



TRUMP ADMINISTRATION'S FOREIGN ASSISTANCE STOP-WORK AND STOP-FUNDING ORDER AND THE STATE DEPARTMENT'S PARTIAL WAIVER FOR PEPFAR ARE LIFE THREATENING

5 FEBRUARY 2025

The Jan. 28 Waiver of the Jan. 24 Stop-Work Order Should be Interpreted to Authorize All Recipients of U.S. Global Health Foreign Aid to Immediately Resume Comprehensive Life-Saving Humanitarian Assistance

OVERVIEW

1. Although the US President's Executive Order mandating a cessation of foreign assistance and implementing stop-work orders from the US Secretary of State and USAID should be rescinded forthwith given their unprecedented negative impacts on economic/development, humanitarian, and security assistance more broadly and on global health assistance in particular, the January 28, 2025 "waiver for humanitarian, life-saving assistance" should and can be given the broadest possible interpretation in terms of access to life-saving medicines, medical services and supplies, food, shelter, further prevention of contracting life threatening diseases and subsistence assistance.

Note: On February 4, 2025, US Secretary of State, M Rubio, claimed that the January 28 waiver was **self-executing** – but implementing partners were explicitly barred from acting unless instructed to do so. Rubio then **falsely claimed** that implementing partner "incompetence" is to blame for the continued massive disruption in services. But implementers are being told that they must wait for instructions to act, while funding agencies (CDC, USAID, and others) lack funding access, administrative capacity, and the leadership to implement and action the waiver – USAID staff have since also been put on administrative leave with staff being recalled from around the world.

2. With respect to its application on foreign assistance for health, the waiver language should be interpreted to cover all medicines, medical supplies, and medical services currently provided for all disease activities (HIV, tuberculosis, malaria, and neglected tropical diseases), population activities (maternal and child health, nutrition, and family planning and reproductive and sexual health) and global health security, including pandemic preparedness and response.

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Due to the fast moving pace of announcements from the USG, and several pending legal actions, this note has been prepared by WG 3 of CHANGE on the basis of available information and will be updated from time to time. This version is as of 5 February 2025.

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3. The US President's Emergency Plan for AIDS Relief (PEPFAR), the US President's Malaria Initiative, and CDC global health, HHS, and multiple other US global health activities and their implementers should receive immediate communication of a total waiver, its restart work effect, and further clarification on its broad scope of application. In the unfortunate event that clarification is not forthcoming, aid recipients should get back to work anyway because the cost of not doing so is putting lives at stake.
4. The February 1, Info Memo for PEPFAR Implementing Agencies and PEPFAR Country Coordinators is incomplete as it does not allow all previously contracted PEPFAR activities. As discussed in a separate memorandum, the Info Memo is legally insufficient given two temporary restraining orders requiring that enforcement of the President's Executive Order and Secretariat of State's stop-work and stop-funding orders should be enjoined.

PROGRESSION OF EVENTS

5. On January 20, 2025, US President Trump issued an Executive Order **Reevaluating and Realigning United States Foreign Aid**, with the Policy objective that "no further United States foreign assistance shall be disbursed in a manner that is not fully aligned with the foreign policy of the President of the United States." The Order stated:
 - a. All department and agency heads with responsibility for United States foreign development assistance programs shall immediately pause new obligations and disbursements of development assistance funds to foreign countries and implementing non-governmental organizations, international organizations, and contractors pending reviews of such programs for programmatic efficiency and consistency with United States foreign policy, to be conducted within 90 days of this order. The Office of Management and Budget (OMB) shall enforce this pause through its apportionment authority.
6. On January 24, 2025, the Office of the Secretary of State sent a **diplomatic and consular post** reiterating:
 7. Effective immediately, Assistant Secretaries and Senior Bureau Officials shall ensure that, to the maximum extent permitted by law, no new obligations shall be made for foreign assistance until such time as the Secretary shall determine, following a review. For existing foreign assistance awards, contracting officers and grant officers shall immediately issue stop-work orders, consistent with the terms of the relevant award, until such time as the Secretary shall determine, following a review.

