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# **OVERVIEW OF FAMILY PLANNING STATUTORY AND POLICY REQUIREMENTS**

**Post-Abortion Care Meeting**

**March 18, 2008**



## SESSION OBJECTIVES

- Describe key components of FP requirements, in particular the requirements related to abortion
- Give examples of field vulnerabilities and how to approach them
- Describe how to access resources for additional help



## CHARACTERISTICS OF REQUIREMENTS & POLICIES

- Requirements
  - are either statutory or policy
  - generally relate to voluntarism/informed choice or abortion
  - apply to particular kinds of assistance
  - apply to particular kinds of entities
  - apply to particular types of agreements/instruments



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# FP LEGISLATIVE AND POLICY REQUIREMENTS:

## Voluntarism and Informed Choice



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## VOLUNTARISM & INFORMED CHOICE

- USAID supports the freedom of individuals to choose voluntarily the number and spacing of their children.
- Guiding principles for assistance:
  - *Voluntary* - decisions based on free choice and not obtained by any special inducements or forms of coercion
  - *Informed choice* - effective access to information on family planning choices



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## **TIAHRT AMENDMENT – Overview**

- No targets/quotas
- No incentives
- No denial of benefits
- Comprehensible information required
- Restrictions on use of experimental methods



## **TIAHRT AMENDMENT – Applicability**

- **To which kinds of assistance does Tiahrt apply?**
  - In general, applies to family planning activities funded from any account (not just CSH funds).
  - More specifically, applies to FP service delivery projects to which USAID provides FP assistance.
  - Applies to FP assistance in the form of funds, technical assistance, commodities, and training.
- **To which entities does Tiahrt apply?**
  - Applies to US NGOs, foreign NGOs, public international organizations (PIOs), and foreign governments.



## **TIAHRT AMENDMENT REQUIREMENTS**

### **Requirement (1) – No Targets or Quotas**

- Service providers or referral agents shall not implement or be subject to quotas/targets of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning.
- Quantitative estimates or indicators for budgeting and planning purposes are permitted.



## **TIAHRT AMENDMENT REQUIREMENTS**

### **Requirement (2) – No Incentives/Financial Rewards**

- No payment of incentives, bribes, gratuities, or financial reward to:
  - (A) an individual in exchange for becoming a family planning acceptor, or
  - (B) program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning.



## **TIAHRT AMENDMENT REQUIREMENTS**

### **Requirement (3) – No Denial of Rights or Benefits**

- No denial of rights or benefits as a consequence of an individual's decision not to accept family planning.
- Rights or benefits include access to participate in any program of general welfare or the right of access to health care.



## **TIAHRT AMENDMENT REQUIREMENTS**

### **Requirement (4) – Comprehensible Information Required**

- Family planning acceptors must receive comprehensible information on the health benefits and risks of the method chosen.
- Comprehensible information can be provided in many forms such as counseling, posters, brochures, and package inserts.
- More information on this requirement can be found in April 1999 Technical Guidance on the “Comprehensible Information” Paragraph of the Tiahrt clause.



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# TIAHRT AMENDMENT – Comprehensible Information

The highly successful *Family Planning: A Global Handbook for Providers* and accompanying wall chart that describe the health benefits and risks of available contraceptive methods were updated in 2007.

Contraceptive methods wall chart available in English, French and Spanish at:

<http://www.infoforhealth.org/public/wallchart/index.shtml>

## Do You Know Your Family Planning Choices?

Your family planning provider can help. Please ask!

### Combined Oral Contraceptives

- Effective and reversible without delay.
- Take one pill every day and start new packs on time for greatest effectiveness.
- Unexpected bleeding or spotting may occur, especially at first. Not harmful. Monthly bleeding becomes lighter and more regular after a few months.
- Some women have mild headaches, weight change, upset stomach, especially at first. These often go away.
- Safe for nearly every woman. Serious complications are very rare.
- Can be used at any age and whether or not a woman has had children.
- Help prevent menstrual cramps, heavy bleeding, anemia (low blood iron), and other conditions.

