



USAID Guidance on Programming in Closed Spaces

USAID will continue to carry out democracy, human rights, and governance (DRG) and other programs in politically restrictive environments as part of the Agency's and U.S. Government's overall effort to promote resilient, democratic societies.

As with our DRG programming more generally, USAID's activities in politically restrictive environments apply a developmental perspective that emphasizes sustainable capacity building, hands-on project management, and rigorous monitoring and evaluation.

To maintain USAID's orientation toward programming in a transparent manner, USAID will review all non-humanitarian programs in country settings that meet the following criteria:

- *the government in the targeted country is politically repressive;*
- *the government has explicitly rejected USAID assistance or has such an adverse relationship with the United States that we cannot partner with the government on development assistance; and*
- *USAID does not have U.S. Direct Hire (USDH) staff in the country.*

The program review will ensure that neither USAID nor implementing organizations are going to undue lengths to minimize USAID's role in funding or implementing programs.

In these settings, USAID would revise or discontinue programs that require such undue lengths and would not initiate any such programs. For programs maintained in closed settings, we will continue to abide by existing Agency guidelines, including ensuring that the programs are not advancing an explicit political agenda beyond the promotion of basic principles of human rights and democratic governance, and operating with as much transparency as possible while protecting the security of implementing partners and beneficiaries.

Why is this guidance needed?

This document provides guidance for programming in closed spaces (i.e., politically repressive government, adverse relationship with USAID, and no USAID USDH staff in country), reinforcing our important contribution in these settings consistent with the President's Stand with Civil Society agenda, while also clarifying the need to balance our commitment to transparency with the goal of protecting the security of our partners and beneficiaries.

What is the purpose of the Guidance?

The Guidance creates a process whereby senior leadership will have increased oversight of programming in a small group of closed spaces. This increased oversight will ensure that USAID is properly balancing our commitment to transparency with the goal of protecting the security of our partners and beneficiaries.

Does this guidance suggest that USAID is reducing its commitment to work in closed spaces?

No. USAID will continue to carry out DRG programs in closed spaces, as we believe such efforts are fundamental to our mission of building resilient, democratic societies, and to broader U.S. Government foreign policy goals.

Why would USAID stop doing some types of DRG work?

While our history and expertise make USAID a leader in promoting resilient, democratic societies and fundamental human rights regardless of the specific political setting, there are circumstances where we would be unable to strike a proper balance between transparency and security in implementing certain types of programs in closed spaces.

How will the criteria be applied?

The three criteria will be considered as threshold questions for determining whether the guidance is applicable in specific settings. If these three criteria are met at the country level, then a project-by-project review of that country's USAID programming will be conducted.

Who in the Agency has the authority to determine if the criteria are met?

Regional AAs, in consultation with DCHA and PPL leadership and GC, will decide if the three threshold criteria have been met at a country level. The determination regarding "undue lengths" will be made through similar consultations on a project-by-project basis. On a quarterly basis, the Deputy Administrator will convene a general review of USAID programming in closed spaces. In the event of a disagreement among AAs, the Deputy Administrator will adjudicate.

What information will be used to determine whether a country is politically repressive?

In addition to agency expertise, we will reference Department of State Country Reports, Freedom House annual rankings, and human rights reports more generally.

Why is the absence of a formal USAID presence among the criteria?

The absence of USAID USDH staff in country creates unique challenges for program oversight and management, as well as for the U.S. relationship with government counterparts. For these reasons, the absence of US direct-hire staff is among the criteria considered for triggering a review.

Where does this guidance currently apply?

Based on our initial review, we concluded that very few countries met all three criteria. As circumstances evolve, programs in additional countries may be reviewed similarly.

Will USAID stop working in countries that meet the three criteria?

No. USAID will continue to implement programs, provided that the programs do not require the Agency or implementing organizations to go to undue lengths to minimize USAID's role. An initial review confirmed that the vast majority of USAID's current portfolio adequately balances transparency and security.

What are examples of permissible programs in countries that meet the first three criteria?

Examples of permissible programs include those that:

- provide humanitarian articles (e.g., food and medicine) to dissidents;
- facilitate communication over existing platforms;
- provide scholarships to study in the United States;
- train civil society advocates; and
- link civil society organizations and advocates to international NGO networks.

This is not an exhaustive list, but represents concrete examples of ongoing programs where neither USAID nor implementing organizations went to undue lengths.

Does application of branding waivers constitute an undue length to minimize USAID's role?

No. Programs that apply normal branding and marking waivers through the established process do not constitute undue lengths.

How will USAID determine whether a project involves "undue lengths"?

To determine undue lengths, USAID will conduct an internal review of practices associated with specific country contexts to determine whether they appropriately strike the balance between adequate transparency and security of our partners in restrictive environments. In general, USAID's commitment to transparency requires that program documents be unclassified, that briefings be held in unclassified settings, that basic programmatic information be included in Congressional Notifications and on the ForeignAssistance.gov website, and that implementing partners, including sub-contractors and sub-grantees, be made fully aware of a project's USAID

funding. These factors are to be considered when balancing transparency and security in each specific setting of closed space.

Can USAID ever withhold release of information to protect program beneficiaries or to minimize USAID’s role?

Yes. Although USAID must comply with U.S. Government requirements for transparency, including a “presumption in favor of openness” as set forth in OMB Bulletin 12-01 and elaborated in Executive Order 13642, these requirements are not absolute. Agencies are also required to identify information that is not appropriate for release because doing so would violate law or policy, or would jeopardize privacy, confidentiality, or national security. In order to ensure that these exceptions to openness are used appropriately, consistently, and sparingly, agencies must document and approve specific case-by-case exceptions to withhold or redact information in consultation with the Offices of Security, General Counsel, and others as detailed in ADS Chapter 579.

What implications does the program review hold for project design and implementation?

In deciding whether to initiate the new project, the project design team should assess how best to balance our commitment to transparency with our goal of protecting the security of partners and beneficiaries. Moreover, the design team should assess the following potential risks to USAID, our partners, and the beneficiaries of our programs: physical and cyber security, legal and fiduciary standing, and organizational reputation generally. As part of its procurement process, the project design team should solicit the views of all prospective implementing partners regarding these various risks.

How should humanitarian programs be treated when they are operating in countries that meet the first three criteria?

The guidance does not apply to humanitarian programs. However, humanitarian programs should also operate in a transparent manner, although security considerations, in particular, may dictate discretion in releasing details regarding the nature of the program or the names of specific implementing partners.