



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

September 20, 2024

Via Email

[Requestor]

[address]

Re: Request for Advisory Opinion Pursuant to 28 C.F.R. § 5.2

Dear [Requestor]:

We write in response to your email message of August 14, 2024 (“August 14 Email”), which you supplemented by email on August 16, 2024 (“August 16 Email”), requesting an advisory opinion pursuant to 28 C.F.R. § 5.2 concerning your possible obligation to register under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (“FARA” or “the Act”) for activities you may engage in on behalf of [Foreign Person], who is the wife of [Foreign Government Official] of [Foreign Government]. After careful consideration of your request and in light of your representations in the August 14 and 16 Emails, for the reasons stated below, we conclude that you would not be required to register under the Act for the proposed activities.

1. Factual Background

According to the August 14 Email, you propose to serve as a private consultant to a charitable foundation and the private office of [Foreign Person]. In pursuing this consultancy, you would visit [Foreign Country] to develop a visual “brand” and brand narrative (such as a tagline for her charity) for the client to support her domestic charitable activities and partnerships. Services would also include message-testing (polling) in the [Foreign Country] market. You state that you would conduct all the proposed work within [Foreign Country] and none of the work would be intended to reach the U.S. public or policymakers.

The August 16 Email indicates that there is not yet a contract or memorandum of understanding between you and [Foreign Person] and provides the following description of your proposed work:

1. **Branding Services:** The Consultant will conduct a comprehensive brand workshop within the [Foreign Country] that will include the principal and her Foundation team that will result in visual brand concepts that have a consistent tone, voice, color, and value proposition for domestic stakeholders (citizens, partners, project participants).
2. **Planning:** The Consultant will advise on how the brand can be reflected across multiple health, education, and scientific, and heritage-related projects and partnerships across the [Foreign Country]. The Consultant may also provide guidance on art and design consultants to hire.

3. Research: The consultant proposes to identify and oversee a discreet research capability to test the brand with local audiences

In the August 14 Email, you explain that you would not “execute” on any of the proposed work “through traditional Public Relations/Communications,” noting, for example, that “a web developer could incorporate the color scheme [you] propose into a website” and “a [public relations] firm could incorporate a tagline [you] help develop into a regional press release.” You comment that “any such visual and narrative work could potentially be seen by a U.S. audience once it is deployed by others (not [by you]) and that “[Foreign Person] could seek to develop U.S. partners (in medical, educational, and other charitable spheres) down the road” but that you “would not conduct [that] work [yourself].”

You request an advisory opinion on whether the proposed activities would require you to register under FARA.

II. FARA Analysis

One of FARA’s purposes is to inform the American public of certain activities performed in the United States by agents of foreign principals. FARA defines the term “foreign principal” to include “a person outside of the United States” as well as “a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.” 22 U.S.C. § 611(b)(2) and (3). Because [Foreign Person] resides in and is a citizen of [Foreign Country], she is a foreign principal under the Act. Her charitable foundation and private office would likewise qualify as foreign principals under the Act because they are organizations headquartered in [Foreign Country].

Under FARA, an “agent of a foreign principal” is defined to include:

(1) any person who acts . . . at the order, request, or under the direction or control,^[1] of a foreign principal or of a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal,” and who directly or through any other person:

(i) engages within the United States in political activities^[2] for or in the interests of the foreign principal;

¹ See 28 C.F.R. § 5.100(b) (“As used in the Act, the term *control* or any of its variants shall be deemed to include the possession or the exercise of the power, directly or indirectly, to determine the policies or the activities of a person, whether through the ownership of voting rights, by contract, or otherwise.”).

² The term “political activities” means “any activity that the person engaging in believes will, or that the person intends to, in any way influence any agency or official of the Government of the United States or any section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party.” 22 U.S.C. § 611(o).

(ii) acts within the United States as a public relations counsel,^[3] publicity agent,^[4] information-service employee^[5] or political consultant^[6] for or in the interests of such foreign principal;

(iii) within the United States solicits, collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the interest of such foreign principal; or

(iv) within the United States represents the interests of such foreign principal before any agency or official of the Government of the United States[.]^[7]

While you state that there is currently no contract or memorandum of understanding between you and [Foreign Person], your emails suggest that you would be acting at the request of and under the direction and control of [Foreign Person] in the proposed activities. However, the definition of “agent of a foreign principal” clearly provides that each of the specified activities must occur “within the United States.” Based on your representations in the August 14 and August 16 Emails, your proposed activities will occur exclusively in the [Foreign Country] and would not be directed toward a U.S. audience. You therefore would not be required to register under FARA as long as the contemplated activities are performed in [Foreign Country] and are not intended to influence a U.S. audience.

Please further note that any change in the facts and circumstances you relayed to us may change your status and you could be required to register. If any such change does occur, such as to the location of your activities or their intended audience, please contact us immediately. The present

³ The term “public-relations counsel” includes “any person who engages directly or indirectly in informing, advising, or in any way representing a principal in any public relations matter pertaining to political or public interests, policies, or relations of such principal.” 22 U.S.C. § 611(g).

⁴ The term “publicity agent” includes “any person who engages directly or indirectly in the publication or dissemination of oral, visual, graphic, written, or pictorial information or matter of any kind, including publication by means of advertising, books, periodicals, newspapers, lectures, broadcasts, motion pictures, or otherwise.” 22 U.S.C. § 611(h).

⁵ The term “information-service employee” includes “any person who is engaged in furnishing, disseminating, or publishing accounts, descriptions, information, or data with respect to the political, industrial, employment, economic, social, cultural, or other benefits, advantages, facts, or conditions of any country other than the United States or of any government of a foreign country or of a foreign political party or of a partnership, association, corporation, organization, or other combination of individuals organized under the laws of, or having its principal place of business in, a foreign country.” 22 U.S.C. § 611(i).

⁶ The term “political consultant” means “any person who engages in informing or advising any other person with reference to the domestic or foreign policies of the United States or the political or public interest, policies, or relations of a foreign country or of a foreign political party.” 22 U.S.C. § 611(p).

⁷ 22 U.S.C. § 611(c)(1)(i)-(iv).

[Requestor]
September 20, 2024
Page 4

advisory opinion is expressly limited to the facts and conclusions stated herein.

We will treat your submission in accordance with 28 C.F.R. § 5.2(m). Please contact this office by email to FARA.Public@usdoj.gov or by telephone at (202) 233-0776, if you have any questions.

Sincerely,

/s/ Evan N. Turgeon

Evan N. Turgeon
Chief, FARA Unit