Global Health eLearning Center

U.S. Family Planning and Abortion Requirements

Overview

Course Introduction

The purpose of this course is to provide an overview of the U.S. family planning (FP) and abortion legislative and policy requirements that govern U.S. assistance. Many of these requirements are based on and support long-standing principles of quality of care, such as voluntarism and informed choice, which have guided USAID's family planning program for decades.

The U.S. Agency for International Development (USAID) is committed to ensuring that women and couples in developing countries have access to voluntary family planning information and services and are free to make informed decisions about their reproductive lives.

The primary audience for this course is persons who implement USAID-supported family planning activities; however, it may also be informative for persons implementing other USAID programs (such as staff working on other health activities or even staff in other sectors), as many of the requirements apply to all U.S. foreign assistance.

Glossary Term:
Legislative

Did You Know?

The course ***References*** (see the pop-out menu under the 'R' tab) contain a comprehensive list of resource documents. This page also includes a contact list of people who can provide more information or assistance.

Course Introduction (continued)

USAID takes the family planning and abortion legislative and policy requirements very seriously and works with missions and partners to ensure compliance with these requirements in their programs.

It is important for USAID staff, host government personnel, and implementing partners to be knowledgeable about all of the requirements because:

- If you implement activities with U.S. foreign assistance funds, you are obligated to respect the laws and policies applicable to the assistance. While some of the requirements only apply to USAID-supported FP activities, others apply to ***all*** U.S. foreign assistance activities.
- Increased familiarity with the requirements will improve your ability to monitor quality and compliance in your programs.
- If you have a concern about a vulnerability or potential violation in a USAID-supported program, you should know what to do.

Course Organization

This course is organized as follows:

1. **Overview:** Provides a summary of the requirements and USAID's guiding principles for family planning assistance.
2. **Voluntarism and Informed Choice Requirements:** Reviews in detail all of the provisions of the Tiahrt Amendment, as well as other requirements related to voluntarism and informed choice in FP programs.
3. **Requirements on Voluntary Sterilization:** Reviews Policy Determination 3, the Agency's guidelines on voluntary sterilization.
4. **Restrictions on Abortion:** Reviews several legislative restrictions relating to abortions.
5. **Ensuring Compliance:** Discusses actions you can take to make sure all partners are aware of the requirements, illustrative monitoring activities, and steps to take if you have a question or concern.
6. **Case Study:** Presents a case study that will help you apply what you have learned.

Highlight

This course presents a large volume of information. We hope that once you have finished the course you will keep it handy (e.g., by bookmarking the site or printing it) and use it as a resource should questions arise in your work.

Overview of the Family Planning and Abortion Requirements

Applicability of the Requirements

This course will cover two general sets of requirements:

- Family planning requirements which apply to USAID family planning assistance funds
- Legislative abortion restrictions which apply to all foreign assistance activities, even those unrelated to family planning

These requirements are set forth in standard provisions included in USAID agreements. This will be discussed in greater detail in the course.

	REQUIREMENT	General Topic	Type	Applies To	First Enacted
Family Planning	Tiahrt Amendment	Voluntarism	Legislative	Family Planning Assistance Funds	1998
	DeConcini Amendment	Method Mix	Legislative	Family Planning Assistance Funds	1985
	Livingston-Obey Amendment	Method Mix	Legislative	Family Planning Assistance Funds	1986
	Policy Determination 3	Voluntary Sterilization	Agency Policy	Family Planning Assistance Funds	1977
	Kemp-Kasten Amendment	Voluntarism	Legislative	All Assistance Funds	1985
Abortion	Helms Amendment	Abortion	Legislative	All Assistance Funds	1973
	Leahy Amendment	Abortion	Legislative	All Assistance Funds	1994
	Biden Amendment	Abortion (biomedical research)	Legislative	All Assistance Funds	1981
	Siljander Amendment	Abortion (lobbying)	Legislative	All Assistance Funds	1981

Highlight

The family planning voluntarism and informed choice requirements apply to FP activities in integrated programs and are not limited to FP activities funded by FP/RH funds only. For example, if FP activities are conducted with Economic Support Funds (ESF) or PEPFAR funds, these requirements still apply.

Did You Know?

Many of the legislative requirements are named after the Representative or Senator who sponsored the legislation.

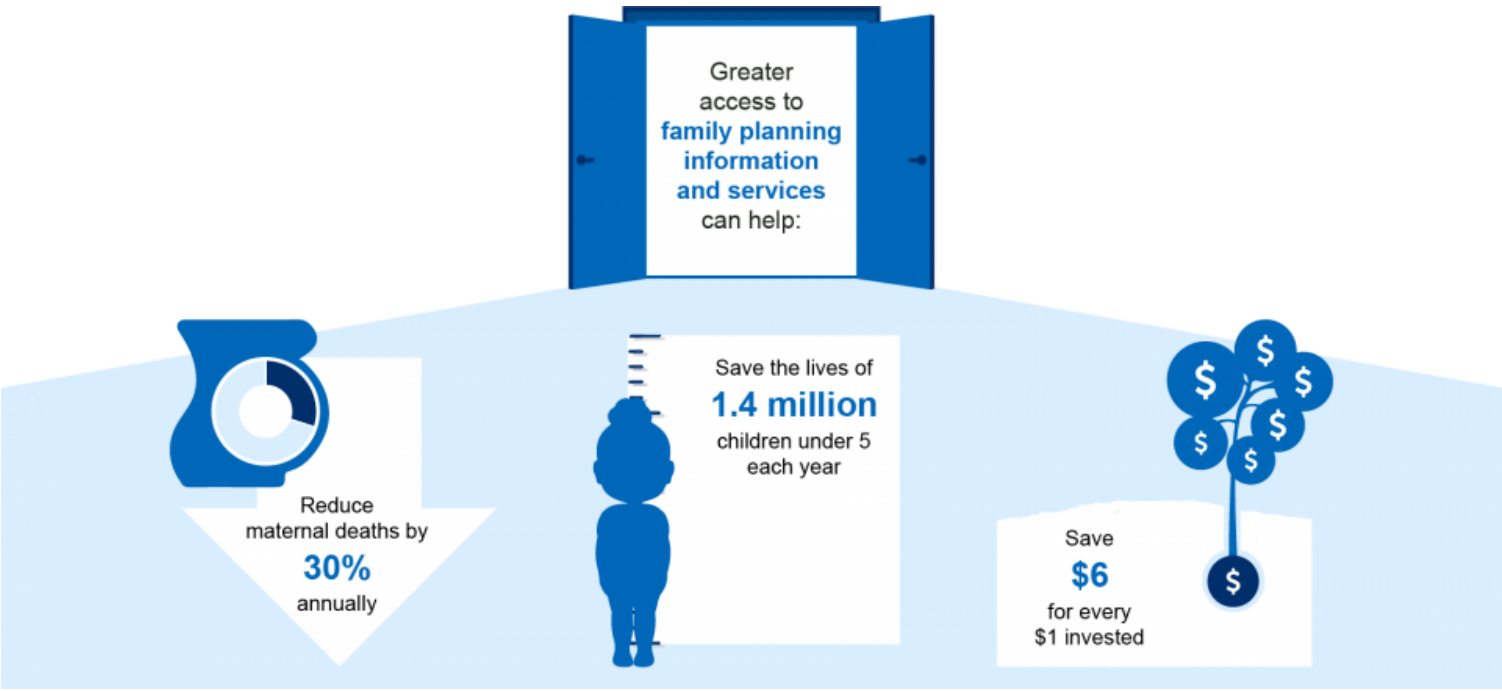
Voluntarism and Informed Choice Requirements

This session will cover the voluntarism and informed choice requirements, including their applicability, the details of the Tiahrt Amendment, and several selected cases.

Benefits of Family Planning

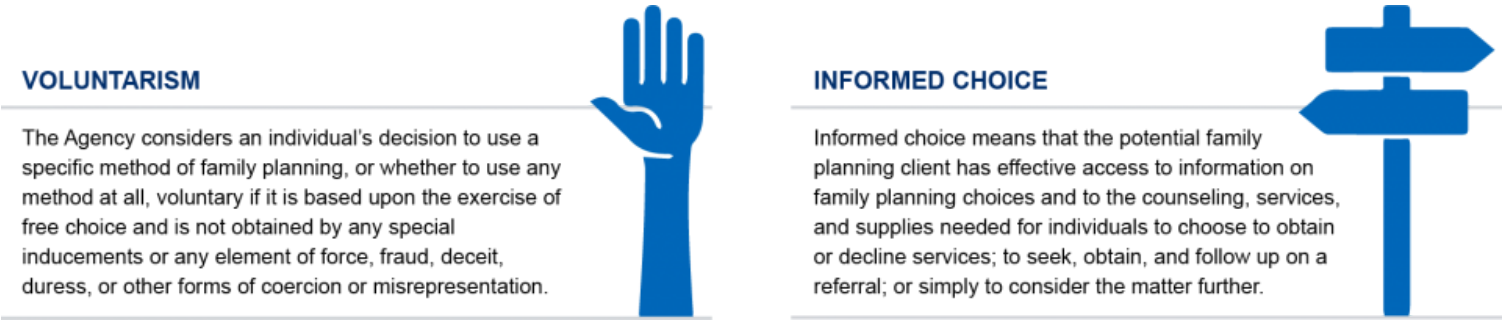
USAID advances and supports voluntary family planning and reproductive health programs in nearly 40 countries across the globe.

With more than 50 years of experience, USAID has long been the world leader in supporting family planning programs. At the 1994 International Conference on Population and Development (ICPD) in Cairo, Egypt, 179 countries adopted the Programme of Action (PoA), which recognizes that reproductive health – as well as women's empowerment and gender equality – are cornerstones of population and development programs. In addition, the 1994 ICPD PoA served to emphasize the integral linkages between population and development and focus on meeting the needs of individual women and men, rather than on achieving demographic targets.



Background on Voluntarism and Informed Choice

USAID is committed to helping countries meet the family planning and reproductive health needs of their people. Voluntarism and informed choice are guiding principles of our program.



For USAID programs, the principles of voluntarism and informed choice are articulated in legislative requirements, Agency policy, and program guidance. In this session, we will review in detail the FP voluntarism and informed choice requirements, including the Tiarht Amendment.

Glossary Term:

Voluntary/voluntarism
Informed Choice for Family Planning

Did You Know?

For more than 50 years, the basic principles of ***voluntarism*** and ***informed choice*** have guided U.S. assistance for FP.

