



Independent observer
of the Global Fund

US Withdraws Requirement That Affected Global Fund Grant Recipients

After receiving protests from some US NGOs and queries from the media, Ambassador Randall Tobias, head of the US's bilateral AIDS program PEPFAR, withdrew a newly-published US requirement which stated that non-governmental recipients of Global Fund grants “must have a policy explicitly opposing prostitution.” The requirement was the latest in a steadily escalating set of conditions placed upon recipients of US AIDS grants.

Those who protested the requirement were not seeking to support prostitution; they were saying that the requirement was inappropriate given that prostitution is legal in some countries and that cooperation with commercial sex workers is an important part of some HIV prevention programs. One NGO was quoted by the Washington Post as saying, “We know that stigmatizing people with HIV is one of the root causes of the pandemic. So why would we issue statements that might exacerbate that?”

Since PEPFAR started in 2003, the US has required that certain groups receiving PEPFAR money must have a written policy explicitly opposing prostitution. This was the result of language added to US legislation by Representative Chris Smith, who earlier served as head of New Jersey Right to Life.

At first, this requirement only applied to foreign organizations operating overseas. (Brazil recently rejected \$40 million in US AIDS funding rather than comply with the requirement.) US-based organizations were exempt because the US believed that forcing them to make the declaration might infringe their First Amendment right of free speech. Also exempt were multilateral organizations such as the Global Fund whose policies prohibit them from enforcing the national laws of member countries.

Then in September, the US decided that the requirement would also be applied to US groups working

overseas (though not domestically).

Then earlier this month, the US published a requirement stating that although the requirement did not apply to the Global Fund, it did apply to foreign recipients of Global Fund grants. This led to multiple complaints, in the very week that there was to be a vote on whether PEPFAR's Ambassador Tobias would become Chair of the Global Fund's Policy and Strategy Committee.

Finally, in a remarkable about-face three days before the vote on Tobias's nomination, Tobias withdrew the new requirement regarding Global Fund recipients, saying this was not something he had approved in advance. His office informed GFO that Tobias had only learned of the new requirement four days earlier, and that publishing the requirement was "a simple oversight."

GFO has asked Tobias's office who was responsible for this "simple oversight," but no response had been received at press time.

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