### Injectable Contraceptives

- Effective and safe.
- One injection every 3 months (13 weeks) with DMPA, every 2 months with NET-EN. Come back as much as 2 weeks late and still get next injection.
- Spotting and unexpected bleeding often occur in the first several months, then often monthly bleeding stops. Gradual weight gain, mild headaches. Not harmful.
- **Private:** Others cannot tell that a woman is using it.
- Can be used at any age and whether or not a woman has had children.
- When injections stop, a woman can become pregnant again. After DMPA it may take a few more months.
- Safe during breastfeeding, beginning 6 weeks after childbirth.
- Monthly injectables may be available. With these injectables, monthly bleeding usually becomes lighter and shorter or less frequent. Spotting and unexpected bleeding can occur.

### Condoms

- Help prevent pregnancy and some sexually transmitted infections (STIs), including HIV/AIDS, when used correctly every time.
- For protection from STIs/HIV, some couples use condoms along with other methods.
- Easy to use with a little practice.
- Effective if used correctly every time. Usually only somewhat effective because not used every time.
- Some people object that condoms interrupt sex, reduce sensation, or embarrass them. Talking with partner can help.

### Copper-Bearing IUD (Intrauterine Device)

- Small, flexible device placed inside the womb. Little to do when IUD is in place.
- Very effective, reversible, long-term method. TCu-380A IUD is effective at least 12 years.
- Monthly bleeding may be heavier and longer, especially at first. Some pain during insertion.
- Pelvic infection occasionally occurs if a woman has certain sexually transmitted infections when the IUD is inserted. Serious complications are rare.
- Can come out on its own, especially at first.
- A woman can become pregnant with no delay after the IUD is removed.

### Contraceptive Implants

- One or several small rods or capsules placed under the skin of a woman's upper arm. Little to do once implants are in place.
- Very effective up to 3.5, or 7 years, depending on which implant.
- Can be used at any age and whether or not a woman has had children.
- A woman can have a trained provider take out the implants at any time. She can become pregnant with no delay.
- Unexpected light bleeding or spotting may occur, or monthly bleeding may stop. Not harmful.
- Safe during breastfeeding, beginning 6 weeks after childbirth.

### Progestin-Only Oral Contraceptives

- Good choice for breastfeeding mothers who want pills, beginning 6 weeks after childbirth.
- Very effective during breastfeeding and reversible without delay.
- Take one pill every day for greatest effectiveness.
- If not breastfeeding, spotting and unexpected light bleeding are common. Not harmful.

### Female Sterilization

- Meant to be permanent. For women who are sure that they will not want more children. Think carefully before deciding.
- Very effective (but not 100% effective).
- Involves physical exam and safe, simple surgery. The woman usually stays awake. Pain is blocked.
- Pain and swelling can last a few days after procedure. Serious complications are rare.
- No long-term side effects. No effect on sexual ability or feelings.

### LAM (Lactational Amenorrhea Method)

- A family planning method based on breastfeeding, for up to 6 months after childbirth.
- A breastfeeding woman uses LAM when:
  - Her baby gets little or no food or drink except breast milk, and she breastfeeds often, both day and night, and
  - Monthly bleeding has not returned, and
  - Her baby is less than 6 months old.
- A woman should plan for another method before she no longer can use LAM.

### Vasectomy

- Meant to be permanent. For men who are sure that they will not want more children. Think carefully before deciding.
- Use another method for the first 3 months, until the vasectomy starts to work.
- Very effective after 3 months (but not 100% effective).
- Safe, simple, convenient surgery. Done in a few minutes. Pain is blocked.
- Pain, swelling, or bruising can last a few days. A few men have lasting pain.
- No effect on sexual ability or feelings.

### Diaphragm With Spermicide

- Placed deep in the vagina each time before sex. Can do this ahead of time.
- Effective if used correctly every time.
- Woman must have an internal examination to get diaphragm of correct size.
- Bladder infection is more common.