Overview of the FP Voluntarism and Informed Choice Requirements

The legislative and policy requirements to promote voluntarism and informed choice in family planning programs relate to:

- Targets and quotas
- Incentives
- Denial of rights or benefits
- Comprehensible information
- Experimental FP methods
- Range of FP methods
- Protections regarding voluntary sterilization

Applicability of the FP Voluntarism and Informed Choice Requirements

The FP legislative and policy requirements apply to *all USAID-supported family planning service delivery projects.* This includes any project that receives *any form of USAID support* for family planning, including funds, technical assistance, training, or commodities.

Any entity that receives USAID support for a FP service delivery project must comply with these requirements. This includes non-governmental organizations (NGOs), host country governments, and public international organizations (e.g., the World Health Organization).

The FP requirements are implemented through standard provisions that are included in contracts, cooperative agreements, and grants that include funding for FP activities.

A/CORs should work with Agreement Officers and Contract Officers to ensure inclusion of appropriate standard provisions in their prime awards; the requirements must also be flowed down in sub-awards per the terms of the provision.

Applicability of the FP Requirements: "Family Planning Service Delivery Projects"

What is a "**service delivery project**?"

A discrete, self-contained FP activity that deals directly with "acceptors" – people.

The FP requirements, including the Tiahrt Amendment, do *not* apply to USAID assistance for other kinds of population activities that are not conducted by or for the direct benfit of a specific FP service delivery project.

Glossary Term:
Service delivery projects

Highlights

USAID has issued guidance to assist with the interpretation of the Tiahrt Amendment:

Guidance for Implementing the Tiahrt Requirements for Voluntary Family Planning Projects. This guidance is particularly useful in determining when and where the requirements apply.

Applicability of the FP Requirements: Type of Activities

The FP requirements, including the Tiahrt Amendment, apply to an organization's family planning service delivery projects – **FP activities that deal directly with potential acceptors** – to which USAID provides assistance (funds, goods, or services).

These projects would include, for example, publicly operated clinics, mobile outreach/seasonal clinics, commerical or private clinics, and community-based service delivery.

The Tiahrt Amendment does *not* apply to USAID assistance for family planning activities that are not conducted by or for the direct benefit of a specific FP service delivery project.

Examples of USAID programming to which the Tiahrt Amendment does not apply include:

- Non-family planning health assistance (e.g. control of infectious diseases, maternal health, etc.) to health facilities that may also offer FP services;
- Assistance for broad information campaigns, surveys and data collection, strategic planning, evaluation, biomedical and social science research, or publications; or
- Mass media campaigns conducted by organizations, or distinct units of an organization, that do not implement service delivery projects.

Applicability of the FP Requirements: Type of Assistance

The FP requirements, including the Tiahrt Amendment, apply when any kind of assistance is provided for FP service delivery projects, whether in the form of cash, technical assistance, contraceptive commodities, or training.

For example, the Tiahrt Amendment applies when:

- A service delivery project receives and distributes USAID-procured contraceptive commodities in bulk (even in the absence of a formal agreement);
- USAID enhances the service delivery project's ability to provide FP services (e.g., improving the project's management capability, or strengthening skills in how to conduct surveys, how to keep books and records, etc.); or
- USAID-funded training is conducted for personnel at a service delivery project.

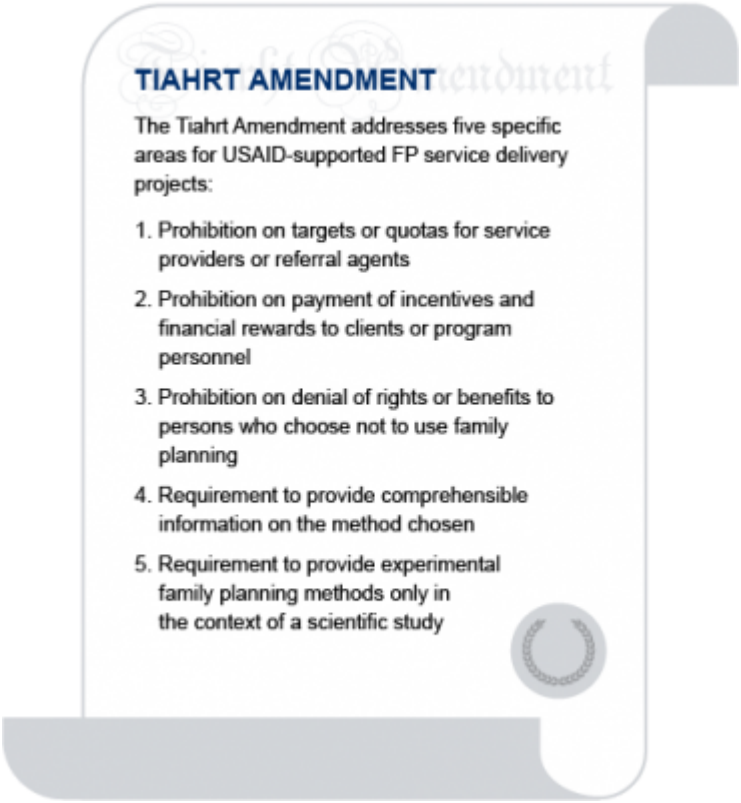
USAID is not responsible for an organization's FP service delivery projects that are solely financed by non-USAID sources of funds. Even when USAID may not be supporting an FP service delivery project, it remains important to ensure any FP activities are implemented in an environment that supports voluntarism and informed choice.

The Tiahrt Amendment Overview

The **Tiahrt Amendment**, which was first enacted in the 1999 Foreign Operations Appropriations Act, reflects the values and principles of voluntarism and informed choice that have guided USAID's family planning assistance since its inception.

The Tiahrt Amendment addresses *five specific areas* for USAID-supported FP service delivery projects:

1. Prohibition on targets or quotas for service providers or referral agents
2. Prohibition on payment of incentives and financial rewards to clients or program personnel
3. Prohibition on denial of rights or benefits to persons who choose not to use FP
4. Requirement to provide comprehensible information on the method chosen
5. Requirement to provide experimental FP methods only in the context of a scientific study



These five areas will be explained in detail on the following pages.

Glossary Term:
Service Provider/Referral Agent

Highlight

The Tiahrt Amendment has been included in every annual Foreign Operations Appropriations Act since it was first enacted in the 1999 Foreign Operations Appropriations Act.

The Tiahrt Amendment: Targets or Quotas

The Tiahrt Amendment directs that in family planning projects:

*"Service providers or referral agents in the project shall not implement or be subject to quotas, or other numerical targets, of **total number of births, number of family planning acceptors, or acceptors of a particular method of family planning** (this provision shall not be construed to include the use of quantitative estimates or indicators for budgeting and planning purposes)."*

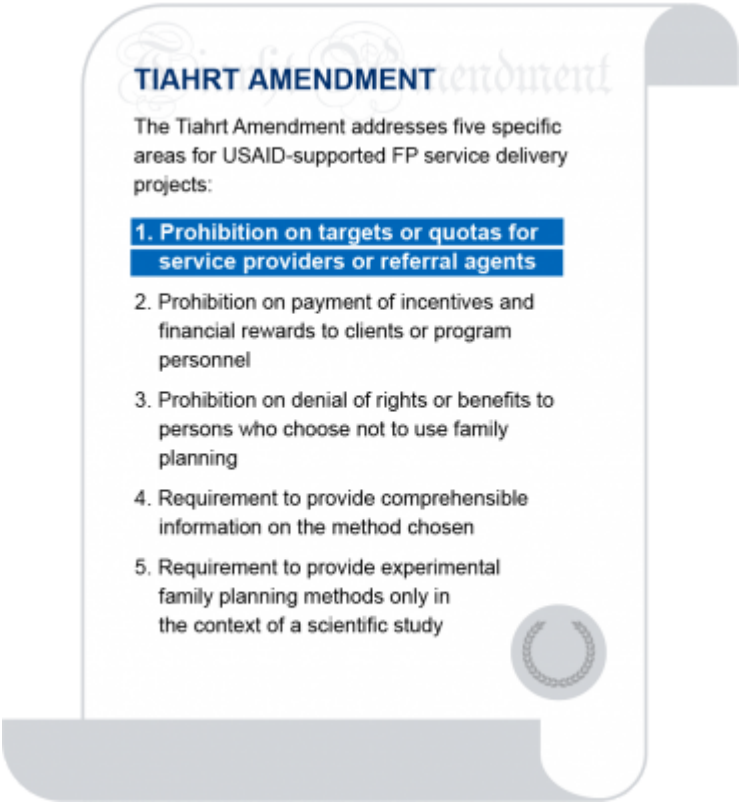
The Tiahrt Amendment specifically prohibits the following types of targets:

- Total number of births
- Number of FP acceptors
- Acceptors of a particular method of FP

For this purpose, a **target/quota** is a predetermined figure that a service provider or referral agent (e.g. community health worker) is assigned or required to affect or achieve.

Service providers and referral agents are people who implement a service delivery project and who deal directly with FP clients. They may include doctors, nurses, and midwives in a health facility, as well as community-level workers.

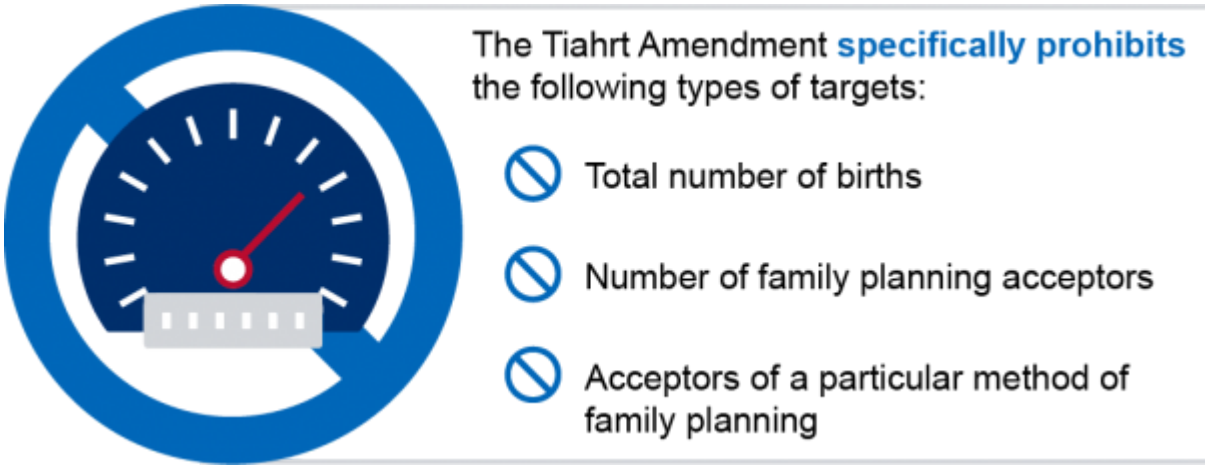
Glossary Term:
Target/quota
Acceptor



Highlight

These types of targets/quotas for family planning assigned to individual service providers and/or referral agents could change their behavior in ways that hurt voluntarism by creating an environment where providers may be motivated to influence or coerce a client to use FP or a particular method of FP. Such an environment may not respect the choice of the client.

