



August 27, 2007

Mr. Philip M. Heneghan
Chief Privacy Officer
United States Agency for International Development
1300 Pennsylvania Avenue NW
Office 2.12-003
Washington, DC 20523-2120

BY ELECTRONIC MAIL TO: privacy@usaid.gov

Dear Mr. Heneghan:

The ACLU is an organization committed to protecting the civil liberties guaranteed by the United States Constitution. We are submitting comments concerning Notices published in the Federal Register on July 17, 20 and 23 concerning the proposed Partner Vetting System (PVS).

First, the ACLU strongly urges USAID to postpone implementation of the PVS until the Agency has had time to receive and respond to comments from individuals and organizations that have an interest in the PVS, and particularly from those individuals and NGOs who receive USAID funds. We strongly oppose making the PVS effective Monday, August 27, the same day as the deadline for receiving comments. We understand that you are considering postponing the effective date until you've had the opportunity to thoroughly and meaningfully review the comments you've received, and we think that would be the correct decision.

Additionally, it is not clear to us what USAID's basis is for concluding that it is necessary to implement the PVS, as USAID has not conclusively demonstrated that its funds have been used for criminal activities associated with terrorism or wound up in the hands of individuals or organizations responsible for such criminal activities. Nor has USAID demonstrated that the PVS will be an effective means of ensuring its funds are not used for such purposes and do not wind up in such hands. This is particularly problematic given that the PVS is not a program that is required by statute; in fact, questions are raised about whether the PVS may actually exceed the authority granted to USAID by Congress.

Further, the opaqueness of the PVS raises serious concerns for the ACLU. It is not clear what USAID itself will do with the information it collects and to which other governmental agencies it will give the information. The fact that USAID will not confirm to individuals or entities that its denial of funds or

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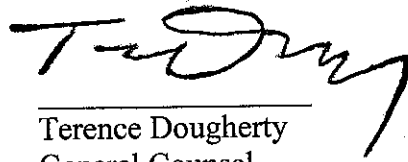
refusal to enter into a contract with those individuals or entities is a result of their having failed its undisclosed screening process, and the fact that there appears to be no effective means of challenging such denial or refusal, raises serious due process concerns. To the extent USAID or other governmental entities will check individual and entity names collected against the so-called terrorist watch lists, the ACLU objects to this practice (much as it objects to any requirement that NGOs that are USAID applicants must screen their own employees against such lists) in light of the fact that the lists are error-filled and unreliable, with many false positives, and there is no effective means for challenging the fact that one is on the list. Again, this lack of due process raises significant concerns.

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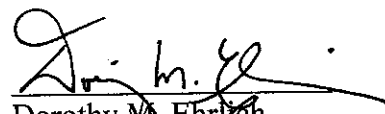
Finally, the information USAID is seeking under the PVS is highly personal, confidential information concerning individuals--including social security and passport numbers, mailing and email addresses, telephone and fax numbers and information concerning national origin and citizenship. The creation of such a database by USAID and the fact that it, or portions of it, will be shared with other governmental entities raises privacy concerns that should be thought through more critically.

In light of the above reasons, we believe that the PVS proposal should be withdrawn or, at the very least, its effective date should be postponed until there has been a reasonable notice and comment period to ensure that USAID takes all interested parties' views into consideration.

Very truly yours,



Terence Dougherty
General Counsel



Dorothy M. Ehrlich
Deputy Executive Director