### Fertility Awareness Methods

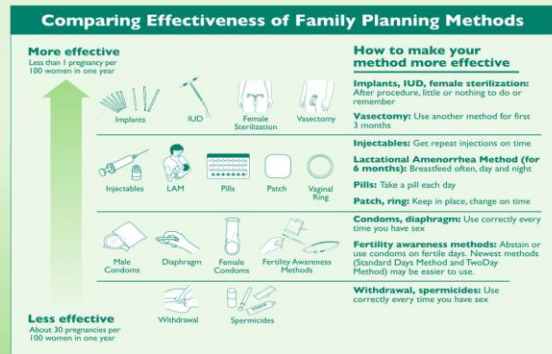
- A woman learns to tell the fertile time of her monthly cycle.
- During the fertile time a couple avoids vaginal sex, or they use another method such as condoms.
- Can be effective if used correctly. Usually only somewhat effective, however.
- Usually, partners must cooperate closely.
- No physical side effects.
- Certain methods may be hard to use during fever or vaginal infection, after childbirth, or while breastfeeding.

**Emergency Contraceptive Pills** help prevent pregnancy when taken within 5 days after unprotected sex or a mistake with a family planning method. Safe for all women. They do not damage pregnancy or harm the baby if a woman is already pregnant.

For more information about these family planning methods, health care providers can consult *Family Planning: A Global Handbook for Providers*. Health care providers can obtain the handbook and more copies of this wall chart from the PHEC Project, Johns Hopkins Bloomberg School of Public Health/Center for Communications Programs, 111 Market Place, Suite 310, Baltimore, Maryland 21202, USA, email [orders@phec.org](mailto:orders@phec.org). This chart updates and replaces previously published editions. This wall chart was made possible by support from the United States Agency for International Development, Global GHI/PA/PC, under the terms of Grant No. GHS-4-00-00003-00, © 2007 Johns Hopkins Bloomberg School of Public Health/Center for Communications Programs

Some Methods Are Not Advised If You Have Certain Health Conditions	
Condition	Methods Not Advised
Smoke cigarettes and also age 35 or older	Combined oral contraceptive pills (COCPs) if you smoke heavily, monthly injectables
Known high blood pressure	COCPs, monthly injectables, if severe high blood pressure, 2- and 3-month injectables
Fully or nearly fully breastfeeding in first 6 months	COCPs, monthly injectables
Breastfeeding in first 6 weeks	2- and 3-month injectables, implants, progestin-only pills (POP)
First 21 days after childbirth, not breastfeeding	COCPs, monthly injectables. Also use 6 weeks after childbirth to fit diaphragm correctly
Certain uncommon serious diseases of the heart, blood vessels, or breast cancer	COCPs, injectables, POPs, implants. Ask your provider.
Migraine headaches (a type of severe headache) and also age 35 or older	COCPs, monthly injectables. Ask your provider.
Migraine aura (sometimes like a growing bright spot in one eye), at any age	COCPs, monthly injectables. Ask your provider.
Gall bladder disease	COCPs. Ask your provider.
Certain uncommon conditions of female organs	IUD. Ask your provider.
Sexually transmitted infections of the cervix, very high individual risk of getting these infections, pelvic inflammatory disease (PID), or untreated AIDS	IUD. Use condoms even if also using another method.
Women with IRR (including women with AIDS and those on treatment, can generally use any family planning method they choose. (This includes the IUD for a woman with sexual AIDS, only if she is on treatment and doing well.)	Women with IRR (including women with AIDS and those on treatment, can generally use any family planning method they choose. (This includes the IUD for a woman with sexual AIDS, only if she is on treatment and doing well.)
Known pregnancy	No method needed.

Note: Also consult national standards for specific guidance





## **TIAHRT AMENDMENT REQUIREMENTS**

### **Requirement (5) – Experimental FP Methods**

- Experimental contraceptive drugs and devices and medical procedures may only be provided in the context of a scientific study in which participants are advised of potential risks and benefits.
- USAID has regulations regarding research on human subjects; support for any such research must be carried out in accordance with these regulations.



## **TIAHRT AMENDMENT REQUIREMENTS – Reporting Violations**

The Tiahrt Amendment specifically requires that violations be reported to Congress.

- A single violation of requirements (1), (2), (3) or (5) must be reported.
- A pattern or practice of violations of requirement (4) must be reported.
- USAID Administrator makes determination of violation.
- USAID must notify Congress within 60 days of the Administrator's determination that a violation occurred.