The Tiahrt Amendment: Targets or Quotas (continued)



USAID and partners may use information about number of births, number of FP acceptors, or number of acceptors of a particular FP method in reports or monitoring and evaluation plans for planning and budgeting purposes.

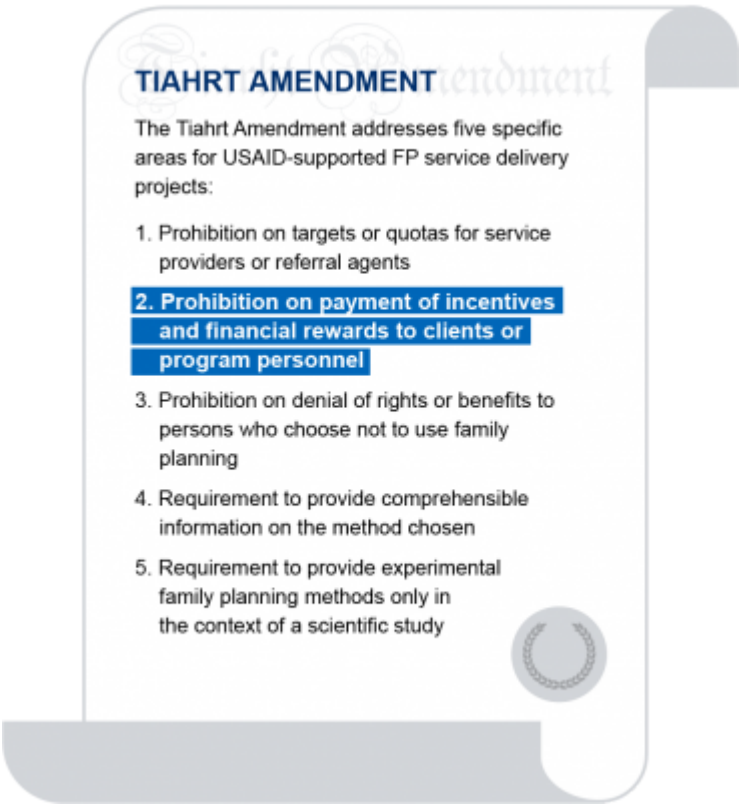
Such information (e.g. service statistics, commodity consumptions, etc.) might be used to influence decisions about whether to increase support for a project to make more services available, or to replenish resources spent, or to expand a project's scope. These indicators or estimates are not inconsistent with Tiahrt unless the project treats these indicators or estimates as quotas or targets that service providers or referral agents are required or expected to meet.

Figures that are used for estimating supply or staffing needs are also acceptable.

The Tiahrt Amendment: Incentives and Financial Rewards - Program Personnel

The Tiahrt Amendment directs that in family planning projects:

"The project shall not include payment of incentives, bribes, gratuities, or financial reward to: program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning."



Incentives, financial rewards, and anything of value must not be used to encourage program personnel to achieve targets for numbers of births, FP acceptors, or acceptors of a particular FP method.

This restriction in the clause applies when the payment or financial reward is based on achieving a target or quota expressed as a "predetermined number."

This part of the provision applies to "**program personnel**," which is a broader term than the service providers and referral agents referenced under the targets/quotas provision. The focus is still on the service delivery project, but it also includes people who manage or perform other functions for an organization that implements a service delivery project. This could include, for example, NGO staff or health facility managers (public or private) who do not deal directly with clients, but who might be held responsible for results.

Note: Result-based financing (RBF) or Performance-based financing (PBF) models will be discussed in more detail later in the course.

Highlight

The key to applying this legal requirement is determining whether an incentive is linked to a predetermined target or quota imposed on a provider or other program personnel.

The Tiahrt Amendment: Incentives and Financial Rewards - Program Personnel (continued)

With respect to program personnel, the Tiahrt Amendment does *not* prohibit:

- Fee-for-service/per-case payments to FP providers;
- Non-financial, small-value items provided across the board to project personnel or to individuals to acknowledge general good performance (e.g., caps, work aprons, backpacks, etc.); or
- Providing special training opportunities or promotions for project personnel who are considered good performers, because any organization will provide training opportunities and promotions for personnel

who are doing their jobs well.

Note: Payments to service providers of voluntary sterilization procedures represent a special case and will be addressed in the Requirements on Voluntary Sterilization section on Policy Determiniation 3.

Highlight

Check out this **report** on performance-based incentives for voluntary family planning service delivery and several innovative program ideas that adhere to the FP legislative requirements. Results-based financing (RBF) or performance-based financing (PBF) models will be discussed in more detail later in the course.

The Tiahrt Amendment: Incentives and Financial Rewards - Individuals/Acceptors

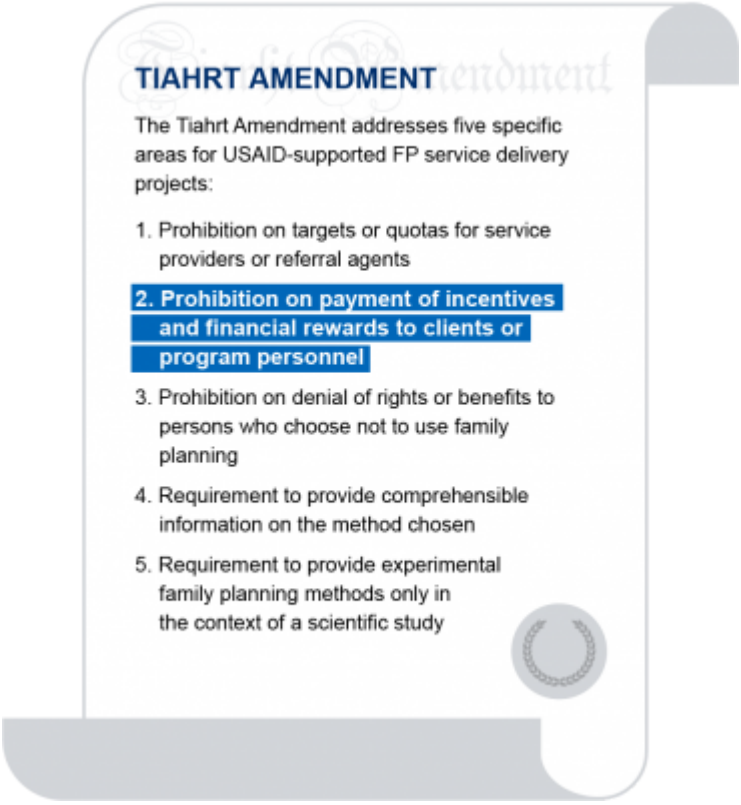
The Tiahrt Amendment directs that in family planning projects:

"The project shall not include payment of incentives, bribes, gratuities, or financial reward to: an individual in exchange for becoming a family planning acceptor."

Incentives, financial rewards, and anything of value must not be used to encourage clients to accept a family planning method.

Under this part of the Tiahrt Amendment, any payment to an individual that is "in exchange for becoming a family planning acceptor" is a prohibited incentive. Providing any incentives in exchange for accepting FP could make clients feel pressured to accept FP.

The Tiahrt Amendment does not prohibit free distribution of methods or selling methods at a price discounted in accordance with normal commercial practices.



Highlight

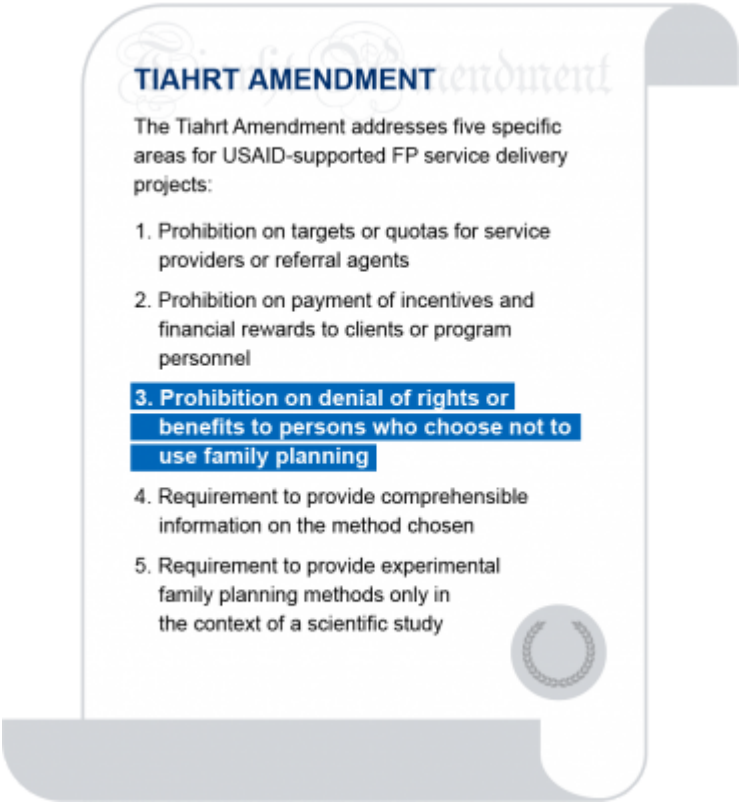
The key to applying this legal requirement is determining whether an incentive is provided to the client *in exchange for* accepting a method

The Tiahrt Amendment: Denial of Rights or Benefits

The Tiahrt Amendment directs that in family planning projects:

"The project shall not deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any individual's decision not to accept family planning services."

Benefits or rights must not be tied to the acceptance of a family planning method. Just as it is prohibited to provide incentives in exchange for accepting FP, projects receiving U.S. assistance for FP *may not penalize those who choose not to use FP.*



Example situations that link a right or benefit with the acceptance of family planning (which are not allowed under the Tiahrt Amendment) could include:

- Denying access to or provision of HIV/AIDS treatment, including antiretrovirals (ARVs), unless clients adopt a family planning method, or a certain type of family planning method;
- Denying access to supplemental food programs for individuals who do not use FP;
- Denying maternal health services after more than a certain number of live births (such as two or three), if the couple/individual does not accept FP; or
- Requiring community health workers to use modern contraception or to have small families.

