



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

February 20, 2020

By FedEx

[Addressee deleted]

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

Dear [Addressee deleted]:

This is in reference to your letter of December 9, 2019 (“the December 9 Letter”), in which you request an advisory opinion, pursuant to 28 C.F.R. § 5.2, regarding your obligation, as Founder and Principal of [U.S. firm], to register pursuant to the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. §§ 611 *et seq.* (“FARA” or the “Act”). Based upon the representations in your letter, we have determined that [U.S. firm] is obligated to register under FARA.

In the December 9 Letter, [U.S. firm] seeks guidance as to whether its work on behalf of the Embassy of [Foreign Country] requires registration pursuant to FARA. The December 9 Letter states that [U.S. firm] began work for the Embassy under a contract, dated October 9, 2018,¹ which was subsequently renewed on February 1, 2019, and June 28, 2019.² [U.S. firm]’s work involves “media relations and communications support” for [Foreign Country]’s Ambassador to the United States as well as related announcements about the activities of the [Foreign Country’s fund], which was established by the [Foreign Country] to support recovery efforts in [U.S. State] after Hurricane [name deleted] in [date deleted]. The December 9 Letter explains that, in this role, [U.S. firm] provided logistical support and used print media, broadcast media, and social media as part of a “strategic communications approach” that sought to provide the [Foreign Country] with “obvious reputational benefits.” For example, [U.S. firm] created a

¹ We note that the initial contract, dated October 9, 2018, specified that [U.S. firm] was “solely responsible for compliance” with any laws governing “your performance of this Agreement, including . . . registration as a foreign agent . . .” [U.S. firm]’s obligation to register occurred within 10 days of the signing of this contract and [U.S. firm] is responsible for reporting its activities as of that date. *See* 22 U.S.C. § 612(a).

² The initial contract provided that [U.S. firm] was to be paid a fixed fee of \$12,000, while the renewed contract, dated February 1, 2019, provided for compensation of \$10,000 per calendar month, and the current contract, which expires on June 30, 2020, provides for compensation of \$25,000 per month.

website for the [Foreign Country's fund] as well as three videos, two of which had been posted to the website as of the December 9 Letter.

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:

- (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;
- (iii) solicits, collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the interest of such foreign principal; or
- (iv) represents the interests of such foreign principal before any agency or official of the United States Government.

See 22 U.S.C. § 611(c)(1).

[U.S. firm] is acting as an agent of a foreign principal within the meaning of FARA. As an initial matter, a “foreign principal” includes “a government of a foreign country.” 22 U.S.C. § 611(b)(1). Here, the foreign principal is the Embassy of [Foreign Country], which represents, in the United States, the interests of the [Foreign Country].

Next, [U.S. firm] is acting as an agent of the Embassy of [Foreign Country] because it is acting “under the direction or control” of the Embassy pursuant to the above-referenced contracts and has provided and is providing, under those contracts, services as a “public relations counsel” to the Embassy. *See id.* § 611(c)(1)(ii). FARA defines a “public-relations counsel” as “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.” *Id.* § 611(g). This definition includes [U.S. firm]’s work involving “media relations” for the Ambassador and regarding the [Foreign Country’s fund] on behalf of the Embassy because it has been advising and facilitating the Embassy’s interests in that regard through various media outlets, which have provided “reputational benefits” to the [Foreign Country]. Accordingly, [U.S. firm] is acting as an agent of the Embassy of [Foreign Country], a foreign principal, within the meaning of FARA.³

³ The December 9 Letter indicates that [U.S. firm] has contracted to provide “advice and assistance with respect to the Embassy’s public diplomacy activities in [a second U.S. State],” but it had not, as of December 9, 2019, engaged in those activities or otherwise received documentation or instructions related to that tasking. If and when [U.S. firm] engages in public

[Addressee deleted]

[U.S. firm]

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[U.S. firm] has raised no exemption to its obligation to register, and we are aware of none that apply. *See* 22 U.S.C. § 613. In light of this determination, [U.S. firm] is obligated to register under FARA. Please effect the registration within thirty (30) calendar days of the date of this letter. Useful information and forms needed for registration are available on our website at <https://www.fara.gov>. If you have any questions regarding registration, or have additional information to provide, please contact [name deleted] by telephone at (202) 233-0776.

Sincerely,

Brandon L. Van Grack
Chief, FARA Unit

diplomacy on behalf of the [Foreign Country], it must report all such activities in detail. *See* 22 U.S.C. § 612(a).