## TIAHRT AMENDMENT – Tiahrt Guidance

- 1999 Tiahrt Guidance presents frequently asked questions and answers relating to Tiahrt.
- Cases in which Tiahrt must be considered carefully:
  - **Mass Media Campaigns** - Tiahrt often does not apply to such campaigns; consult Tiahrt Guidance.
  - **Performance-Based Financing** - PBF initiatives can raise Tiahrt vulnerabilities; consult Margaret Neuse's email from June 12, 2006.
  - **Social Marketing** - Tiahrt applicability must be considered carefully; consult Tiahrt Guidance.
  - **Contraceptive Commodities** - If USAID contraceptive commodities are given to country's national supply, Tiahrt applies to all service delivery sites (public or private) that receive those commodities.



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## TIAHRT AMENDMENT – Examples/Lessons Learned

- 3 violations to date: Peru, Guatemala, Philippines.
- Key lessons:
  - Monitoring is crucial
  - Know your programs – ask questions
  - Know your responsibilities



## TIAHRT AMENDMENT – Inspector General Audit

- In 2007, the USAID Inspector General conducted a “worldwide” audit of USAID effectiveness in complying with the Tiahrt Amendment.
- Audit work was conducted in USAID/W Global Health Bureau, USAID/Bolivia, USAID/Ethiopia, and USAID/Mali.
- No new violations were discovered.
- IG and RIGs made a number of recommendations:
  - To ensure inclusion of proper standard provisions
  - To ensure Missions establish “response procedures” to respond to potential Tiahrt violations
  - To strengthen monitoring and compliance activities
- Final IG report expected in early 2008.



## **POLICY DETERMINATION 3 – Overview**

- PD-3 is USAID policy and is complementary to Tiahrt.
- Permanent nature of sterilization has required safeguards to protect against potential abuse.
- PD-3 Key Requirements:
  - Informed consent required – prior to procedure and documented
  - Ready access to other methods required
  - No incentive payments



## **POLICY DETERMINATION 3 – Applicability**

- **To which kinds of assistance does PD-3 apply?**
  - In general, applies to family planning assistance from any account (not just CSH funds).
  - More specifically, applies where USAID funds are used for whole or partial direct support of the performance of voluntary sterilization (VS) activities.
- **To which entities does PD-3 apply?**
  - Applies to US NGOs, FNGOs, PIOs, governments.



## **POLICY DETERMINATION 3 – Guidance on Payments**

- Payments cannot be used as an incentive to accept, provide, or refer for VS service.
- Certain types of payments are not considered incentives provided they are “reasonable.”
- Determination of “reasonable” payment must be made by Mission based on country and program-specific basis using knowledge of social and economic circumstances.



## **POLICY DETERMINATION 3 – Guidance on Payments (cont.)**

- **Acceptors:** Reimbursement for legitimate, extra VS-related expenses (transport, food, medicine, lost wages during recovery period) are not generally considered incentives if “reasonable.”
- **VS providers:** Per-case payments, and compensation for related items, are acceptable provided they are “reasonable” so that no financial incentive to do VS is created.
- **Referral agents:** Payments for extra expenses incurred in informing or referring VS clients are acceptable provided that they are “reasonable.”



## OTHER VOLUNTARISM REQUIREMENTS

- **DeConcini Amendment:** Projects must offer, directly or indirectly, a broad range of methods.
- **Livingston Amendment:** In awarding grants for NFP, no discrimination against applicants because of religious or conscientious commitment to offer only natural family planning; and, all such applicants must comply with the DeConcini Amendment.
- **Kemp-Kasten Amendment:** No funds to organizations that participate in management of programs of coercive abortion or involuntary sterilization.
- **Applicability**
  - Deconcini and Livingston apply to family planning assistance; Kemp-Kasten applies to all foreign assistance funds.
  - Each of these apply to U.S. NGOs, foreign NGOs, PIOs, governments.



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# FP LEGISLATIVE AND POLICY REQUIREMENTS:

## Abortion Requirements



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## **ABORTION REQUIREMENTS:**

- Helms Amendment
- Mexico City Policy
- Other:
  - Leahy Amendment
  - Siljander Amendment
  - Biden Amendment



## ABORTION REQUIREMENTS – Helms Amendment

- **Helms Amendment**: No foreign assistance funds may be used to perform or motivate/coerce people to practice abortions.
- **To which kinds of assistance does Helms apply?**
  - Applies to all foreign assistance funds (from any account).
  - Applies ONLY to USAID-funded activities (unlike Mexico City Policy).
- **To which kinds of entities does Helms apply?**
  - Applies to U.S. NGOs, foreign NGOs, PIOs, governments.