Highlight

None of the situations bulleted would be allowed under the Tiahrt Amendment because they each link a right or benefit with the required use of FP.

The Tiahrt Amendment: Comprehensible Information

The Tiahrt Amendment directs that in family planning projects:

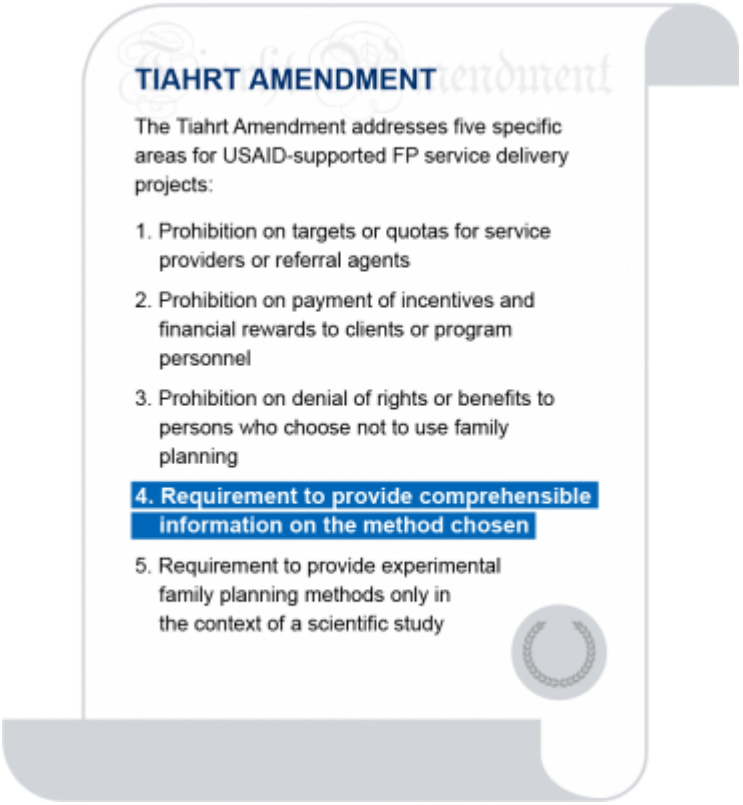
"The project shall provide family planning acceptors comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method."

The comprehensible information requirement of the Tiahrt Amendment applies to the family planning method chosen. This means that once a client makes a decision about a method, the provider should offer more detailed information about that method, including:

- Health benefits of using the method;
- Any risks associated with the selected method;
- Conditions that would make using the method inadvisable (e.g. conditions under which the method should not be used); and
- Known side effects.

Although this legal requirement applies to the method chosen, best practice dictates that providers and referral agents give information about the advantages and disadvantages of a range of methods. Once a method is chosen, the provider should discuss more detailed information about that method.

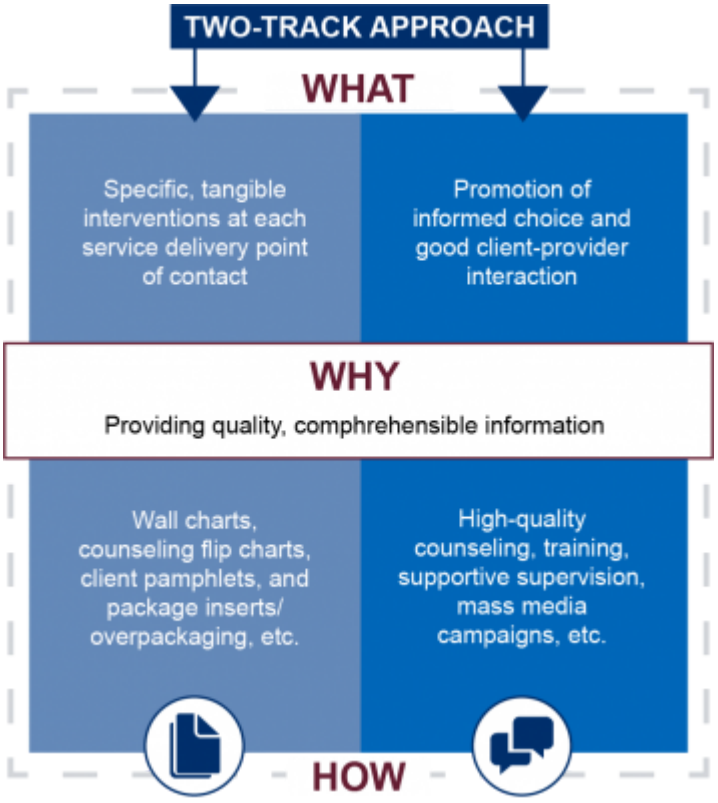
The Tiahrt Amendment: Comprehensible Information (continued)



The comprehensible information requirement may be satisfied in a variety of ways, including, but not limited to, counseling, posters, brochures, or package inserts.

Recognizing that the quality of FP information goes beyond the Tiahrt provision, USAID recommends a "two-track" approach that incorporates:

- Specific, tangible interventions at each service delivery point of contact (e.g. wall charts, counseling flip charts, client pamphlets, and package inserts/overpackaging).
- Promotion of informed choice and good client-provider interaction (through training, supervision, counseling, mass media campaigns, etc.). Ideally the communication is interactive, where the provider offers information, listens to the client, answers specific questions, and tries not to burden the client with more information than is useful.



Highlight: "Do You Know Your Family Planning Choices?" Wall Chart

"Do You Know Your Family Planning Choices?", also called the "Family Planning Wall Chart" or the "Tiahrt Chart," was adapted from *Family Planning: A Global Handbok for Providers* and contains key information for clients about contraceptive methods and options.

It is recommended that all health facilities receiving USAID FP support display the wall chart in an area acessible to clients – this is one way to provide comprehensible information. However, the display of the poster is *not a substitute for good counseling,* which programs should continue to promote.

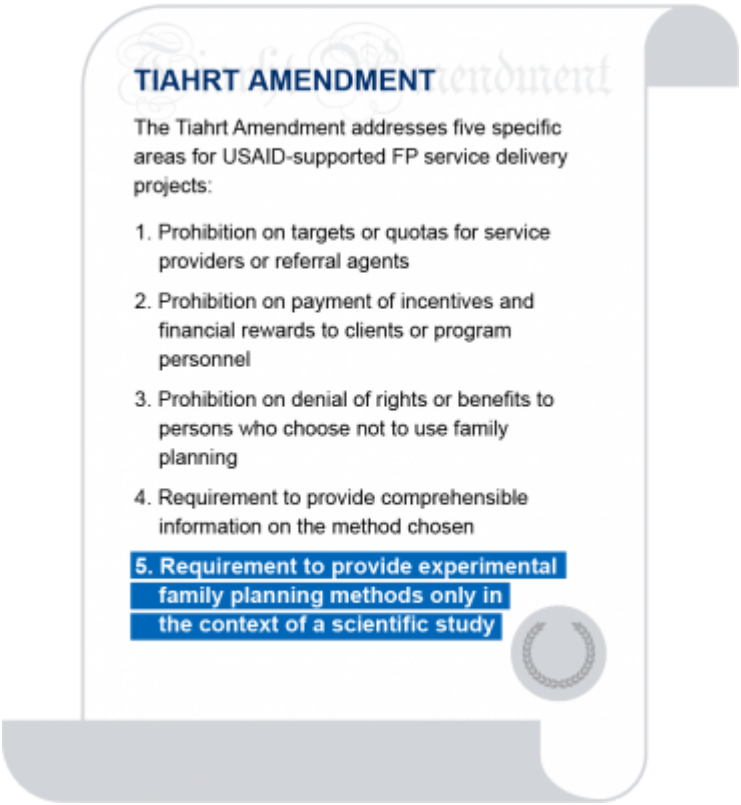
The Order Form for the 2018 edition page provides information on how to order this wall chart in various languages, and countries are also encouraged to create local adaptations.

The Tiahrt Amendment: Experimental FP Methods

The Tiahrt Amendment directs that in family planning projects:

"The project shall ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits."

USAID support for any research on experimental contraceptive drugs, devices, and medical procedures must be carried out in accordance with the Tiahrt Amendment and regulations regarding research on human subjects (set forth in 22 CFR 225). The Agency implements policies on Protection of Human Subjects in Research Supported by USAID in ADS 200.



Did You Know?

USAID was involved in developing nearly every modern contraceptive method available today.

Reporting Violations of the Tiahrt Amendment

The Tiahrt Amendment specifically requires that violations be reported to the U.S. Congress.

USAID must report a *single* violation of the requirements of the Tiahrt Amendment related to targets or quotas, incentives to clients or program personnel, denial of benefits, or use of experimental methods.

In the case of the comprehensible information requirement, USAID must report a *pattern or practice* of violations of the requirement.

Implementing partners should reach out to their appropriate USAID contact regarding concerns about a single instance of any prohibited quotas, incentives, withholding benefits, and experimental activities. For the comprehensible information proviso, USAID should be notified about violations in a project affecting a number of people over a period of time that would raise concern about whether there is a systemic problem in the project. Suggested procedures for investigating and reporting problems will be discussed further in the Ensuring Compliance session.

In the case of the Tiahrt Amendment, the USAID Administrator is responsible for making the determination that a Tiahrt violation has occurred and sending notification to Congress. USAID must submit a report to Congress describing the violation and corrective actions taken to address it. From the time the Tiahrt Amendment was enacted in 1999 through 2020, six violations have been reported to Congress.

Did You Know?

Although the intention of the Tiahrt Amendment is to promote voluntarism and prevent coercion in FP programs, the legislation does not require proof that a situation is coercive in order to determine that a violation occurred.