AND -

12. The Secretary of State has approved waivers of the pause under the Executive Order and this ALDAC, subject to further review, with respect to:
 - a. foreign military financing for Israel and Egypt and administrative expenses, including salaries, necessary to administer foreign military financing;
 - b. emergency food assistance and administrative expenses, including salaries, necessary to administer such assistance;



- c on a temporary basis, salaries and related administrative expenses, including travel, for U.S. direct hire employees, personal services contractors, and locally employed staff;
 - d legitimate expenses incurred prior to the date of this ALDAC under existing awards or legitimate expenses associated with stop-work orders; and exceptions to the pause approved by the Director of Foreign Assistance.
7. On January 24, 2025, USAID issued a **Notice on Implementation of Executive Order on Reevaluating and Realigning United States Foreign Aid**, “pausing all new obligations of funding, and sub-obligations of funding under Development Objective Agreements (DOAGs), pending a review of foreign assistance programs funded by USAID.” This notice required that “Effectively immediately, Contracting and Agreement Officers must not modify, extend, or exercise options or renewals for existing awards beyond the actions authorized below.” In addition, “Contracting and Agreement Officers shall immediately issue stop-work orders, amend, or suspend existing awards, consistent with the terms and conditions of the relevant award.”
 8. Following negative press and consternation from patient communities, civil society organisations, health advocacy groups, WHO, UNAIDS, and multiple other partners, on January 28, 2025, the US Secretary of State issued an **additional waiver of the stop-work order for life-saving humanitarian assistance during the period of the review**, as follows:

Implementers of existing life-saving humanitarian assistance programs should continue or resume work if they have stopped, subject to the following directions. This resumption is temporary in nature, and except by separate waiver or as required to carry out this waiver, no new contracts shall be entered into.

1. (a) For purposes of this waiver, life-saving humanitarian assistance applies to core life-saving medicine, medical services, food, shelter, and subsistence assistance, as well as supplies and reasonable administrative costs as necessary to deliver such assistance.
 - (b) This waiver does not apply to activities that involve abortions, family planning, conferences, administrative costs other than those covered by 1(a) above, gender or DEI ideology programs, transgender surgeries, or other non-life saving assistance.
 - (c) Migration and Refugee Assistance (MRA) may only be used to support activities under section 1(a) and for repatriation of third country nationals to their country of origin or safe-third-country.
 2. Additional waivers or exceptions for humanitarian assistance not covered by this waiver may be sought through the Director of Foreign Assistance at the Department of State. Implementing partners and NGOs are to work through their U.S. government agency partners on such requests.
9. On January 30, 2025, USAID is reported to have sent an email to agency staffers that Operating Expenses and Capital Investment Fund accounts were **not part of the aid freeze**, authorizing USAID operating units to disburse funds on a temporary basis for U.S. direct hire employees, Personal Services Contractor, and locally-employed staff.



The email clarified that administrative expenses could include leases, residential and office maintenance, approved travel, utilities, internet, cell phones, vehicle maintenance, and what is known as “international cooperative administrative support services” for USAID staffers, among other expenses.

What is unclear is whether these expense authorizations would apply to partner organizations as well as USAID staff. Nonetheless, it would appear that any waiver of the stop-work order for any partner organization or aid recipient would depend on formal notice from contract or grant officers to the individual entity, which could thereafter notify its sub-contractees and recipients.

10. On February 1, 2025, the US Department of State issued an Info Memo for the PEPFAR Implementing Agencies and PEPFAR Country Coordinators specifying what PEPFAR services could and could not be provided.

WHAT CAN BE PROVIDED

- Delivery of life-saving HIV care and treatment services through **support for health workers** (doctors, nurses, and other clinical and community health workers, etc.) delivering or monitoring HIV care and treatment to ensure continuity of service provision. These workers deliver care at hospitals, primary healthcare clinics, faith based clinics, and community settings.
- This includes:
 - Provision of HIV testing for adults and children in community and facility settings.
 - Provision of HIV drugs and support to prevent treatment interruptions for adults and children in community and facility settings.
 - Provision of care for advanced HIV disease, including CD4 testing (immune function test), prevention and treatment of opportunistic infections, and HIV treatment adherence support.
 - Provision of HIV viral load testing, which allows patient monitoring to ensure that HIV drug treatments are effective.
 - Provision of tuberculosis preventive therapy (TPT) and Tuberculosis Treatment, as TB is the largest killer of people living with HIV.
- Support for transportation, storage, distribution, and management of HIV care and treatment commodity supply chain to ensure timely provision of medications and tests to patients.
- Procurement of HIV medicines and other commodities required for provision of HIV care and treatment services to prevent stockouts in national HIV programs (e.g., HIV drugs, HIV test kits, early infant HIV tests, viral load tests and lab equipment for clinical monitoring, TB prevention and treatment drugs, opportunistic infection medicines for advanced HIV disease).