## ABORTION REQUIREMENTS – Mexico City Policy

- Mexico City Policy: Foreign (non-U.S.) NGOs must certify that they will not perform or actively promote abortion as a method of family planning as a condition for receiving USAID assistance for family planning.
- Presidential Policy

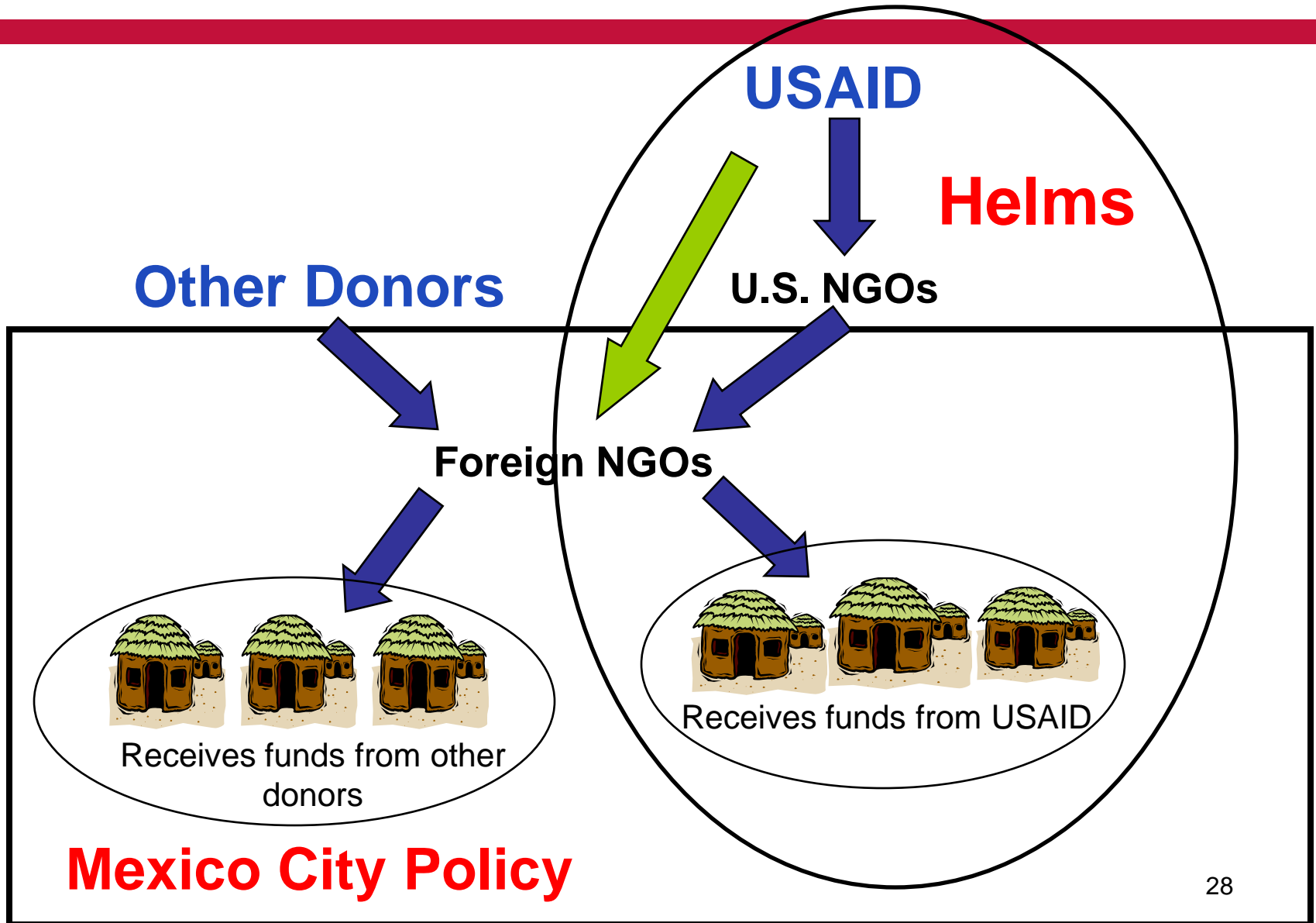


## **MEXICO CITY POLICY – Applicability**

- **To which kinds of assistance does MCP apply?**
  - Applies to family planning assistance (from any account).
  - Applies to funds, transferred goods and services.
  - Applies to all activities/sources of funds implemented by a foreign NGO receiving FP assistance (organizational requirement).
- **To which entities does MCP apply?**
  - Applies to foreign NGOs (FNGOs, non-US NGOs).
  - Does NOT apply to US NGOs, PIOs, or governments.
- **To which instruments does MCP apply?**
  - Applies to cooperative agreements, grants, grants under contract.
  - Does NOT apply to contracts.



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## MEXICO CITY POLICY – Key Definitions

- **“Abortion as a method of family planning”** – for the purpose of spacing births, including
  - for the physical or mental health of the mother
  - due to method failure
  - menstrual regulation
  
- **“To actively promote abortion”** – providing advice or information regarding the benefits and availability of abortion as a method of family planning, including
  - counseling
  - referrals
  - lobbying
  - public information campaigns



## **MEXICO CITY POLICY – Exclusions**

- Excluded from the definition of abortion as a method of family planning:
  - If the life of the mother would be endangered if the fetus were carried to term.
  - Following rape or incest.
  - Passive referral must meet several conditions:
    - already pregnant
    - already decided to have a legal abortion
    - asks where it can be obtained safely
    - medical ethics require a response.
- Treatment of injuries or illnesses caused by legal or illegal abortions (post-abortion care or PAC) is permitted under the Mexico City Policy.



## **MEXICO CITY POLICY – Examples/Lessons Learned**

- Violations discovered in Bangladesh in 2004.
- Situation revealed during a conversation at a training.
- Contributing factors:
  - Legality and availability of menstrual regulation
  - Local NGOs received significant assistance from other donors
  - Local NGO staff not fully aware of MCP requirements



## OTHER ABORTION REQUIREMENTS

- **Leahy:** The term “motivate,” as it relates to FP assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options. [Refers to the Helms Amendment.]
- **Siljander:** Prohibits using funds to lobby for or against abortion.
- **Biden:** Prohibits using funds for any biomedical research related to abortion.
- Applicability of Siljander and Biden:
  - Applies to all foreign assistance funds (from any account).
  - Applies to U.S. NGOs, foreign NGOs, PIOs, governments.



## FAMILY PLANNING REQUIREMENTS REVIEW

- **Requirements are either statutory or policy:**
  - Statutory: Tiahrt, Deconcini, Livingston, Kemp-Kasten, Helms, Biden, Siljander
  - Policy: PD-3 (Agency), Mexico City Policy (Executive)
- **Requirements generally relate to voluntarism/informed choice or abortion:**
  - Voluntarism/Informed Choice: Tiahrt, PD-3, Deconcini, Livingston, Kemp-Kasten
  - Abortion: Helms, Mexico City Policy, Biden, Siljander
- **Requirements apply to particular kinds of assistance:**
  - Apply to all foreign assistance – Kemp-Kasten, Helms, Biden, Siljander
  - Apply to FP assistance – Tiahrt, PD-3, Deconcini, Livingston, Mexico City Policy
- **Requirements apply to particular kinds of entities:**
  - Apply to US NGOs, Foreign NGOs, PIOs, governments: All Statutes, PD-3
  - Apply ONLY to Foreign NGOs: Mexico City Policy
- **Requirements apply to particular types of agreements/instruments:**
  - Apply to all forms of agreements – All Statutes, PD-3
  - Apply to grants/CAs only – Mexico City Policy



## **FP LEGISLATIVE AND POLICY REQUIREMENTS – Standard Provisions**

- All of the FP legislative and policy requirements discussed today are included in standard provisions inserted into grants, cooperative agreements, and contracts.
- For grants and cooperative agreements, the latest version of the clauses can be found in ADS 303.
- For contracts, the latest version of the clauses can be found in CIB 99-06. However, USAID expects to issue a new version of the clauses in an AAPD in early 2008. An update to Agency regulations for contracting (AIDAR) will follow in early 2009.