Actual Violations of the Tiahrt Amendment

Since 1999, there have been six violations of the Tiahrt Amendment. In each case, immediate and longer-term corrective actions were taken to address the violation, and USAID notified the U.S. Congress as required by statute. The information below provides a brief overview of these situations:

1. Peru (2001, incentives to clients, denial of benefits)
2. Guatemala (2006, targets and incentives to referral agents)
3. Philippines (2006, targets for service providers)
4. Egypt (2010, targets for referral agents)
5. Bangladesh (2012, incentives to clients)
6. Pakistan (2017, targets for referral agents)

Through these experiences, USAID/Washington and missions have learned important lessons about preventing future violations of the voluntarism and informed choice requirements:

- **Monitoring is crucial** to prevent and respond to vulnerabilities and violations. Monitoring should be done regularly and on an ongoing basis.
- It is important to **know your programs and ask questions**. Be aware of any organizational changes, changes in government policies, new programmatic approaches, or other shifts that could impact compliance with the USAID requirements.
- **Know your responsibilities**. Both USAID staff and implementing partner staff need to know their responsibilities in the areas of prevention, monitoring, and response procedures.
- For implementing partners, **communicate regularly** with USAID and sub-grantees. If you have questions about the applicability of the requirements, please contact the Agency and seek additional guidance.

FP Voluntarism and Informed Choice Requirements: Range of Methods

There are two additional legislative requirements – the DeConcini and Livingston Amendments – that relate to ensuring clients have access to a range of family planning methods. Like the Tiahrt Amendment, these two requirements apply to FP service delivery activities.

The **DeConcini Amendment** states that *"funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services."*

Clients should be able to choose from a range of FP methods, so they can choose the method best for them.

If all methods are not available at one service delivery site, clients should be given information about and/or referred to other sites.

FP Voluntarism and Informed Choice Requirements: Range of Methods (continued)

The **Livingston Amendment** provides that *"in awarding grants for natural family planning...no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning...; and, additionally, all such applicants shall comply with the requirements of the [DeConcini Amendment]."*

A USAID-supported projected that includes only natural family planning must still offer a range of FP methods through information or referral in compliance with the DeConcini Amendment.

Additional Requirements

The Kemp-Kasten Amendment and Additional Provision 1 apply to all foreign assistance funds (i.e., not only funds for FP activities).

The **Kemp-Kasten Amendment** states that no foreign assistance funds "*may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization.*"

Additional Provision 1 states that no foreign assistance funds *"may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilization."*

Did You Know?

The **chart** shown in the introduction of this course can serve as a one-page guide for all of the Family Planning Requirements.

Ensuring Voluntarism and Informed Choice: Selected Cases

It is important for missions and partners to be aware of certain situations in which questions about complying with the voluntarism and informed choice requirements may arise.

The next section will cover the following selected cases:

- Family planning commodities
- Results-based financing
- Social marketing

Selected Cases: Family Planning Commodities

The voluntarism and informed choice requirements, including the Tiahrt Amendment, apply to any service delivery site that receives USAID-donated contraceptives. *This is the case even if the site does not receive any other form of FP assistance from USAID.*

If FP commodities procured by or paid for by USAID are donated to a country's national supply, then the Tiahrt Amendmend applies to all service delivery sites (public or private) that receive those commodities. If the logistics management system is able to identify which sites do and do not receive USAID commodities (e.g., if other donors or the government also contribute to the pool), then the Tiahrt requirements apply only to those facilities receiving USAID-donated commodities.

It is essential for USAID missions and recipients of the FP commodities, which may include NGOs or the Ministry of Health, to understand where USAID support is going and their subsequent responsibilities for ensuring sites receiving USAID FP commodities comply with the FP requirements.

Selected Cases: Results-Based/Performance-Based Financing

Results-based or performance-based financing (RBF/PBF) approaches in health link payment to the achievement of predefined health results. There is considerable opportunity, through RBF/PBF, to stimulate quality FP counseling and increase access to and availability of voluntary FP. At the same time, the introduction of incentives that support voluntary and informed choice requires careful design and ongoing monitoring.

USAID-supported RBF/PBF programs should consider the applicability of the U.S. FP requirements, including the Tiahrt Amendment, as well as several issues related to the design and implementation of results- or performance-based programs.

Glossary Term:
Performance-based financing

> **Key Message**
>
> Family planning can be incorporated into RBF/PBF schemes in ways that protect voluntarism and informed choice and are in compliance with the U.S. FP requirements.

Selected Cases: Results-Based/Performance-Based Financing (continued)

In particular, while incentives can be a potentially powerful tool, it is critical to consider the purpose of the incentives and monitor intended and unintended consequences. As a result, the nature of the FP indicators and how they are used, as well as conditions for payments, must be carefully considered.

Supply-Side RBF/PBF Schemes

An RBF/PBF supply-side initiative, which works to affect the performance of providers of healthcare services (e.g., doctors, nurses, community health workers), must ensure that:

- **Individual service providers or referral agents** are not assigned or required to meet targets of total number of births, number of FP acceptors, or acceptors of a particular FP method
- **Program personnel** do not receive incentives or financial reward for meeting targets of total number of births, number of FP acceptors, or acceptors of a particular FP method

Demand-Side RBF/PBF Schemes

RBF/PBF initiatives, especially those which include demand-side activities that work to affect the health behavior of clients, must also ensure that **individuals or clients** do not receive incentives or financial rewards in exchange for becoming an FP acceptor.

Selected Cases: Results-Based/Performance-Based Financing (continued)

USAID's Global Health Bureau supported the report, "Performance-Based Incentives: Ensuring Voluntarism in Family Planning Initiatives" (2010), which identifies several relevant mechanisms to incorporate FP into RBF/PBF. The report explores a wide range of RBF initiatives and examines the incorporation of FP activities,

provider and client payment examples, impacts when available, and lessons that hold relevance for other health service delivery settings.

The following table includes some best practices to consider when including FP in PBF programs:

Sub-national or national level	✓ Do consider opportunities to link fiscal transfers from national to sub-national levels of government to results related to population coverage of specific methods, counseling and education, improved quality, and increased access.
Health facility, health team, or NGO level	✓ Do consider rewarding the availability of a wide range of methods. Do consider rewarding facilities or teams to attain performance objectives, such as number of clients counseled. Health facility or team targets or goals should not be distributed to health care providers as individual targets. Please note: health facilities and teams have more than one health worker. For facilities with one health worker, refer to the guidelines for individual health workers. Do include family planning counseling as a component of antenatal and postnatal care indicators. Do reward performance indicators that combine family planning services provided and measures of family planning quality. ⚠ Don't compensate for delivery of specific family planning methods with payments that are out of line with payments for other services, as this may lead to coercive behavior.
Individual health worker level	✓ Do consider paying health providers reasonably for family planning services that include quality counseling as well as provision of a method. This includes compensation for services delivered to voucher clients. ⚠ Don't compensate for delivery of specific family planning methods with payments that are out of line with payments for other services, as this may lead to coercive behavior. Don't reward health providers for achieving a target number of family planning users or users of a particular family planning method.
Individual client level	✓ Do consider offering clients the opportunity to purchase coupons/vouchers (at full or subsidized prices) for a package of services that includes family planning. Client payments for the purchase of vouchers promote voluntary family planning choice and acceptance and can enable clients to receive services from providers they prefer, either public or private. Do consider offering compensation to clients for transportation to health education sessions and family planning counseling. Do consider reducing financial barriers for voluntary sterilization clients to make the method readily accessible. ⚠ Don't pay clients or give them any benefits in exchange for accepting a method. Don't deny clients a benefit if they choose not to accept family planning.

Selected Cases: Social Marketing - Overview

Social marketing in family planning programs makes contraceptive products accessible and affordable through private-sector outlets, such as pharmacies and shops, while using commercial marketing techniques to achieve specific behavioral goals.

Social marketers combine product, price, place (distribution), and promotion to maximize use of specific health products among targeted population groups. Programs often include specially branded products, such as condoms and oral contraceptives, that are sold at private clinics and pharmacies.

In ensuring voluntarism and informed choice in social marketing programs, it is important to keep several considerations in mind. The Tiahrt Amendment applies to FP service delivery projects that work directly with a potential acceptor.

In social marketing programs, sales targets for specific methods are often established for contraceptive manufacturers, distributors, and retailers.

Glossary Term:
Social marketing

Selected Cases: Social Marketing

Retailers

Retailers (e.g., pharmacies) do provide FP services to people and conduct "service delivery projects" covered by the Tiahrt Amendment if they receive USAID FP support.

Retailers can include pharmacies, shops, community-based distributors, private health care providers/outlets, kiosks, and community health workers – all of which provide FP services to people.

Retailers therefore conduct service delivery projects that are subject to the voluntarism and informed choice requirements, if they receive USAID support for FP.

- Sales targets and sales commissions would not violate the requirements unless they are imposed on the retailer's employees (service providers) and do not reflect normal commercial practices (but rather are designed to achieve or affect a predetermined number of births, FP acceptors, or acceptors of a particular method).
- Lower price incentives for certain FP products passed down to the acceptor from distributors and retailers do not violate the requirements. However, FP commodity retailers should take care that quality FP counseling and information has been provided to ensure clients make an informed choice.

Manufacturers and Distributors

The Tiahrt Amendment does not apply to manufacturers and distributors because they *do not* work directly with FP acceptors.

Voluntarism and Informed Choice Requirements Conclusion

You have now completed the Voluntarism and Informed Choice Requirements session. In summary, USAID's family planning programs are guided by the principles of voluntarism and informed choice. Under these principles:

- People have the opportunity to choose voluntarily whether to use family planning or a specific family planning method.
- Individuals have access to information on a wide variety of family planning choices, including the benefits and health risks of particular methods.
- Clients are offered, either directly or through referral, a broad range of methods and services.
- The voluntary and informed consent of any clients choosing sterilization is verified by a written consent document signed by the client.

The next session will cover Requirements on Voluntary Sterilization.

Requirements on Voluntary Sterilization

Introduction to Voluntary Sterilization Requirements

Voluntary sterilization (VS) is a highly personal, permanent surgical procedure. As such, USAID support for voluntary sterilization must ensure basic conditions and respect the USAID safeguards established to protect the needs and rights of individuals.

