

Kathleen Sebelius, Secretary  
U.S. Department of Health and Human Services  
Office of Global Health Affairs  
Hubert H. Humphrey Building  
Room 639H  
200 Independence Avenue SW  
Washington, DC 20201

**Comments on Office of Global Health Affairs;  
Regulation on the Organizational Integrity of Entities  
Implementing Leadership Act Programs and Activities,  
Notice of Proposed Rulemaking,  
74 Fed. Reg. 61,096  
November 23, 2009**

Dear Secretary Sebelius:

On behalf of IDSA's Center for Global Health Policy, we are writing to express concern about the proposed regulation implementing the "anti-prostitution policy requirement," 22 U.S.C. § 7631(f), contained in the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003 ("Leadership Act").

We have significant concerns about the public health impact of a mandate on PEPFAR-funded organizations to agree they are "opposed to the practices of prostitution and sex trafficking..." The regulation fails to outline with any clarity what being "opposed to prostitution" might entail, while restricting what organizations can do with their private funding and placing limits on their ability to forge affiliations with other organizations. There are important distinctions between prostitution and sex trafficking that are not reflected in the proposed regulation. These restrictions would seem to violate the basic free speech protections of the organizations involved, and also discourage research and programming aimed at an extremely vulnerable population at high risk for HIV infection.

Sound public health principles dictate that individuals and vulnerable groups be approached with non-judgmental, evidence-based prevention and treatment interventions aimed at reducing infection risk, or in the case of already established infection, reducing morbidity and mortality and preventing further transmission. At best, the opinions of PEPFAR grantees on the subjects of prostitution and sex trafficking are irrelevant to the task at hand; at worst, a so-called anti-prostitution pledge serves to stigmatize an already marginalized population, which may translate into discouraging individuals from seeking prevention and care services or discouraging PEPFAR implementers from providing services to this population.

There is ample evidence that stigma is alive and well in resource-limited countries where PEPFAR has brought a lifeline to millions with an HIV diagnosis that meant certain death just a

few short years ago. Many of these nations impose criminal penalties on groups at high risk for HIV infection, including sex workers, injection drug users and men who have sex with men. The criminalization of these behaviors is compounded by additional stigma and discrimination associated with HIV infection itself. As a consequence, shockingly low percentages of individuals in high-prevalence countries have been tested for HIV—a critical part of the continuum of prevention and treatment services essential to containing the epidemic.

PEPFAR grantees must work closely with indigenous organizations who have built relationships of trust with marginalized groups, including sex workers. Requiring an “anti-prostitution policy” with little clarity about its practical implications for outreach and services that effectively limits linkages with organizations with close ties to populations at risk does not make for an evidence-based strategy for disease prevention.

We urge you to reformulate this proposed regulation in a fashion that ensures that PEPFAR-funded entities may exercise free speech and engage in partnership with indigenous organizations with linkages to vulnerable populations. It is critical that U.S. organizations and their partners be able to engage in any necessary legal reform, conduct research and deliver services aimed at reducing the vulnerability of sex workers to HIV infection.

Respectfully submitted,

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