



U.S. Department of Justice

National Security Division

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Counterintelligence and Export Control Section

Washington, DC 20530

December 10, 2019

**By FedEx**

[addressee deleted]

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

Dear [name deleted]:

This is in reference to your letter of December 5, 2019 (“December 5 Letter”), in which you request an advisory opinion, pursuant to 28 C.F.R. § 5.2, whether you are obligated to register under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (“FARA” or the “Act”) for work you may perform on behalf of the [foreign government entity]. Based upon your representations, we have determined that you would not have an obligation to register at this time.

In the December 5 Letter, you state that you are exploring an opportunity to assist the [foreign government entity] in modernizing its [text deleted] certification standards by aligning with and emulating the standards of the United States’ [US Government entity]. The job description and expectations for the proposed work include advising on written exams, process, and procedures, as well as providing guidance to and training of examiners. You further indicate that you may liaise with a number of U.S. universities that have well-established [text deleted] programs to leverage this knowledge for the benefit of [foreign government entity]. Finally, you state that you are unsure whether your work may require that you interface with the [US Government entity] or other U.S. Government entities.

Generally speaking, a party is an “agent of a foreign principal” who must register under FARA if it acts “in any . . . capacity at the order, request, or under the direction or control, 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,” and within the United States, in relevant part:

- (i) engages in political activities for or in the interests of such foreign principal;
- (ii) acts as public relations counsel, publicity agent, information-service employee or political consultant for or in the interests of such foreign principal;
- (iv) represents the interests of such foreign principal before any agency or official of the Government of the United States.

See 22 U.S.C. § 611(c)(1).

[addressee deleted]  
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Based upon your December 5 Letter, we have determined that you would not be acting as an agent of the [foreign government entity] because the contemplated activities do not fall within the above-described specified activities. So long as your activities remain focused on modernizing the [text deleted] standards in [foreign country] and do not become an effort to influence U.S. domestic or foreign policy, you would not have an obligation to register under FARA.<sup>1</sup>

Please note that our opinion is based solely upon the specific facts set forth in your December 5 Letter, and must be revisited in the event that any of the facts change. In particular, you may need to register under FARA if you undertake activities on behalf of the [foreign government entity], the [foreign government] or any other foreign government or foreign political party with an intent to influence, in any way, a U.S. Government official or agency or a segment of the public within the United States concerning the domestic or foreign policy of the United States or the political or public interest, policies, or relations of any foreign government or foreign political party. If any of the facts do change, you should contact the FARA Unit immediately in order that we may reexamine whether you have an obligation to register.

If you have any questions regarding this matter, please contact [name deleted] at (202) 233-0776.

Sincerely,

Brandon L. Van Grack  
Chief, FARA Unit

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<sup>1</sup> Based upon the information in your letter, it is not clear whether possible meetings between you and U.S. Government entities would require registration. The question is whether at such meetings you were representing the interests of the [foreign government entity]. *See* 22 U.S.C. § 611(c)(1)(iv).