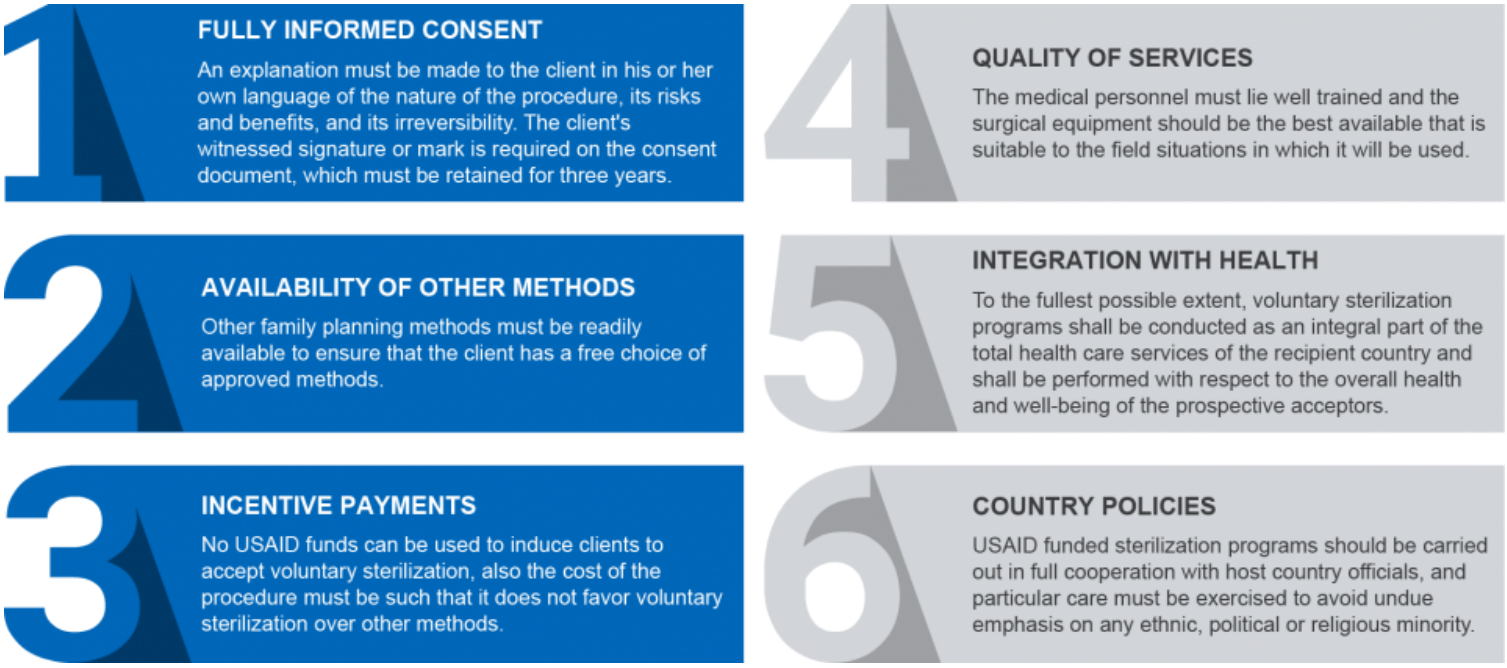
In providing support for sterilization services, USAID has demonstrated long-standing and complete commitment to the basic principle of voluntary acceptance of family planning methods.

USAID Policy Guidelines on Voluntary Sterilization

USAID has provided key policy guidance on voluntary sterilization in the Annex of the Agency's 1982 Policy Paper on Population Assitance; the guidelines are commonly referred to as Policy Determination 3 (PD-3).

Overview of Voluntary Sterilization Requirements

USAID policy governing the use of Agency funds for sterilization provides that USAID funds can only be used to support voluntary sterilization activities if six conditions are met. This section will focus on the first three key requirements. In addition, the last three components around quality and country-context should be taken into consideration before USAID support is provided for voluntary sterilization activities.



Applicability of PD-3

The provisions of **PD-3** must be followed if USAID funds are used for *whole or partial direct support* of the performance of VS activities. This may include clinical training, provision of VS supplies or equipment, or paying salaries of doctors to perform the procedure.

The provisions of PD-3, particularly related to client incentive payments, apply to the *entirety of a VS program* for which USAID is providing any support. That means that a VS program supported by USAID cannot be supplemented with incentive payments to VS acceptors that may be supported or paid from non-USAID sources.

PD-3 generally would *not* apply in the following situations:

- USAID provides support for FP programs within a country and provision of VS services is not included in the family planning assistance provided in the agreement.
- VS activities are part of a host-country program, but USAID funds are not used to support such services.
- Activities and projects are only peripherally related to provision of VS services (e.g., support for construction of multi-purpose buildings, or broad-based training in reproductive health that includes VS techniques).

Highlight

PD-3 is Agency policy. It is also incorporated by reference into the 1999 Tiahrt Guidance, and the two are often read together, particularly with regard to interpreting whether payments to VS acceptors serve as incentives.

USAID Requirements for Voluntary Sterilization: In-Depth - Informed Consent

Informed consent in the context of VS is defined as *"voluntary, knowing assent from the individual after being advised of the surgical procedures to be followed, the attendant discomforts and risks, expected benefits, the availability of alternative family planning options, the purpose of the operation and its irreversibility, and the option to withdraw consent at any time prior to the operation."*

An individual's consent is considered voluntary if it is based upon the exercise of free choice and is not obtained by any special inducements or any element of force, fraud, deceit, duress, or other forms of coercion or misrepresentation.

Glossary Term:

Informed Consent for Voluntary Sterilization

USAID Requirements for Voluntary Sterilization: In-Depth - Informed Consent (continued)

Implementing organizations are required to document specifically the patient's informed consent for voluntary sterilization. The document should meet the following criteria:

- Cover the topics addressed in the definition of informed consent on the previous page (risks, benefits, other FP options);
- Be written in a language that the patient understands and speaks; and
- Be signed by the individual and by the attending physician (or authorized assistant).

When a patient is unable to read a written certification adequately, the basic elements of informed consent must be presented orally and this must be acknowledged by the patient's mark, as well as that of a witness, on the certification. The witness should be of the same sex and speak the same language as the patient.

Copies of written informed consent forms for each VS procedure must be retained by the operating medical facility, or by the host government, for three years.

Highlights

Note that ***informed consent*** and the ***consent form*** are not one and the same. Informed consent is a process of counseling and communication between the client and provider, in which signing the consent form is the final step before the procedure. Having a patient merely sign the form without such counseling would be unacceptable.

USAID Requirements for Voluntary Sterilization: In-Depth - Ready Access to Other Methods

Where VS services are made available, other means of family planning should also be readily available at a common location (e.g., on-site, or nearby service site), thus enabling a choice on the part of the acceptor.

This allows the client to readily choose other methods of FP, if they decide not to accept voluntary sterilization services.

USAID Requirements for Voluntary Sterilization: In-Depth - Incentive Payments

Similar to the Tiahrt Amendment, PD-3 prohibits the payment of incentives to potential acceptors of voluntary sterilization. However, the policy recognizes that not all forms of compensation act as incentives.

PD-3 provides guidance on certain types of compensation or reimbursement - to acceptors, service providers, and referral agents - that do not operate as incentives for sterilization. The underlying principle is that compensation should not in any way serve as an incentive to accept, provide, or refer for sterilization services, but can be used to reduce barriers by reimbursing reasonable costs of the procedure.

There have been many changes in the design and implementation of VS programs since PD-3 was revised in 1982. Although USAID recognizes that compensation for VS clients and per case/client compensation for service providers or referral agents may not be the norm in many country programs, the PD-3 guidance remains helpful for reviewing those programs where these forms of compensation are utilized. Each of these situations will be reviewed in detail in the following pages.

Compensation to Clients

No USAID funds can be used to pay potential acceptors of sterilization to induce their acceptance of VS, or to support VS programs that include incentive payments to potential acceptors (paid from other sources).

Determination of what constitutes an incentive must be made locally, based on thorough knowledge of social and economic circumstances of potential acceptors. In general, **reimbursement (in cash or in kind) to acceptors for legitimate, extra expenses related to VS program services is not considered an incentive payment** when it is aimed at making VS services equally available at the same cost as other contraceptive services (i.e., reducing financial barriers). Examples of such expenses might include:

- Transportation to and from the procedure
- Food during confinement
- Medicines related to the procedure
- Surgically related garments
- Value of lost work during recovery

This reimbursement must be of a *reasonable* nature. For example, payment for lost work must correspond to a reasonable estimate of the value of lost labor over a reasonable duration of convalescence.

Did You Know?

The USAID mission in-country is responsible for making the determination of whether compensation related to VS services is reasonable.

Compensation to Service Providers

Reimbursement of physicians, paramedical, and other service personnel on a per-case basis can be acceptable.

Compensation to providers for items such as anesthesia, personnel costs, pre- and postoperative care, transportation, surgical and administrative supplies, etc. on a per-case basis is generally acceptable.

Where these payments occur, they must be reasonable relative to other medical and contraceptive services provided so that no financial incentive is created for the providers to carry out VS procedures compared to provision of other methods of FP. As with the payments to acceptors, this is a judgment that must be made on a country- and program-specific basis.

Highlight

Even in settings where payment on a per-case basis may be customary, USAID missions are advised to encourage patterns of service delivery and methods of payment which do not unduly emphasize VS procedures compared to other family planning methods.

Compensation to Referral Agents

Where field workers are employed to inform and refer potential FP acceptors, extra expenses incurred in informing and referring VS clients may be compensated on a per-case basis.

For example, a referral agent may need to spend more time in counseling, or make multiple visits, with a client who is considering a permanent method. A referral agent may also accompany a client to the facility for the VS procedure. Thus, a program may be able to justify making different payments to field workers based on the methods they provide or for which they refer.

Again, USAID must make a country- or program-specific determination that the payment is *reasonable* and for *legitimate extra expenses* or activities associated with VS referral.

Restrictions on Abortion

Introduction to Abortion Restrictions

This session will review the legislative restrictions relating to abortion. USAID takes these restrictions very seriously and works with missions and partners to ensure compliance in their programs.

Applicability of the Legislative Abortion Restrictions

The legislative restrictions related to abortion apply to all U.S. foreign assistance funds, not just health funds.

These requirements apply to all entities that receive USAID funding. The legislative abortion restrictions apply only to USAID funds and do not apply to an organization's activities funded from other (non-USG) sources.

These restrictions apply to all entities that receive U.S. foreign assistance funding, including NGOs, governments, and PIOs.

These restrictions are included in mandatory provisions included in all USAID contracts, grants, and cooperative agreements, regardless of which sector or program area the funds are associated with. For example, these restrictions apply to USAID-supported HIV/AIDS, maternal health, health systems strengthening, democracy and governance, and education activities, just as they apply to family planning activities.

A/CORs should work with Agreement Officers and Contract Officers to ensure inclusion of appropriate standard provisions in their prime awards; the requirements must also be flowed down in sub-awards per the terms of the provision.

Legislative Abortion Restrictions

Since the enactment of legislation in 1973, there have been restrictions on using U.S. foreign assistance funds for abortion-related activities.