- Prevention of Mother-to-Child Transmission of HIV, which consists of testing and retesting pregnant and breastfeeding women, providing HIV prevention services for [pregnant] women who are HIV negative including Pre-exposure Prophylaxis (PrEP) and HIV treatment drugs for [pregnant] women who are positive, HIV testing for partners, early infant diagnosis tests, and comprehensive care for infants.
- Support for transportation, storage, distribution and management of HIV commodity supply chain to ensure timely provision of medications for PMTCT.
- Focused data and systems maintenance activities in support of the above areas. Reasonable administrative costs as necessary to deliver such assistance and provide oversight and compliance.

WHAT CANNOT BE PROVIDED ARE

“activities that involve abortions, family planning, conferences, administrative costs other than those covered above, gender or DEI ideology programs, transgender surgeries, or other nonlife saving assistance. Any other activities not specifically mentioned in this guidance may not be resumed without express approval.”

INTERPRETATION

11. The list of permitted activities though important and lifesaving is restrictive. It excludes among other things:
 - All prevention work and PrEP other than relating to PMTCT, all activities relating to orphans and vulnerable children, DREAMS (work with adolescent girls and young women), violence against women, sex workers, community led monitoring, and other programming.
12. The concept of life saving humanitarian assistance should be **interpreted broadly**. Saving lives does not just focus on proximal, deathbed care.
 - a. **“Life-saving”** humanitarian application covers all people at risk, not just those who are displaced by war or famine but also those who are socially disadvantaged.
 - b. Although its clearest focus might be the continuation of medical treatment and health services for people diagnosed with life-threatening conditions like HIV, tuberculosis, and malaria, its application is broader than that:
 - i. As recognized explicitly in the Info Memo, PEPFAR provides HIV treatment to people living with HIV who can be treated both for their own well-being and survival but also to prevent onward transmission to others. It also covers pregnant women who, for example, are tested and treated to suppress their viral load and preserve their lives but also to prevent the 40% risk of vertical transmission of HIV to their fetuses and infants during pregnancy, delivery, and breastfeeding.
 - ii. But there are many life-saving health service needs beyond disease-specific treatment.



- c. The waiver refers both to “medicines” and “supplies” and thus diagnostic tests can and should be considered part of life-saving health services.
 - d. Similarly, PEPFAR funds both prevention services and supplies, including behavior change, violence prevention and response, correct and consistent use of condoms, male circumcision, pre- and post-exposure prophylaxis (PrEP), treatment of STIs, needle and syringe exchange, and education and counseling on risk reduction.
 - e. For people receiving antiretroviral services, there are additional life-saving health services promoting their continued connection to care and treatment, supporting adherence support, and changing treatment regimens when needed.
13. While HIV and AIDS might be the paradigmatic example, the same comprehensive health service and medicines/other supplies approach applies to malaria where there are important “life-saving” efforts to prevent and diagnose disease as well as to treat it (bed nets, medical prophylaxis, new vaccines, etc), as well as to TB.
- a. Maternal and child health care has many of the same features.
 - b. HPV vaccines help prevent cervical cancer, but women still need to be screened for cervical cancer in order to be treated before life-threatening invasive cancer occurs.
 - c. Contraceptives prevent unintended pregnancies and risks related to pregnancy and delivery. Well planned pregnancies and births lead to safe delivery and safeguards the lives of both mothers and babies.
14. Although a clear focus of the waiver is on medicines and related health technologies, the responsible management strategy is to cover salaries and support to the life-saving health workforce, not just the direct health service providers, but also the broad range of staff that run laboratories, manage procurement and supply, engage in community outreach, health literacy, counseling, and support health facilities, scheduling, and record-keeping, including all their supervisors and managers:
- They are the workforce that sustain the success of managing life threatening diseases and the prevention of more illness. By refusing to support them, programmes will be affected and sabotaged. It is particularly important to ensure continuing support to community health workers, who in many places in the Global South, provide an extensive array of life-saving patient centred support.
 - To ensure quality of health services and to recalibrate service provision of need, PEPFAR’s widely-celebrated and effective community-led monitoring should also be supported because communities take an active role in managing their health, responding to it with evidence and holding health care providers accountable for the delivery of rights based health services.
15. In contrast to the concept of life-saving medicines, health services, and supplies, which can and should be interpreted broadly, **the exceptions to the waiver must and should be interpreted narrowly** even though there are **some signals** that the stop-work order and waiver will be applied restrictively, pursuant to the administration’s anti-DEI, gender, and trans views.



