

**BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT (BIFAD)
179TH PUBLIC VIRTUAL MEETING**

**U.S. University Feedback on Implementation of USAID's Automated Directives Systems
(ADS) 252 (Visa Compliance for Exchange Visitors) and
ADS 253 (Participant Training and Exchanges for Capacity Development)
BIFAD April 9, 2019 Meeting Minutes**

MEMBERS PRESENT:

Mark Keenum, BIFAD Chairman, President, Mississippi State University
Jim Ash, Food & Agribusiness Group Head, Husch Blackwell, LLP
Brady Deaton, Chancellor Emeritus, University of Missouri
Richard Lackey, CEO & Founder, World Food Bank
Pamela K. Anderson, Director General Emeritus, International Potato Center
Waded Cruzado, President, Montana State University

Speakers

LeAnna Marr
DeAndra Beck
Timothy Dalton
Grace Lang
Jennifer Nupp
Jeffrey Shahan
Robert Burch
Linda Neilan Dus
Stephen Guice

Welcome and Opening Remarks

Mark Keenum, BIFAD Chairman, President, Mississippi State University

Dr. Keenum thanked Ms. Julie MacCartee, the virtual meeting host, and everyone who contributed to the meeting planning. He then greeted the online audience and officially called the meeting to order before introducing himself and the other BIFAD members. Dr. Keenum then outlined the purpose of the meeting, which is to solicit feedback from the U.S. university community on implementation of the regulations that govern USAID funded exchange visitors and participant training per ADS 252 and 253. The meeting is also an opportunity for the university community to engage in a dialogue with USAID and U.S. Department of State officials. He emphasized that audience participation was encouraged; questions and comments could be submitted online via email or the virtual meeting's chat box which would be reviewed during the public comment period at 4:15 pm EDT.

Meeting Background and Purpose

James Ash, Food & Agribusiness Group, Husch Blackwell LLP, Member of BIFAD

Dr. Keenum then welcomed fellow BIFAD member, Mr. Jim Ash, to provide a brief background on the meeting. Mr.

Ash reiterated that the focus of the meeting was on USAID's visa policies governing entry into the United States, as well as important issues related to the lives of international visitors while they are studying or working on USAID-funded programs. Mr. Ash said that the details of the regulations have important implications for the pipeline of highly educated scientists of all disciplines who are in turn important for sustainable development of social, political, and economic systems in developing nations across the world.

Mr. Ash mentioned that BIFAD received a letter in October 2015 from six land-grant universities outlining their concerns with implementing and complying with policies ADS 252 and ADS 253 for USAID-funded research projects. At an initial public meeting, BIFAD discussed this letter which requested that BIFAD:

1. Undertake a comprehensive review of ADS 252 and 253 in collaboration with USAID and diverse representation from the U.S. university community to explore ways to reduce transaction costs, preserve the quality of academic experience, and comply with U.S. Department of Homeland Security concerns.
2. Conduct a BIFAD-commissioned external review of the effectiveness of the TraiNet system,
3. Initiate dialogue between USAID and the U.S. university community on: 1) the value of research assistantship mechanisms for young scientists; and 2) the role of participant trainees in achieving the objectives of integrated research and capacity strengthening programs.
4. Initiate discussion with USAID regarding the differing legal authorities, Congressional mandates, Agency interpretation, and institutional responsibilities related to international participants in federally funded university-based programs at USAID compared to such other U.S. Government agencies as the U.S. Department of Agriculture, the National Science Foundation, the National Institutes of Health, or the U.S. Department of Energy.

In response to the letter, BIFAD created a working group, chaired by Mr. Ash and including university representatives, a representative of APLU, and USAID representatives, to solicit input from the U.S. university community on implementation of, and compliance with, ADS 252 and 253 regulations. A timeline was set to complete the review in early 2016. Several meetings were held by the BIFAD working group, and a list of important concerns on the policies was developed and disseminated to different operating units of USAID. Members of BIFAD also met with senior USAID officials responsible for the ADS policies on several occasions. BIFAD was able to discuss specific and actionable concerns of universities with USAID and received assurances that those concerns were understood and were being addressed. At one point, USAID issued guidance to Feed the Future Innovation Labs on elements of the policies, but this was later contradicted, leading to continued frustration with the policies. Mr. Ash cited examples of real-world impact of the policies on students, including significant cost burdens and enrollment delays.

Mr. Ash outlined the agenda for the day and reminded the audience that additional materials had been posted for review and would become a part of the record of the meeting. He looked forward to an open and frank dialogue that would provide the BIFAD with the information needed to advise the USAID Administrator.

Mr. Ash called upon Dr. Clara Cohen, Executive Director of BIFAD, to introduce the U.S. Government attendees.