The **Helms Amendment** (1973) provides that no foreign assistance funds *"may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions."*

USAID implements the Helms Amendment through a mandatory provision, which provides that USAID funds cannot be used for the following activities:

i. procurement or distribution of equipment intended to be used for the purpose of inducing abortions as a method of family planning;

ii. special fees or incentives to any person to coerce or motivate them to have abortions;

iii. payments to persons to perform abortions or to solicit persons to undergo abortions; or

iv. information, education, training, or communication programs that seek to promote abortion as a method of family planning.

The **Leahy Amendment** (1994) provides that *"The term 'motivate,' as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options."* [refers to the Helms Amendment]

These restrictions do not prohibit the provision of information or counseling about all pregnancy options, including legal abortion services.

Legislative Abortion Restrictions (continued)

In addition to the Helms and Leahy Amendments, several other statutes relate to restrictions on U.S. foreign assistance funds relating to abortion:

The **Siljander Amendment** (1981): No U.S. foreign assistance funds *"may be used to lobby for or against abortion."*

The **Biden Amendment** (1981): No U.S. foreign assistance funds *"may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning."*

This restriction does not prohibit epidemiologic or descriptive research to assess the trends in incidence, extent, or consequences of abortions.

Specific questions about research related to abortions should be addressed to your USAID A/COR (for implementing partners) and the USAID/W compliance team (for USAID staff), *before the research activity commences.*

Legislative Abortion Restrictions: Issues to Consider

USAID staff and implementing partners should consider that the subject of abortion can come up in a variety of contexts, such as constitutional or other legislative reform, advocacy activities, or technical or policy meetings.

At the outset of an activity, it is not always possible to predict whether the subject of abortion may come up in activities implemented by your program. USAID staff should discuss the legislative abortion restrictions with implementing partners throughout the life of the award to help ensure awareness of these restrictions. It's important to communicate clearly with colleagues (including non-health staff) and partners about these requirements and their applicability to USAID-supported activities.

Post-Abortion Care: Key Considerations

Post-abortion care, one of the only integrated service delivery models in international public health, provides an integrated package of maternal and child health and family planning services for women having complications from a miscarriage, incomplete abortion, or an induced abortion.

Post-abortion care (PAC), which is defined as emergency treatment for incomplete spontaneous or induced abortion, counseling on and provision of FP options, and community mobilization for PAC, **is permitted under the U.S. government legislative and policy requirements.**

However, USAID policy prohibits the purchase or distribution of manual vacuum aspiration (MVA) equipment for any purpose with USAID assistance. USAID can support PAC programs that include the use of MVA equipment procured through non-USAID sources (e.g., training providers on how to use the equipment for PAC purposes).

PAC services should be clearly distinguished from abortion services in facilities where they are both offered, and in training programs. For other general medical equipment/supplies that could be used for multiple purposes, it should be made clear based on the location of the equipment that the purpose is for PAC – not abortion. This may include labeling equipment ("for PAC only") or designating separate spaces for PAC.

For more information on programming considerations related to PAC, visit the eLearning course on Post-abortion Care.

Glossary Term:
Postabortion Care (PAC)

Highlight

Post-abortion family planning – proactively offering voluntary contraceptive counseling and services at the same time and location where women receive facility-based post-abortion care – is a High Impact Practice. For more information, visit https://www.fphighimpactpractices.org/briefs/postabortion-family-planning/.

Rescission of the Protecting Life in Global Health Assistance (PLGHA) Policy

On January 28, 2021, President Biden issued a Presidential Memorandum revoking the January 23, 2017, Presidential Memorandum (The Mexico City Policy), thereby rescinding the PLGHA Policy. The PLGHA Policy expanded the previous Mexico City Policy to apply to all global health assistance and required foreign NGOs to agree, as a condition of receiving global health assistance, that they would not perform or actively promote abortion as a method of family planning.

As of the date of the Presidential Memorandum, the requirements in the standard provision, “Protecting Life in Global Health Assistance,” are no longer in effect for USAID prime awards and all existing and future subawards.

Implementing partners remain subject to the legislative abortion restrictions, which govern the use of *USAID foreign assistance funds only.*

Ensuring Compliance

Introduction to Ensuring Compliance

This session will review actions that can be taken to ensure compliance with all of the family planning and abortion legislative and policy requirements. These suggested actions will help reduce and address vulnerabilities. Although this section provides guidance, there are no prescribed activities or procedures for prevention, monitoring, and communication strategies because these will vary based on each country and program context.

The session will go over three phases or types of activities:

- **Preventive actions:** identifying possible vulnerabilities, information dissemination
- **Monitoring actions**:field visits, discussions with partners and sub-recipients, knowing your programs
- **Corrective actions**: taking appropriate steps if you encounter or suspect a serious vulnerability or possible violation

Roles and Responsibilities

Everyone involved in an activity has an important role to play in ensuring compliance, although this will certainly vary depending on your responsibilities. *Communication among all actors to define these roles is essential.* As you go through the section, you are encouraged to be thinking about your specific job responsibilities and how these tasks apply to you.

The primary audience for this session is staff working on USAID-supported FP activities; however, because some of the requirements apply to all foreign assistance activities, other staff should consider these tips for ensuring compliance as well.

Preventive Actions

There are many actions that USAID and partner staff can take to help ensure that their programs are in compliance with the family planning and abortion requirements.

Identifying Vulnerabilities

A first step may be to undertake a review of FP activities that receive USAID assistance, with an eye to identifying conditions that could lead to increased vulnerability or a potential violation of one or more of the requirements.

Vulnerabilities generally fall into two categories:

- Those that can be addressed or minimized through some action (e.g., training new staff), or
- Those that are simply part of the context, of which you must be aware and take into account when planning and monitoring FP programs (e.g., the nature and history of host-country government policies related to FP).

Highlight

Particularly for large programs, fully understanding the components and partners involved in implementing FP activities is essential for identifying vulnerabilities and developing a plan to routinely monitor compliance.

Did You Know?

A violation occurs when an action taken directly contradicts legislative or policy requirements. Over time, instances of violations have been relatively rare.

Identifying Potential Vulnerabilities

Country context as well as the content of your program need to be considered carefully when identifying potential vulnerabilities. USAID staff and implementing partners should be aware of these conditions and take action to reduce vulnerabilities and monitor closely for compliance. This list is meant to serve as a starting point for review of programs, but is in no way exhaustive, and should be adapted to fit the local context.

Partner-Country Laws and Policies

- Are there efforts at the national government level to change fertility rates or increase FP use? Are there efforts to increase uptake of or emphasize certain methods of FP?
- Is there a history of targets or coercion in the partner country's FP program?
- Do the host-country government or other stakeholders implement any performance-based financing programs that include health?
- Are clients compensated for costs associated with voluntary sterilization?
- Do local governments have significant autonomy in implementing FP programs (i.e., is it a decentralized environment)?
- Is abortion/menstrual regulation legal or widely available? Is it part of the government's essential package of services? Is legal abortion available at service delivery sites receiving USAID assistance?
- Is there a movement to change the legal status or availability of abortion?

Implementing Partners

- Are there new implementing partners that are implementing USAID-funded FP activities for the first time?
- Have there been changes in implementing partners or their staff?
- Has the partner/project developed a dedicated compliance plan or monitoring plan that includes compliance?

USAID-Assisted FP Programs

- Does the program directly support FP service delivery?
- Does the program provide USAID-funded contraceptive commodities nationwide, or over a large geographic area?

- Does the program include performance-based financing (PBF) components?
- Programmatic areas to carefully review include USAID support for voluntary sterilization activities; post-abortion care activities; social marketing for family planning.
- Does the service package include permanent contraceptive methods?

Ideas in Action

It is helpful to develop a plan to address the specific issues relevant to your program.

Information Dissemination

Ongoing, open communication **with all partners involved in FP activities is essential to ensuring compliance with the FP and abortion requirements.**

It is important to convey information on the requirements from the time a project is being designed through its close-out. In addition, promoting and enforcing high standards of quality of care will often help to prevent many problems.

The content of the relevant FP and abortion requirements should be communicated to, and discussed with, all persons involved in designing, implementing, and managing USAID-supported activities, including the following:

- **Health staff at USAID missions:** including those whose primary focus might not be FP
- **Non-health staff at USAID missions:** particularly Program Officers, Contracts Officers, and also Democracy and Governance staff
- **Host government officials:** Ministry of Health (central and local levels), local administrative officials
- **US and foreign implementing partners:** headquarters and field offices
- **Staff at clinics:** and in community-based programs receiving FP assistance

The responsibilities for communicating the requirements and restrictions to the different actors should be defined within each program.

Highlight

When working with new implementing partners, including subrecipients, for FP activities, information on all the requirements should be provided to the new partner's staff.

Information Dissemination (continued)

Discuss Compliance

USAID and partner staff should ensure that formal training/orientation on the requirements and restrictions and compliance monitoring responsibilities is provided on a *regular basis* for program implementation staff and frontline service providers. This should be a part of new employee orientation and reviewed periodically with veteran personnel.

It is also important to engage *all stakeholders* (partners, government counterparts, etc.) in specific discussions about what the requirements and restrictions mean for them.

Include Appropriate Clauses

USAID staff and implementing partners should ensure that the *appropriate* clauses are included in any agreements they make. Implementing partners are responsible for passing down the appropriate clauses to subrecipients and making sure that recipients understand their meaning. A post-award meeting is a good opportunity to review the details of the requirements.

Standard provisions that include the abortion restrictions are set forth in mandatory provisions to be included in all Agency acquisition and assistance instruments with NGOs (regardless of the nature of the activity). Additional standard provisions that include the FP requirements are set forth in supplemental provisions to be included in all Agency acquisition and assistance instruments for FP activities with NGOs. Links to these provisions can be found in the ***References*** tab in the pop-out menu.

For agreements with host governments or public international organizations (e.g., such as United Nations entities), USAID staff must review the relevant ADS chapters and consult with their Resident Legal Officer or General Counsel attorney to determine the appropriate standard provisions for the agreements.

> **Highlight**
>
> Translated copies of the relevant texts can be provided as appropriate and several translated materials are available on the USAID website.

Monitoring Actions

USAID staff, implementing partners, and government counterparts *all* have a role to play in ensuring compliance with the family planning and abortion requirements.

Compliance monitoring can be worked into regular field visits and discussions with partners, including the government and other donors. The key is to be aware of potential issues and able to recognize vulnerabilities if encountered.

