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Freeze-Frame: A Snapshot of Global Gag Rule Financial Impacts from GAO

Yesterday, the Government Accountability Office (GAO) released [*Awardees' Declinations of U.S. Planned Funding Due to Abortion-Related Restrictions*](#), a long-awaited report on the impact of the implementation of the Trump-Pence administration's expansion of the Global Gag Rule (GGR) to all U.S. government global health assistance.

Unsurprisingly, evaluators from GAO, the investigative arm of Congress, found that enforcement of the GGR applies to billions of dollars of U.S. government global health assistance and that the foreign nongovernmental organizations (NGOs) focused on sexual and reproductive health and rights, principally working in Africa, form the bulk of the NGOs that refused as a matter of principle and conscience to be bound by the onerous restrictions as a condition for receiving hundreds of millions of dollars in U.S. funds. These organizations chose to remain focused on providing comprehensive health services to the women, families and communities with whom they work. But the GAO report merely provides a snapshot of the early effects of GGR implementation on the number of grants and dollars implicated at a time in the past — through the end of fiscal year (FY) 2018 — and offers no picture of the impact on health services on the ground or on the beneficiaries of NGOs that have declined U.S. funding.

The GAO study was initially requested by congressional champions of the GGR repeal in July 2017, after the issuance on May 15, 2017 of final guidance expanding the application of the GGR to all global health assistance provided by the U.S. Agency for International Development (USAID), the Department of State, the Department of Health and Human Services and the Department of Defense and the publication of revised standard provisions to be included in the grants and cooperative agreements of recipient organizations. The congressional requesters included on the House side: now Foreign Affairs Committee Chair Eliot Engel (R-NY), now Appropriations Chair Nita Lowey (D-NY) and Representatives Diana DeGette (D-CO), Jackie Speier (D-CA), Ami Bera (D-CA) and Barbara Lee (D-CA), as well as late Congresswoman Louise Slaughter (D-NY). A bipartisan set of Senate requesters included Senators Jeanne Shaheen (D-NH), Susan Collins (R-ME), Patty Murray (D-WA), Lisa Murkowski (R-AK) and Richard Blumenthal (D-CT).

In identical letters to GAO, the congressional requesters envisioned a “comprehensive review” that was both a quantitative and qualitative examination of the expanded GGR, expressing their concern that “this policy will hurt women and families” and that “U.S. tax dollars will be used less efficiently and U.S. global health efforts will be less effective and more expensive as a result.” What GAO produced — living up to its original moniker, the General Accounting Office — is largely a dollars and cents accounting exercise with no assessment of programmatic impact on service delivery or health outcomes in affected countries and communities.

To understand the potential quantitative impact of implementation of the expanded GGR, GAO evaluators examined 1,300 global health awards to NGOs made almost exclusively by USAID and the Centers for Disease Control and Prevention (CDC) for HIV/AIDS programs under the President's Emergency Plan for AIDS Relief (PEPFAR) between the GGR effective date in May 2017 and the end of FY 2018 on September 30, 2018. The summary of the GAO report's principle findings includes the following:

- The amount of FY 2018 U.S. global health assistance to which the expanded GGR applied was \$8.7 billion, \$6 billion of which is devoted to HIV/AIDS programs with the remainder spread among maternal and child health, malaria, FP/RH, tuberculosis, nutrition and three smaller health programs (in descending order of total funding) — a calculation similar to those made back in 2017 by the Kaiser Family Foundation and PAI based on congressionally-appropriated levels;
- But because grants and cooperative agreements commonly range from three to five years in duration, about \$12 billion in “estimated planned award funding” was subject to the policy as of the end of FY 2018 with USAID and CDC awards representing 96% of the total at over \$6 billion and \$5 billion, respectively;
- Based on data supplied by the relevant executive branch agencies, there were seven prime awards — six from USAID and one from CDC — and 47 subawards in which foreign NGOs declined to accept U.S. global health assistance due to their inability or unwillingness to comply with the GGR restrictions, amounting to about \$153 million in estimated planned award funding that was not obligated (approved for future expenditure) at the end of FY 2018;
- Two sexual and reproductive health and rights foreign NGOs — Marie Stopes International (MSI) and the International Planned Parenthood Federation (IPPF), “both of which publicly stated that they could not meet the conditions of [the GGR] because abortion services or referrals are part of reproductive health care services they provide and a right to which their patients are entitled” according to the report — declined the two largest of the seven prime awards refused, representing about \$79 million in planned funding that was not obligated;
- USAID “identified all of the 47 subawards that were declined” due to the GGR restrictions, representing about \$51 million in planned funding that was not obligated; and
- Separate from and in addition to the two large prime awards declined, MSI and IPPF affiliates represented more than half of the number of subawards that were declined over the GGR restrictions — 26 of the 47 — and more than half of the estimated total value of the subawards declined — \$45.8 million out of \$84 million.

