



The Council for Global Equality

Advancing an American Foreign Policy
Inclusive of Sexual Orientation and Gender Identity

Comments on USAID's Draft Humanitarian Action Policy

These comments are submitted by the Council for Global Equality based on consultations with the Council's member organizations, including American Jewish World Service, The Human Rights Campaign, MPact Global Action for Gay Men's Health and Rights, OutRight Action International, PFLAG National, and The Trevor Project.

Overarching Issues

- The draft policy usefully includes LGBTQI+ communities in some of its terminology and in some lists of marginalized groups, but it does so inconsistently. LGBTQI+ communities should be identified as among the most vulnerable groups in any enumerated list of vulnerable populations, including on page 18, where the policy states: "Consulting and collaborating with local actors – including indigenous leaders and women leaders – are also paramount to ensuring humanitarian interventions are culturally relevant and appropriate." Later, on that same page, the policy reads: "By ensuring women, young people, older people, and persons with disabilities are engaged as stakeholders and decision makers, and by involving them in every step of the program cycle, USAID will be able to provide targeted assistance to meet their unique needs where appropriate." Both of those lists of marginalized stakeholders should mention LGBTQI+ individuals and the community-led organizations that support them. It also should insist that in addition to being culturally "relevant," interventions should be culturally and linguistically responsive as well.
- The section on "Gender Equality and Protection" usefully focuses on the empowerment of "gender-diverse persons" as a component of any effective humanitarian action. But this should be expanded to include "persons of diverse sexual orientations, gender identities, and variations in sex characteristics" or revert to standard LGBTQI+ language, since these communities are routinely excluded from humanitarian programs and opportunities. The reference to "gender-diverse persons" is welcomed but it does not include all persons of diverse sexual orientations and gender identities and is not fully inclusive or an effective substitute for more inclusive LGBTQI+ terminology. This section should also note the importance of the President's *Memorandum on Advancing the*

Human Rights of Lesbian, Gay, Bisexual, Transgender, Queer and Intersex Persons Around the World, as it cites other relevant gender strategies and documents.

- Additional attention should be given to the complexities of consultations with LGBTQI+ communities and organizations in hostile criminalizing contexts, while simultaneously recognizing that such consultations, while challenging, are almost always possible and can be conducted effectively with careful attention to the safety and security of the community. As such, USAID has an affirmative obligation to consult with LGBTQI+ individuals and their local organizations in all humanitarian response operations and should develop security protocols to do so safely and effectively. Consultations with humanitarian partners does not substitute for direct consultations with LGBTQI+ leaders and organizations that understand the needs and vulnerabilities of the community.
- The policy draft usefully emphasizes USAID’s comprehensive non-discrimination policy as a cornerstone of all humanitarian action (page 8). That policy already prohibits discrimination on the basis of sexual orientation or gender identity in any humanitarian response. But recent humanitarian crises have demonstrated the need to move beyond a “do no harm” framework, grounded in non-discrimination, to an active consultation and partnership framework, grounded in deliberately consultative outreach to LGBTQI+ leaders and organizations. Without this action-oriented partnership approach, the needs and perspectives of diverse LGBTQI+ communities, especially those who are even further marginalized within LGBTQI+ communities such as lesbian and bisexual women, trans people, and intersex people, will continue to be ignored, systematically excluded, or misunderstood in humanitarian actions.
- Placing affected LGBTQI+ communities at the center of humanitarian action (page 18) will require specific targets and dedicated funding for local, LGBTQI+-led organizations. When the temporary use of intermediary organizations is essential, all efforts must be taken to ensure that the intermediaries have a deep connection to LGBTQI+ communities. Unfortunately, very few large intermediaries that are active in the humanitarian response space have deep LGBTQI+ competency.
- The document is notable for barely mentioning the COVID-19 pandemic and how it has complicated humanitarian policies and how future pandemics will be responded to as part of a humanitarian response. In this context, it also would be important to emphasize how LGBTQI+ communities have been excluded and even scapegoated in the global COVID-19 response to date.

Principles Guiding USAID Humanitarian Action

- On page 17, in the section titled “Commitment to needs-based assistance” and in the list of communities/individuals who are marginalized as a result of environmental, social or economic systems, there is no mention of sex workers who suffer from many of these overlapping challenges as well as from discriminatory laws and policies. When USAID says it will seek the input of marginalized groups, the Agency must ensure that policies

and programs also meet their needs of sex workers, and that they do not neglect or further stigmatize this key population.

- On page 20, similarly in the section titled “Protection from sexual exploitation and abuse,” there is a risk that the language and principles contained therein may conflate sexual exploitation in vulnerable situations with consensual sex work and the impingement of the rights of sex workers. For example, the principle states: “SEA risks are acute and pronounced across the humanitarian contexts in which we operate and are often amplified by additional factors such as increased reliance on distributed aid, living in camps or other settings with crowded conditions...” — the policy must specifically delineate sex work that operates in these settings from SEA risks and ensure that sex workers themselves are not put in further harm’s way during humanitarian crises by punitive policies.
- Under the “Gender Equality and Protection” section (Page 19) it states, “We design our programs to reduce risks faced by women, girls, and gender-diverse persons in crisis and conflict, and to meet the specific needs of women, girls, and gender-diverse persons who have experienced or are at risk of violence, exploitation, and abuse.” Yet, for nearly 50 years, the Helms Amendment has been incorrectly applied as a total ban on U.S. foreign assistance for abortion care. Helms restricts U.S. foreign assistance for abortion as a “method of family planning” alone. Safe abortions in cases of rape, incest, and life endangerment do not fall within this category and are not proscribed by Helms. Accordingly, we urge you to issue guidance stating that U.S. foreign assistance can support abortion care in cases of rape, incest, and life endangerment, including for victims of conflict-related sexual violence.

Structural Issues

- Understanding that the Bureau for Humanitarian Assistance (BHA) leads for USAID on disaster assistance, the policy should nonetheless highlight coordination mechanisms and require formal consultations with thematic experts across USAID in all major humanitarian response operations, including consultations with the Senior LGBTQI+ Coordinator.
- On page 11, the document describes the five core areas of humanitarian expertise that USAID will leverage to support implementing partners. The section on public health and nutrition encompasses issues like pharmaceuticals, nutrition, water, sanitation, and hygiene but leaves out determinants of health that drive humanitarian responses like vulnerabilities/co-morbidities, key populations, and stigma and discrimination. Especially in light of the COVID-19 pandemic and how it has complicated humanitarian responses, this is an area where USAID should build up expertise, while also complementing the overall policy’s focus on those most in need.

Displacement and Migration Issues

- The policy does not adequately address the vulnerability of LGBTQI+ persons in the context of displacement, migration, and refugee protection. The policy notes in passing that “Many people living in hazard-prone and climate-exposed areas experience other vulnerabilities that compound risks and make migration their preferred adaptation strategy.” This is certainly true of LGBTQI+ migrants, and the policy should emphasize the unique vulnerabilities that disproportionately drive LGBTQI+ individuals to seek protection through migration, while also noting that these same factors make LGBTQI+ migrants more vulnerable during flight and while internally displaced or in refugee camps or detention facilities at their points of destination. LGBTQI+ individuals need tailored evacuation options and special accommodations at every step in the evacuation or migration process.