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# ENSURING COMPLIANCE WITH FP REQUIREMENTS





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## ENSURING COMPLIANCE

- Preventive Actions
- Monitoring
- Response



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## PREVENTIVE ACTIONS (1)

- Develop a compliance plan
- Know the requirements
- Discuss with colleagues & partners and assess awareness
- Training USAID staff, implementing partners and other key stakeholders involved in FP programs
- Ensure that all health and other appropriate USAID and partner staff have completed the E-learning course on FP requirements at [www.globalhealthlearning.org](http://www.globalhealthlearning.org)



## PREVENTIVE ACTIONS (2)

- Discussing FP requirements with government counterparts
- Identify potential vulnerabilities
  - Which requirements apply?
  - Which situations are present?
- Review agreements for appropriate clauses
- Develop response procedures to outline how to respond to potential compliance issues



## **PREVENTIVE ACTIONS (3) – Developing a Compliance Plan**

### *Suggested Components*

- Description of FP program
- Applicability of the Family Planning Requirements to the FP program
- Actions to Ensure Compliance
  - Preventive Actions
  - Monitoring Actions
  - Documentation
  - Response Procedures



## PREVENTIVE ACTIONS (3) – Developing a Compliance Plan

- A compliance plan/strategy should be:
  - **Comprehensive**
    - Address all applicable requirements
    - Include all relevant actors
  - **Systematic**
    - Done on a regular basis
    - Consider appropriate sampling
  - **Integrated**
    - Part of routine project monitoring



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## MONITORING (1)

- Develop tools – field visit checklists, discussion guides, monitoring schedule, reporting template
- Ask questions and promote internal communication – team/project meetings, field visits
- Discuss with partners their compliance monitoring activities
- Document, document, document – compliance file
- Communicate with USAID



## RESPONSE PROCEDURES (1)

- Response procedures should address these 4 components:
  - **Inform**
    - Discuss when Mission and USAID/W actors will be informed
  - **Gather Information**
    - Where? When? Who? How? Why?
  - **Correct**
    - Take corrective actions
  - **Document and Report**
    - Document all actions in compliance file
- *Missions must develop procedures for responding to vulnerabilities and violations*
- Partners are encouraged to develop their own response procedures.



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# SCENARIOS FOR REVIEW



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# RESOURCES





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## MATERIAL RESOURCES

- Summary of USAID Family Planning Requirements
- Contract information bulletins/AAPDs
- Tiahrt Guidance documents
- All available at:  
[http://www.usaid.gov/our\\_work/global\\_health/pop/#policy](http://www.usaid.gov/our_work/global_health/pop/#policy)  
(many French & Spanish translations available)
- Global Health E-Learning Course:  
<http://www.globalhealthlearning.org>



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## **HUMAN RESOURCES – USAID/Washington Contacts**

### **Bureau for Global Health**

Ellen Starbird ([estarbird@usaid.gov](mailto:estarbird@usaid.gov))

Beverly Johnston ([bjohnston@usaid.gov](mailto:bjohnston@usaid.gov))

Lauren Marks ([lmarks@usaid.gov](mailto:lmarks@usaid.gov))

### **Office of General Counsel**

Susan Pascoello ([spascoello@usaid.gov](mailto:spascoello@usaid.gov))

Mary McLaughlin (FP/RH matters) ([mamclaughlin@usaid.gov](mailto:mamclaughlin@usaid.gov))

Diane Bui (HIV/AIDS matters) ([dibui@usaid.gov](mailto:dibui@usaid.gov))

### **MSI Compliance Unit**

Lea Dooley ([lidooley@msi-inc.com](mailto:lidooley@msi-inc.com))



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# KEY MESSAGES



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## KEY MESSAGES

- You must be familiar with the requirements to identify potential issues in your programs.
- Resources are available and you should know where to find them.
- Everyone has a role to play in ensuring compliance with the requirements – know your role.
- Documentation is important.
- Communication is important.



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