

SIDE-BY-SIDE COMPARISON OF GLOBAL GAG RULE (GGR) MEMORANDA

	BUSH (JANUARY-MARCH 2001 and AUGUST 2003)	TRUMP (JANUARY-MAY 2017)
HOW POLICY PROMULGATED	Presidential Memoranda— <u>January 22, 2001 & March 28, 2001</u> Presidential Memorandum— <u>August 29, 2003</u>	Presidential Memorandum— <u>January 23, 2017</u>
RECIPIENTS OF PRESIDENTIAL MEMORANDA	<ul style="list-style-type: none"> • USAID Administrator • Secretary of State 	<ul style="list-style-type: none"> • USAID Administrator • Secretary of State • Secretary of Health and Human Services
U.S. GOVERNMENT (USG) DEPARTMENTS & AGENCIES IMPACTED	<ul style="list-style-type: none"> • USAID • State Department [excluding the President’s Emergency Plan for AIDS Relief (PEPFAR)] 	<ul style="list-style-type: none"> • USAID • State Department • Department of Health and Human Services (HHS)* • Department of Defense
AFFECTED ORGANIZATIONS	Non-U.S. nongovernmental organizations	Non-U.S. nongovernmental organizations, both for-profit and not-for-profit
ENTITIES TO WHICH RESTRICTIONS DO NOT APPLY	<ul style="list-style-type: none"> • Foreign governments • Multilateral organizations • U.S. nongovernmental organizations 	<ul style="list-style-type: none"> • Foreign governments • Multilateral organizations • U.S. nongovernmental organizations • Global Fund to Fight AIDS, Tuberculosis and Malaria • Gavi, the Vaccine Alliance
TYPE OF RESTRICTION	Eligibility condition—organization is rendered ineligible for USAID family planning assistance and State Department population assistance, if it engages in the prohibited activities	Eligibility condition—organization is rendered ineligible for USG global health assistance, if it engages in the prohibited activities
PROHIBITED ACTIVITIES	<ul style="list-style-type: none"> • Perform, counsel, refer, or advocate on abortion “as a method of family planning,” even if activities supported with non-U.S. funds • Provide “financial support to any other foreign non-governmental organization that conducts such activities” 	<ul style="list-style-type: none"> • Perform, counsel, refer, or advocate on abortion “as a method of family planning,” even if activities supported with non-U.S. funds • Provide “financial support to any other foreign non-governmental organization that conducts such activities”
DEFINITION OF “ABORTION AS A METHOD OF FAMILY PLANNING”	<ul style="list-style-type: none"> • Defined as “when it is for the purpose of spacing births,” including, but not limited to, abortions “performed for the physical and mental health of the mother” but does <u>NOT</u> include abortions performed in the cases of life endangerment, rape or incest • Post-abortion care allowed—“treatment of injuries or illnesses caused by legal or illegal abortions” 	<ul style="list-style-type: none"> • Same definition allowing abortions performed in cases of life endangerment, rape or incest, except “abortions performed for fetal abnormalities” added to the list of impermissible abortion indications restricted under the policy • Post-abortion care allowed—“treatment of injuries or illnesses caused by legal or illegal abortions”

* GGR applies only to the foreign assistance funds transferred to the Centers for Disease Control and Prevention (CDC) from the State Department and USAID. Not impacted by the GGR are direct appropriations to CDC for global health programs. Potential application of the GGR to overseas programs of the National Institute of Health remains unknown.

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USG GLOBAL HEALTH ASSISTANCE SUBJECT TO THE RESTRICTIONS

- USAID family planning assistance from any account
- Department of State—“all assistance for voluntary population planning furnished to foreign non-governmental organizations”

“Global health assistance furnished by all departments or agencies” as defined under the “Health” category of the [Foreign Assistance Standardized Program Structure](#), including:

- Family planning/reproductive health
- Maternal and child health
- Nutrition
- HIV/AIDS (including PEPFAR)
- Malaria (including President’s Malaria Initiative)
- Tuberculosis
- Infectious diseases
- Neglected tropical diseases
- Water sanitation and hygiene (at household and community level)

USG GLOBAL HEALTH ASSISTANCE NOT SUBJECT TO THE RESTRICTIONS

- All global health assistance except for USAID family planning assistance and State Department population assistance

- Humanitarian assistance through State Department, USAID and Department of Defense
- Basic health research
- Water supply and sanitation infrastructure
- American Schools and Hospitals Abroad
- Food for Peace (P.L. 480) programs

AMOUNT OF USG FUNDING IMPACTED (OR POTENTIALLY IMPACTED BY TRUMP GGR EXPANSION)

- USAID bilateral family planning assistance =
- \$446.5 million in FY 2002
 - \$575 million in FY 2017

USG bilateral global health assistance in FY 2017 of \$8.8 billion, according to a State Department estimate

State Department population planning assistance, principally FP/RH activities in refugee and humanitarian settings = amount unknown

ASSISTANCE INSTRUMENTS

- Grants and cooperative agreements
- Grants under contracts

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- Grants under contracts
- **Contracts (subject to forthcoming interagency rule-making process)**

IMPLEMENTATION GUIDANCE

“Standard Provision” to be included in assistance agreements with U.S. NGOs and non-NGOs accompanying the March 28, 2001 presidential memorandum

“Standard Provision” to be included in assistance agreements with U.S. NGOs and non-NGOs, entitled “Protecting Life in Global Health Assistance,” issued May 15, 2017

TIMING & PROCESS FOR IMPLEMENTATION

Not applied until a non-U.S. NGO faces a new funding action based on March 28, 2001 memo which states, “these paragraphs are to be included in the Standard Provision when any existing grant or cooperative agreement for family planning activities is amended to add new funding”

Same process for including the Standard Provision in grants and cooperative agreement followed but expanded to those funding instruments providing new or additional “global health assistance” on or after May 15, 2017

RESPONSIBILITY OF U.S. NGOS

Certification by the U.S. NGO that it will not “furnish assistance for family planning” to non-U.S. NGO that is ineligible for U.S. assistance because of its non-U.S. funded abortion-related activities—in other words, enforcing the GGR on its overseas partners on behalf of the U.S. government

Same responsibility for monitoring and compliance placed on U.S. NGOs but expanded to “global health assistance furnished by all departments or agencies”

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IMPORTANT EXPLANATORY NOTE

The chart above is intended to simplify PAI's analysis of the January 23, 2017 presidential memorandum expanding the Global Gag Rule to all "global health assistance furnished by all departments and agencies" of the U.S. government and the May 2017 "[standard provisions](#)" implementing the expansion and to compare the latest version of the Global Gag Rule with its previous iteration during the administration of President George W. Bush. However, lingering questions remain on how a number of entities, activities and processes will be treated under the Trump Global Gag Rule expansion, some of which are highlighted in **yellow** above.

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