- a. Just because ARV therapy is delivered through special programming to at risk populations does not mean that DEI or gender ideology is being promoted. PEPFAR implementers routinely seek to serve the needs of populations with higher risk of infection and who often face stigmatization and discrimination in health service delivery in their contexts.
- b. Focusing special outreach efforts and health services on men, young people, young women, pregnant people, and key and displaced populations, who are less likely to be tested and treated, is not “wokeism” - on the contrary it is meeting a heightened epidemiological need where differentiated and tailored health services actually succeed in preserving life.
- c. No restarted, life-saving health services / programs should have to worry that disease-based or women-and-child health services must be conditioned on a false view that gender or DEI ideology restrictions somehow need to flatten or ration the best life-saving health services for each and every person covered by U.S. foreign assistance for health.

It is irresponsible to roll out a blanket “stop work” order. As such, the “stop work” order in its nature is life threatening and will need to factor in an understanding of the context in which services and work are delivered.

CONFUSION REQUIRES UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES TO UPDATE WAIVER GUIDANCE AND RESUME FUNDING:

Confusion abounds about the ill-advised stop-work order, its waivers, and exception to the waivers.

The message must be clear that starting immediately, US foreign assistance recipients are free to – in fact mandated to – reopen health services facilities, return staff, and provide essential life-saving health services with related medicines and supplies.

- Regrettably, the Executive Order and stop-work order have already had a globally disruptive effect for a week or more and reconnecting people to health services and rebuilding trust in many countries will be challenging - an effect well-known by all who work to save lives.
- Provision must be made for catch-up treatments, testing, counseling, and other work lost as a result of the stop work and stop-payment orders and in addition funding should be supplemented for loss experienced as a result of such orders.
- Both implementers and U.S. foreign assistance for health recipients – public, private, and charitable – must overcome the uncertainty, chaos and their risk aversion, and immediately resume the provision of health services. Millions of lives depend on it. And the U.S. government should clarify at the earliest possible moment their obligation to do so and release funding for them to do so.
- It is imperative that the US government be explicit about their understanding of life-saving humanitarian services in the broadest definition and to communicate this to implementers without delay to ensure we avert a further pandemic.



This clarity is sought, because the longer the US Government continues to delay the proper waiver communications and reinstate funding in respect of PEPFAR, especially, the more lives will be lost.

PEPFAR statistics show that at the end of 2024, it was providing life-saving antiretroviral treatment to nearly 21-million people across 55 countries, many of them in sub-Saharan Africa. PEPFAR is also delivering pre-exposure prophylaxis (PrEP) – which stops people from contracting HIV – to about 2.5 million people. In 2024, PEPFAR provided HIV testing to about 84-million people.

Key links

PEPFAR WATCH

<https://www.kff.org/global-health-policy/fact-sheet/overview-of-president-trumps-executive-actions-on-global-health/>

<https://www.amfar.org/wp-content/uploads/2025/01/Impact-of-Stop-Work-Orders-for-PEPFAR-Programs-2.pdf>

<https://pepfarwatch.org/wp-content/uploads/2025/02/PEPFAR-Watch-Deadly-Pause.pdf>

<https://ugandakpc.us10.list-manage.com/track/click?u=9b66ee1103e33cb3dd6f1d954&id=8c622cac43&e=a73b370668>

<https://www.whitehouse.gov/presidential-actions/2025/01/reevaluating-and-realigning-united-states-foreign-aid/>

<https://www.state.gov/emergency-humanitarian-waiver-to-foreign-assistance-pause/>

<https://www.state.gov/wp-content/uploads/2025/01/Final-Signed-Emergency-Humanitarian-Waiver.pdf>

