

USAID GUIDANCE FOR IMPLEMENTING THE SILJANDER AMENDMENT (Prohibition on Lobbying For or Against Abortion)

Introduction

The Siljander Amendment is a recurring restriction set forth in the annual Department of State, Foreign Operations, and Related Programs Appropriations Act.¹ First included in 1981, it provides that “none of the funds made available under [the appropriations act] may be used to lobby for or against abortion.” All appropriations-funded foreign assistance activities (including health and non-health activities) are subject to the amendment.

This guidance is intended to remind USAID staff and implementing partners about the application of the Siljander Amendment. Determinations of compliance with legal restrictions are fact specific. You should address specific questions about particular situations to your Regional Legal Advisor/General Counsel attorney (for USAID staff) or your USAID Contract/Agreement Officer’s Representative and your organization’s legal counsel (for implementing partners). The senior policy advisor within USAID’s Bureau for Global Health/Office of Population and Reproductive Health is also an excellent resource for information about this restriction.

All USAID staff must familiarize themselves with this guidance, including Program Officers, Health Officers, Democracy and Governance Officers, General Development Officers, Gender Advisors, Regional Legal Advisors, and relevant USAID/Washington staff.

Guidance

- The Siljander Amendment applies to all foreign assistance funds available through annual appropriations (including funds from the Global Health Programs, Development Assistance, Economic Support Fund, Transition Initiatives, Complex Crises Fund, Democracy Fund, and Assistance for Europe, Eurasia and Central Asia accounts, among others). As a result, all USAID foreign assistance-funded activities are subject to the provision.
- Staff are reminded that the subject of abortion can come up in non-health contexts, such as constitutional or other legislative reform.
- Determinations of compliance with legal restrictions are fact specific. USAID staff must consult with their cognizant Regional Legal Advisor or General Counsel backstop to discuss questions relating to the Siljander Amendment.
- The Siljander Amendment only covers U.S. government-funded activities. While an organization is prohibited from using U.S. foreign assistance funds to lobby for

¹ See, e.g., Department of State, Foreign Operations, and Related Programs Appropriations Act, 2014 (Div. K, of PL 113-76).

or against abortion, the restriction does not prohibit the organization from engaging in such activities with its own funds or other non-USG funds (e.g. funding from other donor governments).

- USAID and partner staff are reminded that standard provisions that include the Siljander restriction are set forth in mandatory provisions to be included in all Agency acquisition and assistance instruments with non-governmental organizations.
 - Standard Provisions for Assistance Awards:
<http://www.usaid.gov/ads/policy/300/303maa> (for US NGOs)
<http://www.usaid.gov/ads/policy/300/303mab> (for non-US NGOs)
 - Provisions for Acquisition Awards:
<http://www.usaid.gov/work-usaid/aapds-cibs/aapd-08-01>
- For agreements with host governments or public international organizations, USAID staff must consult with their Regional Legal Advisor or General Counsel attorney to determine the appropriate standard provisions for the agreement.
- At the outset of an activity, it is not always possible to identify whether a Siljander question may come up in your program. USAID staff must discuss the Siljander restriction along with other standard provisions with implementing partners at the time of award.
- Additional resources on the Siljander Amendment and other restrictions can be found at: <http://www.usaid.gov/what-we-do/global-health/family-planning/usaid-family-planning-guiding-principles-and-us>. In addition, an online E-Learning course relating to these restrictions can be found at: <http://www.globalhealthlearning.org/course/us-abortion-and-fp-requirements-2013>.