients of receipt of final investigative reports and not provide further inquiries if no violation is found to occur, unless there is reason to believe that the Recipient's final investigation is unsatisfactory.

Response: USAID will address procedures for consistent response to reports in internal guidance to staff.

Kathleen Stohs,

Division Chief,

Responsibility, Safeguarding, & Compliance Division,

Office of Management Policy, Budget, and Performance,

Bureau for Management.

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