In its previous iterations when the GGR has been enforced only on family planning and reproductive health assistance, the primary targets for defunding of GGR proponents have always been IPPF and MSI, the largest NGOs receiving U.S. funding engaged in expanding access to safe abortion services with non-U.S. government funds. It is not at all surprising that IPPF and MSI remain the main victims of the Trump-Pence administration GGR extended to all global health assistance.

But due to the limited time frame GAO auditors examined ending in September 2018, their report is not able to capture the likely massive impact on the number of current and future declinations of U.S. assistance caused by a [dramatically expanded interpretation](#) of what constitutes “financial support” announced by Secretary of State Pompeo in March 2019. The new interpretation of an existing clause in the standard provisions that must be agreed to by U.S. and foreign NGO recipients effectively prohibits a foreign subrecipient from using its non-U.S. government assistance to support any kind of health or development work of a foreign partner that receives no U.S. government global health assistance, if that partner separately engages in abortion-related work with its own funding — essentially blacklisting those organizations. Furthermore, this interpretation would effectively graft the policy onto partnerships with foreign NGOs that are funded by other bilateral donors that oppose the policy, potentially giving rise to or exacerbating tensions between the U.S. government and those donor nations. Under this interpretation, in order to remain in compliance with the GGR, a foreign NGO would have to track funding they flow-down to a subgrantee from a bilateral donor or a private foundation, for example related to girls education, and ensure that their foreign partner organization is not engaged in any of the prohibited activities, even without any U.S. government assistance.

In other words, the GAO report released yesterday has been overtaken by events and is not likely to represent the current situation on the ground, even in terms of numbers and value of award declinations, or, more importantly, to capture the extent to which severing of partnerships before a formal subgrant relationship between two NGOs is established or even contemplated may be occurring.

Despite the delay in the production of its report, GAO still beat the Trump-Pence administration in delivery of promised work. The administration has failed to issue its second review of GGR implementation expected to be released by the end of 2018. Reportedly completed months ago through an interagency process, the review remains somewhere in limbo, either at the White House or on the seventh floor of the Department of State, awaiting Secretary Pompeo to sign off and release. While the administration continues to hide behind its false narrative that the GGR is doing no harm, PAI and other organizations continue to [document the impact of the policy](#) on all U.S. global health assistance, as well as the impact on funding from non-U.S. bilateral donors, private foundations and multilateral organizations as a result of the policy being expanded twice under this administration. This evidence was [most recently provided](#) to the House Foreign Affairs Committee when it held a hearing focused on global women's health in early February.

GAO auditors were originally expecting to travel overseas to one or more of the countries that are large recipients of U.S. global health assistance. They hoped to interview U.S. embassy and USAID mission staff and host government officials and U.S. and local NGOs and to assess the implications of GGR expansion beyond family planning and reproductive health programs at the field level. That travel and those interviews and site visits never took place, although there have been earlier suggestions that yesterday's report is just the first phase of a continuing investigation by GAO that may delve into the GGR's programmatic impact. Unfortunately, with the emergence of the COVID-19 viral pandemic, the prospects for overseas travel and a more qualitative assessment of the situation on the ground seems doubtful for the foreseeable future.