



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

August 6, 2019

Via Email and USPS

[addressee deleted]

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

Dear [name deleted]:

We write in response to your letter of May 10, 2019 (“May 10 Letter”), and attached contract entered into between your company, [US company], and [foreign person]. Your letter seeks an opinion, pursuant to 28 C.F.R. § 5.2(a), with respect to the registration obligations of [US company] under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (“FARA” or the “Act”). Based upon your representations, we conclude that [US company] has a registration obligation under the Act because of certain activities it has agreed to undertake within the United States.

According to your May 10 Letter, [US company] is a Washington, D.C.-based [text deleted] consultancy that focuses on brokering trade and investment linkages between American and [foreign] companies. Your letter further states that [US company] provides strategic guidance, policy advice, and partnership facilitation between U.S. and [foreign] entities to foster business or economic development activities in [continent]. Among its services, your May 10 Letter asserts that [US company] coordinates trade missions, provides linkages for capacity building and management training, and facilitates dialog with businessmen and others from both the U.S. and [foreign countries].

Your May 10 Letter indicates that [US company] entered into a contract with [foreign person] in her capacity as the founder and head of the [foreign foundation], a philanthropic organization based in [foreign country].¹ [Foreign foundation]’s mission focuses on the protection and enhancement of human rights as well as the promotion of education, art, and culture in [foreign country], all with the object of securing a better future for [foreign country]. The May 10 Letter notes that [foreign person] is a member of [foreign country] civil society interested in reaching out to and developing relationships with business, political, institutional, and civil society leaders in [continent] and the U.S., with a view to furthering the objectives of the [foreign foundation].

According to your submission, [US company], under the contract, will advance the objectives of the [foreign foundation]. Services to be provided include:

- preparing outreach strategy to targeted institutions and individuals in the U.S.

¹ [text deleted].

with which the [foreign foundation] can engage on issues of economic development, democracy, and good governance; and

- facilitating introductions/meetings with business leaders in the U.S. focusing on members of the [foreign country] Diaspora or with interests in [foreign country], focusing on technology and innovation.

The contract also has a provision stating that [US company] will not engage in lobbying or contact any U.S. government officials on behalf of the [foreign foundation].

Generally speaking, FARA is a disclosure statute which, absent specific exemptions, requires registration of “agents of foreign principals” who are engaged in “political activities” or other specified activities under the Act. The term “foreign principal” includes “a person outside the United States” and “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(a)(2)-(3).

A party is an agent under the Act if the party acts as an “agent . . . or in any other capacity at the order, request, or under the direction or control” of a foreign principal and “directly or through another person (i) engages within the United States in political activities for or in the interests of such foreign principal.” 22 U.S.C. § 611(c)(1)(i).

The term “political activities” refers to “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 foreign political party.” 22 U.S.C. § 611(o).

With respect to your proposed activities, [foreign person] and the [foreign foundation] are foreign principals under the Act. 22 U.S.C. § 611(a)(2)-(3). Under the terms of the contract, [US company] is acting as an agent of [foreign person and foreign foundation]. *See* 28 C.F.R. § 5.100(b) (term “control” may be demonstrated by contract). A significant portion of the activities to be undertaken in the U.S. by [US company] are “political activities” under the Act because they are meant to influence targeted segments of the American public to assist in bettering the economic, social, and political climate of [foreign country]. Although [US company] pledges not to lobby U.S. Government officials on behalf of the [foreign foundation], its outreach to businesses and individuals in support of economic development, democracy, and good governance in [foreign country], fall squarely within the definition of “political activities.”

Accordingly, we find that [US company] is obligated to register under FARA and to disclose its activities in accordance with FARA’s requirements. Please effect [US company]’s registration within 30 days of the date of this letter.

We will treat your submission in accordance with 28 C.F.R. § 5.2(m). Please contact

[name deleted]
August 6, 2019
Page 3

[name deleted], or me, by telephone at 202-233-0776, if you have any questions.

Sincerely,

Brandon L. Van Grack
Chief, FARA Unit