

# SIDE-BY-SIDE COMPARISON OF GLOBAL GAG RULE (GGR) MEMORANDA

	BUSH (JANUARY-MARCH 2001)	BUSH (AUGUST 2003)	TRUMP (JANUARY 2017)
HOW POLICY PROMULGATED	Presidential Memoranda— <a href="#">January 22, 2001</a> & <a href="#">March 28, 2001</a>	Presidential Memorandum— <a href="#">August 29, 2003</a>	Presidential Memorandum— <a href="#">January 23, 2017</a>
REFERENCES TO PRIOR EXECUTIVE ACTION	<ul style="list-style-type: none"> <li>• Revokes <a href="#">President Clinton's January 22, 1993 presidential memorandum</a> rescinding the GGR in force during Reagan-Bush administrations (1984-1993)</li> <li>• Reinstates “in full all of the requirements of the Mexico City Policy in effect on January 19, 1993” (the day before the Clinton inauguration)</li> <li>• March 28, 2001 memorandum and its directives “accomplishes the objective of my January 22, 2001 Memorandum”</li> </ul>	<ul style="list-style-type: none"> <li>• “Extends the requirements of the March 28, 2001 memorandum” to State Department and exempts HIV/AIDS assistance and multilateral organizations</li> </ul>	<ul style="list-style-type: none"> <li>• Revokes <a href="#">President Obama's January 23, 2009 memorandum</a> rescinding GGR in force during Bush administration (2001-2009)</li> <li>• Reinstates Bush presidential memorandum of January 22, 2001</li> </ul>
RECIPIENTS OF PRESIDENTIAL MEMORANDUM	USAID Administrator	Secretary of State	Secretary of State Secretary of Health and Human Services USAID Administrator
U.S. GOVERNMENT (USG DEPARTMENTS & AGENCIES IMPACTED)	USAID	State Department [excluding the President's Emergency Plan for AIDS Relief (PEPFAR)]	USAID, State Department, and HHS (Department of Defense also receives a small direct appropriation for global health activities)
AFFECTED ORGANIZATIONS	non-U.S. nongovernmental organizations	non-U.S. nongovernmental organizations	non-U.S. nongovernmental organizations
ENTITIES TO WHICH RESTRICTIONS DO NOT APPLY	Foreign governments Multilateral organizations U.S. nongovernmental organizations	Foreign governments Multilateral organizations (specifically exempted) U.S. nongovernmental organizations	Foreign governments Multilateral organizations U.S. nongovernmental organizations <b>Hospitals?</b>
TYPE OF RESTRICTION	eligibility condition—organization is rendered ineligible for USAID family planning assistance, if it engages in the prohibited activities	eligibility condition—organization is rendered ineligible for State Department population assistance, if it engages in the prohibited activities	eligibility condition—organization is rendered ineligible for USG global health assistance, if it engages in the prohibited activities
PROHIBITED ACTIVITIES	perform, counsel, refer, or advocate on abortion “as a method of family planning”, even if activities supported with non-U.S. funds	perform, counsel, refer, or advocate on abortion “as a method of family planning”, even if activities supported with non-U.S. funds	perform, counsel, refer, or advocate on abortion “as a method of family planning”, even if activities supported with non-U.S. funds

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<b>USG FOREIGN ASSISTANCE SUBJECT TO THE RESTRICTIONS</b>	USAID family planning assistance from any account	Department of State—"all assistance for voluntary population planning furnished to foreign non-governmental organizations"	"global health assistance furnished by all departments or agencies"— <ul style="list-style-type: none"> <li>Family planning/reproductive health</li> <li>Maternal and child health</li> <li>Nutrition</li> <li>HIV/AIDS (including PEPFAR)</li> <li>Malaria</li> <li>Tuberculosis</li> <li>Infectious diseases</li> <li>Neglected tropical diseases</li> <li>Health assistance in humanitarian settings?</li> <li>Health research?</li> </ul>
<b>AMOUNT OF USG FUNDING IMPACTED (OR POTENTIALLY IMPACTED BY TRUMP GGR EXPANSION)</b>	USAID bilateral family planning assistance = \$446.5 million in FY 2002 \$575 million in FY 2016	State Department population planning assistance, principally FP/RH activities in refugee and humanitarian settings = amount unknown	USG global health assistance in FY 2016 of at least \$9.5 billion, including: <ul style="list-style-type: none"> <li>Global Health Programs Account, USAID \$2.8 billion</li> <li>Global Health Programs, State Department \$5.7 billion</li> <li>Global Health, HHS (including NIH, CDC) \$1.0 billion</li> <li>Department of Defense (HIV, malaria): \$13 million</li> </ul>
<b>ASSISTANCE INSTRUMENTS</b>	grants, cooperative agreements, and grants under contracts	grants, cooperative agreements, and grants under contracts	grants, cooperative agreements, and grants under contracts
<b>IMPLEMENTATION GUIDANCE</b>	"Standard Provision" to be included in assistance agreements with U.S. NGOs and non-NGOs accompanying the March 28, 2001 presidential memorandum	same Standard Provision incorporated	<b>To be determined</b> —January 23, 2017 presidential memorandum directs the Secretary of State, in consultation with the HHS Secretary, "to the extent allowable by law, to implement a plan to extend the requirements of the reinstated [January 22, 2001] Memorandum to global health assistance furnished by all departments or agencies"
<b>TIMING &amp; PROCESS FOR IMPLEMENTATION</b>	not applied until a non-U.S. NGO faces a new funding action based on March 28, 2001 memo which states, "these paragraphs are to be included in the Standard Provision when any existing grant or cooperative agreement for <b>family planning activities</b> is amended to add new funding"	same process followed	same process for including the Standard Provision in grants and cooperative agreement followed but expanded to those funding instruments providing new or additional " <b>global health assistance</b> "
<b>RESPONSIBILITY OF U.S. NGOS</b>	certification by the U.S. NGO that it will not "furnish <b>assistance for family planning</b> " to non-U.S. NGO that is ineligible for U.S. assistance because of its non-U.S. funded abortion-related activities—in other words, enforcing the GGR on its overseas partners on behalf of the U.S. government	same responsibility	same responsibility for monitoring and compliance placed on U.S. NGOs but expanded to " <b>global health assistance</b> furnished by all departments or agencies"

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## IMPORTANT EXPLANATORY NOTE

The chart above is intended to visualize PAI's analysis of the potential implications of the January 23, 2017 presidential memorandum expanding the Global Gag Rule to all "global health assistance furnished by all departments and agencies" of the U.S. government and to compare the latest version of the Global Gag Rule with its previous iteration during the administration of President George W. Bush. The true magnitude of the impact on global health programs of the expanded Trump Global Gag Rule is wholly dependent on the implementation of the forthcoming "plan" to be developed by the Secretary of State in coordination with the HHS Secretary and how the scope of U.S. government "global health assistance" is defined therein.

The Trump presidential memorandum specifically reinstates the Bush presidential memorandum of January 22, 2001—and by reference the Standard Provisions contained in the March 28, 2001 memorandum. It is noteworthy and significant that the Trump presidential memorandum did not reinstate the August 29, 2003 Bush memorandum. Therefore, it is reasonable to argue that the January

and March 2001 presidential memoranda, along with the accompanying Standard Provision, was the intended model for the implementation of the Trump GGR expansion with regard to process and types of recipients of assistance to which the GGR does and does not apply. However, lingering questions remain on how a number of entities, activities, and processes will be treated under the Trump GGR expansion, some of which are highlighted in **yellow** above.

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