Monitoring the issues surrounding voluntarism and informed choice should be included in all program field visits where FP activities are taking place. Staff should carefully consider the best way to integrate monitoring for the abortion restrictions into routine program monitoring, as these requirements apply to all foreign assistance funds. It is a good idea to include these elements in a trip report checklist to remind people of what they should be looking for and asking about.

In addition to looking for objectively verifiable situations, it is necessary to be aware of *perceptions* among program managers, clients, and providers that may suggest potential vulnerabilities. Opportunities for discussion and observation can present themselves in many forms.

Monitoring Actions (continued)

The establishment of prohibited targets and the use of incentives or rewards for achieving targets may not be formally acknowledged or documented. Special efforts should be made to interview program managers, frontline providers, referral agents, and clients during site visits, as well as non-clinic-based service delivery points, such as community-based distribution or social marketing activities.

Open-ended, yet specific questions often elicit the most useful information. Examples include:

- How is staff performance evaluated? Is achievement of numerical goals a criterion?
- How are staff compensated (fixed salary, per-case payments, bonuses)?
- What kinds of information do you give clients about the contraceptive methods they choose?
- Do you ever give anything to FP clients, besides counseling and products? If yes, what?
- (To clients) How did you decide which method to use?

Did You Know?

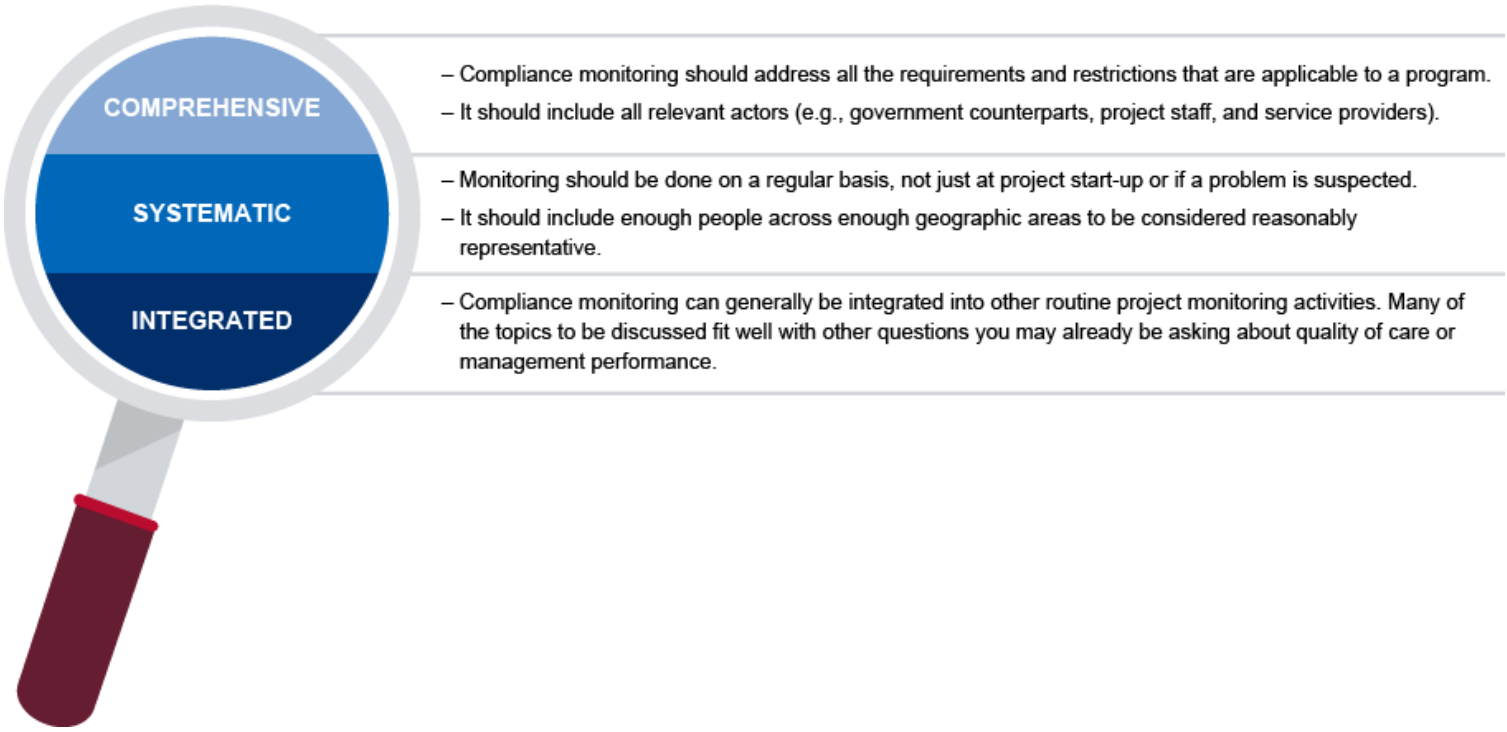
Observation of client counseling sessions (with the client's permission) can give insight into the information that is provided on the different methods and the method chosen.

Review of clinic records (particularly informed consent forms and financial records that might indicate the use of incentives) is also useful.

Trip reports should include a summary of questions asked, responses given and observations made, as well as any recommendations for follow-up.

Monitoring Tips

The design and content of compliance monitoring will depend on the specifics of the program. However, some principles are relevant for most situations. In general, a compliance monitoring plan/strategy should be comprehensive, systematic, and integrated. USAID and partners should discuss the results of these monitoring activities on a regular basis.



Highlight

Both USAID missions and implementing partners should have monitoring plans in place.

Documentation

All efforts to ensure compliance with the FP and abortion requirements should be *documented and maintained* in a specific file. This is important documentation that shows the steps that have been taken to comply with the laws and policies.

The **compliance file** might include:

- Copies of all the relevant laws/policies;

- Notes on briefings for partners (including dates, participants, and summary of key points);
- Copies of presentations and handouts;
- Correspondence, meeting minutes, internal memos;
- Questionnaires used during field visits;
- Reports on monitoring visits (including dates, sites visited, and summary of results);
- Notation of planned monitoring visits that were not made and the reason for rescheduling (e.g., not approved for travel, inclement weather/conditions, etc.); and
- Documentation of any changes recommended and progress on their implementation.

Highlight

Developing a specific file for documentation of monitoring activities is important for demonstrating attention to compliance with the FP requirements and restrictions.

Highlight

Be sure to document all monitoring efforts, including both those that reveal vulnerabilities and those that do not.

If You Suspect a Vulnerability or Violation

Allegations about vulnerabilities or potential violations of any of the FP and abortion requirements may come from a variety of sources and may be made to USAID overseas or USAID in Washington, as well as to USAID-funded implementing partners.

Missions are required to develop procedures for responding to potential vulnerabilities and violations of the family planning and abortion requirements.

If you suspect or receive a report about a vulnerability or a potential violation, three steps should be taken:

1. Inform
2. Investigate
3. Correct

In all cases, partners should inform USAID immediately of any potential problems and work closely with USAID to investigate and correct the situation as appropriate.

Highlight

It is important to maintain open communication. All interested parties should work together to resolve the problem.

If You Suspect a Vulnerability or Violation - Inform

If you have a concern about a vulnerability or potential violation in a USAID-supported program, *inform the appropriate persons*. In most cases the Agreement/Contracting Officer's Representative (A/COR) and/or the Health Officer in the mission should be notified first, along with project leadership.

If a potential violation is identified, mission staff should inform mission leadership, the Resident Legal Officer, and USAID in Washington at an early stage and keep them informed throughout the process. Specifically, the following entities will become involved: the Bureau for Global Health, Office of Population and Reproductive Health, the appropriate regional bureau, and the Office of the General Counsel. Contact information is listed on the References tab in the pop-out menu.

USAID expects grantees, contractors, and recipients to maintain records about alleged violations, verification, and corrective action taken, and to exercise reasonable judgment in reporting these alleged violations to the Agency.

If You Suspect a Vulnerability or Violation - Investigate

Information gathering is key for figuring out the problematic parts of a situation, and all of the basic questions should be addressed: *Where? When? Who? How? Why?* The application of many of the requirements is very dependent on the situation, so it is often necessary to look further into the circumstances of an issue before determining if a problem exists, and the extent of the problem.

The following steps should also be taken:

- Review the credibility/legitimacy of an allegation or report.
- Determine the magnitude of the problem. For example, if a problem is found in one location, check to see if the same situation exists in other locations where the project works.
- Designate a point person on the project or in the office to keep track of the process.
- Document the information gathering and process and findings.

If You Suspect a Vulnerability or Violation - Correct

As soon as a vulnerability or potential violation is discovered, action should be taken to correct the problematic situation. When a vulnerability (but not violation) is identified, steps should be taken to reduce the vulnerability where possible and to monitor the situation closely to ensure that a violation does not occur.

When an actual violation is identified, USAID seeks immediate corrective action to ensure that the practice ceases, and complies with all applicable reporting requirements. Further corrective actions may also be required (e.g., systems strengthening, training, policy changes, or termination of support).

Note, however, that even if a problem has already been corrected, USAID should still be informed as soon as possible.

In addition, violations of the Tiahrt Amendment must be reported to Congress together with a description of the corrective action taken by the Agency.

Highlight

All actions taken should be thoroughly documented.

Remember that violations of the Tiahrt Amendment are required to be reported to Congress.

For Further Information

There are several ways to get more information about the FP and abortion requirements.

Implementing partners should contact their A/COR first. USAID/Washington also has a **Compliance Team** made up of people from the Bureau for Global Health, the Regional Bureaus, and the Office of the General Counsel who are experts in these subjects.

In addition, many organizations have significant experience with implementing and monitoring the FP requirements. **Exchanging information with peers** is a good way to share lessons learned.

Did You Know?

Contact information for the Compliance Team can be found in the References tab in the pop-out menu.

Case Study

Introduction to Case Study

The following case study will help you apply what you have learned about the laws and policies to a specific situation.*

The scenario is followed by a set of questions to help you think about which requirements apply and whether this situation presents possible violations. The answers to these questions are based on information given in the first five sessions of this course.

Please note that in real life every situation is different. The interpretation of the family planning laws and policies is very situation-specific – one small detail can change the way things are viewed.

If you find yourself facing a situation that you are not sure about, you should contact your project's A/COR and/or one of the resource persons listed in the Reference tab in the pop-out menu.

**The scenario presented is fictitious and not intended to serve as guidance for any particular program or situation.*