



U.S. Department of Justice

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Southern District of New York*

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June 8, 2007

BY HAND

Honorable Catherine O'Hagan Wolfe
Clerk of the Court
U.S. Court of Appeals for the Second Circuit
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: Alliance for Open Society, Inc. v. USAID, No. 06-4036

Dear Ms. Wolfe:

This letter is submitted pursuant to the Court's request at oral argument, which was held on June 1, 2007, before Judge Straub, Judge Pooler, and Judge Parker. We request that a copy of this letter be provided to each of the judges on the panel.

At oral argument, the Court requested that counsel for the Government provide additional information on the anticipated development of guidelines by the defendant federal agencies regarding their implementation of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (the Leadership Act). Those guidelines will clarify that organizations that receive funding under the Leadership Act, which are required by 22 U.S.C. § 7631(f) to have a "policy explicitly opposing prostitution and sex trafficking," may have separate affiliates that do not have such a policy.

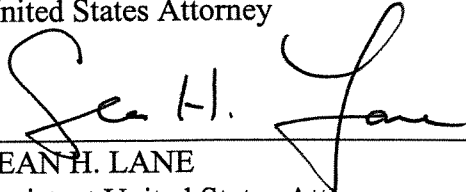
All of the defendant federal agencies have agreed to adopt guidelines within 45 days setting forth criteria for separate affiliates. Those guidelines are being modeled on the program integrity regulation considered in Velazquez v. Legal Services Corp., 164 F.3d 757 (2d Cir. 1999), and Brooklyn Legal Services Corp. v. Legal Services Corp., 462 F.3d 219 (2d Cir. 2006). The Agency for International Development will implement the guidelines for affiliate separation by issuing within 45 days an Acquisition and Assistance Policy Directive. The Department of Health and Human Services will issue written guidance on affiliate separation to grantees within 45 days, and this guidance will be followed by notice-and-comment rulemaking.

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We trust that this letter answers the Court's question, and welcome the opportunity to provide any additional information requested. Thank you for your attention.

Respectfully,

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United States Attorney

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