

For the reasons set out in the preamble, USAID establishes the following Directive:

Categorical Exclusions for Domestic Internal Operational Activities

Purpose: Establish National Environmental Policy Act (NEPA)-compliant Categorical Exclusions for certain United States Agency for International Development (USAID) domestic internal operational activities.

Policy: Consistent with the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508) (CEQ NEPA regulations), USAID establishes the following Categorical Exclusions for certain categories of internal, domestic USAID Operating Expense (OE) account-funded activities that address routine internal administrative and operational activities. A proposed action may be categorically excluded if the action fits within a category that is eligible for exclusion and the proposed action does not involve any extraordinary circumstances.

The categories of activities eligible for Categorical Exclusions are:

a. Internal personnel, fiscal, management, and administrative activities, such as recruiting, processing, paying, recordkeeping, resource management, budgeting, personnel actions, official travel, and reductions, increases, realignments, or relocation of personnel that do not exceed the infrastructure capacity or change the use of USAID occupied office space. An example of a substantial change in use of the supporting infrastructure would be an increase in vehicular traffic beyond the capacity of the supporting road network to accommodate such an increase; or generating a new stream of toxic or hazardous waste that needs to be properly disposed of.

b. Actions at USAID owned or operated facilities involving routine facility maintenance, repair, and grounds-keeping; minor rehabilitation, restoration, renovation, or revitalization of existing facilities; and replacement, acquisition, and installation of information technology and similar office equipment. To qualify for this Categorical Exclusion, all such acquisition actions shall comply with the Presidential Executive Orders on Greening the Government. This includes E.O. 13423 and related Executive Orders.

c. Acquisition actions (compliant with applicable procedures for sustainable or “green” procurement) and contracting actions necessary to support the normal conduct of USAID business. Examples

include office supplies and utilities, and equipment such as furniture, and information technology software and systems. To qualify for this Categorical Exclusion, all such acquisition actions shall comply with the Presidential Executive Orders on Greening the Government. This includes E.O. 13423 and related Executive Orders.

d. Minor or small-scale construction of ancillary facilities on previously disturbed areas adjacent to or on the same property as the existing facility and compatible with current land use. To qualify for this Categorical Exclusion, all such acquisition actions shall comply with the Presidential Executive Orders on Greening the Government. This includes E.O. 13423 and related Executive Orders.

e. Awarding of contracts for technical support services, information technology services, and services for ongoing management and operation of government facilities. To qualify for this Categorical Exclusion, all such actions shall comply with the Presidential Executive Orders on Greening the Government. This includes E.O. 13423 and related Executive Orders.

It has been determined that the following extraordinary circumstances that would prevent the use of a Categorical Exclusion and require either an Environmental Assessment or Environmental Impact Statement:

a. The proposed action is known or expected to significantly affect public health, safety, or the environment.

b. The proposed action is known or expected to impose uncertain or unique environmental risks.

c. The proposed action is of greater scope or size than is normal for this category of action.

d. The proposed action is known or expected to significantly affect federally listed threatened or endangered species or their critical habitat.

e. The proposed action is known or expected to significantly affect national natural landmarks or any property with nationally significant historic, architectural, prehistoric, archeological, or cultural value, including but not limited to, property listed on or eligible for the National Register of Historic Places.

f. The proposed action is known or expected to significantly affect environmentally important natural resource areas such as parks, forests, wetlands, floodplains, significant agricultural lands, aquifer recharge zones, coastal zones, coral reefs, barrier islands, wild and scenic rivers, and significant fish or wildlife habitat.

g. The proposed action is known or expected to cause significant adverse air quality effects.

h. The proposed action is known or expected to have a significant effect on the pattern and type of land use (industrial, commercial, agricultural, recreational, residential) or growth and distribution of population including altering the character of existing residential areas, or may not be consistent with state or local government, or federally-recognized Indian tribe approved land use plans or federal land management plans.

Applicability: This Directive applies to USAID domestic internal operational and administrative activities, including USAID ARRA-funded actions to develop and implement its new computer based acquisition and assistance system to manage contracting and granting activities. The Directive is effective immediately upon publication, and USAID will consider comments submitted on this Directive when developing its proposed NEPA regulation for Operating Expense-funded activities.

Responsibilities: The USAID Agency Environmental Coordinator (AEC) is responsible for NEPA policy, guidance and oversight relating to this Directive. The AEC will receive advice and guidance from the Office of General Counsel as to NEPA implementation and compliance with this Directive. USAID’s Chief Information Officer (CIO) is responsible for reporting to CEQ and OMB on the status of ARRA funded activities.

George Higginbotham,
M/MPBP/POL.

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; Andrew Ward Freyer

In the Matter of: Andrew Ward Freyer,
54325 Oak Hill, La Quinta, CA 92253.

Order Denying Export Privileges

On December 17, 2007, in the U.S. District Court of Central District of California, Freyer was convicted of five counts of violating the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)) (“IEEPA”) and one count of conspiracy (18 U.S.C. 371 (2000)), involving exporting, reexporting, selling and supplying valves from the United States to Iran, through Australia without first

obtaining the required authorization from the U.S. Department of Treasury, Office of Foreign Assets Controls. Freyer was sentenced to be imprisoned for 17 months and upon release from imprisonment be placed on probation for 2 years. In addition Freyer was fined \$10,000.00. He was released from prison on April 21, 2009.

Section 766.25 of the Export Administration Regulations (“EAR” or “Regulations”)¹ provides, in pertinent part, that “[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the [Export Administration Act (“EAA”)], the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).” 15 CFR 766.25(a); see also Section 11(h) of the EAA, 50 U.S.C. app. § 24 10(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); see also 50 U.S.C. app. § 24 10(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security’s Office of Exporter Services may revoke any Bureau of Industry and Security (“BIS”) licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Freyer’s conviction for violating the IEEPA, and have provided notice and an opportunity for Freyer to make a written submission to BIS, as provided in Section 766.25 of the Regulations. I have received a submission from Freyer. Based upon my review and consideration of that submission, my consultations with BIS’s Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Freyer’s export privileges under the Regulations for a

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2009). The Regulations are issued pursuant to the Export Administration Act (“EAA”), which is currently codified at 50 U.S.C. app. § 2401–2420 (2000). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 13, 2009 (74 FR 41,325 (August 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)).

period often years from the date of Freyer’s conviction.

Accordingly, it is hereby *Ordered*

I. Until December 17, 2017, Andrew Ward Freyer with an address at: 54325 Oak I–Jill, La Quinta, CA, 92253, and when acting for or on behalf of Freyer, his representatives, assigns, agents, or employees, (collectively referred to hereinafter as the “Denied Person”) may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that

has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Andrew Freyer by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order if necessary to prevent evasion of the Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until December 17, 2017.

VI. In accordance with Part 756 of the Regulations, Freyer may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to Freyer. This Order shall be published in the **Federal Register**.

Issued this 1st day of September 2009.

Bernard Kritzer,

Director, Office of Exporter Services.

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; Bertrand Lalsingh

In the Matter of: Bertrand Lalsingh, 4252 Stirling Rd., Hollywood, FL 33021.

Order Denying Export Privileges

On February 8, 2008, in the U.S. District Court for Southern District of Florida, Bertrand Lalsingh (“Lalsingh”) pled guilty to, and was convicted of, violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2000)) (“AECA”). Lalsingh pled guilty to