Introduction of U.S. Government Guests and Remarks by LeAnna Marr

Clara Cohen, Executive Director for BIFAD, USAID

LeAnna Marr, Director, Office of Education, Bureau for Economic Growth, Education, and Environment (E3), USAID

Dr. Cohen briefly introduced and thanked the U.S. Department of State and USAID guests. She then invited Ms. LeAnna Marr, Director, Office of Education, Bureau for Economic Growth, Education, and Environment Office of Education (E3), USAID, to provide opening remarks.

Ms. Marr gave a brief introduction of her background as a former education officer and approver on the TraiNet system overseas. She spoke of the longstanding and complex challenges facing the university community with regard to TraiNet and stated that USAID's new system, Training Exchange Automated Management System (TEAMS), will replace TraiNet. She stressed the continued dedication of USAID to find solutions to the challenges with the system as well as to the partnerships USAID enjoys with the university community in the international exchange space. Ms. Marr shared her personal experience on a USAID-funded program in South Sudan, in which a partnership with Indiana University (IU) enrolled over a dozen Sudanese women of different backgrounds in a Master's program on education in conflict and crisis environments at the IU campus. She noted that following the program, the graduates of the program formed a network of leaders in the education sector in South Sudan and have become champions of further USAID education and policy work.

Ms. Marr said that in the past five years, USAID, in conjunction with its partners, which include U.S. universities, has brought over 11,400 individuals to study in the United States in the last five years, with over 23% of these exchanges in the agricultural sector. To accommodate these programs, USAID must take into account regulations from a number of other agencies, including the Departments of State and Homeland Security, and the Internal Revenue Service.

Ms. Marr underscored the complexity of the TraiNet system, which exists to make these exchanges possible with across 70 overseas missions, with over 1,000 implementing partners, and across all sectors. She also emphasized USAID's willingness to work with the university community and to invest in the resolution of challenges with the system.

Mr. Ash thanked Ms. Marr for her comments and for her participation and that of her USAID and Department of State colleagues. He then introduced the first two speakers for the next session of the agenda on key university concerns, Dr. DeAndra Beck, Associate Dean for Research, International Studies and Programs at Michigan State University, and Dr. Timothy Dalton, Director of the Feed the Future Innovation Lab for Sorghum and Millet at Kansas State University.

Key University Concerns: University Perspectives

DeAndra Beck, Associate Dean for Research, International Studies and Programs, Michigan State University

Tim Dalton, Director, Feed the Future Innovation Lab for Sorghum and Millet, and Professor, Department of Agricultural Economics, Kansas State University

Dr. Beck thanked participants and emphasized her hope that the meeting would lead to progress in improving implementation efficiency and reducing compliance burden for ADS 252 and 253 by the U.S. universities for the students and other exchange visitors that they sponsor. To preface the detailed discussion, Dr. Beck briefly

mentioned a few findings from the 2015 letter sent to BIFAD, previously mentioned by Jim Ash. She said that U.S. universities are providers of USAID-funded training opportunities, but they are also management entities that work in partnership with USAID to help them attain their development goals. Universities are struggling to navigate the policies and requirements of USAID to obtain visas for students and scholars which are becoming more challenging, and this has had human, financial, and reputational implications. The impact of these challenges occasionally results in the cancellation of programs or revocation of support for international students. These are missed opportunities for development impact. She remarked that there have been some recent changes in ADS 252, and these have been appreciated, as well as the upcoming new TraiNet replacement, TEAMS. However, she mentioned there were a few contextual points that would benefit from a deeper and more comprehensive policy discussion.

Dr. Beck noted the many different types of participant training recipient entities and described differential capacity by participant trainee recipient entities to provide training and to comply with requirements. Unlike many USAID funding recipient organizations, state-funded public universities must comply with state-specific provisions that often conflict with the prescriptive USAID mandates. She noted that most USAID implementing universities are also designated by the Department of State as Exchange Visitor programs. These universities can issue appropriate visas, including J-1 visas. She recognized that not every USAID funding recipient entity has this designation.

Dr. Beck said that the legal interpretation of the Foreign Affairs Manual (FAM) on exchange visitor classification in certain cases, in her view, has gone beyond what one could surmise from the definitional intent in the manual. The policy interpretation suggests that USAID-funded participants must be sponsored by USAID's own exchange visitor program. Her interpretation of the FAM is that it suggests that USAID-funded participants be designated G1 and G2 and require the J-1 visa whereas other government funding agencies require G3 designation and require a J-1 visa.

The operational implications of the policy have resulted in significant complexity, especially for universities that administer their own exchange visitor programs. The TraiNet system in particular is a large administrative burden to universities and is duplicative of other required reporting formats, including annual reports and the Feed the Future Monitoring System (FTFMS), and the Global Development Lab's DevResults platform. Other challenges for universities are the differential ability of the field to comply with Mission Orders and to operationalize ADS updates.

Dr. Beck then invited Dr. Tim Dalton to provide a few specific examples regarding these issues.

Dr. Tim Dalton thanked Dr. Beck for the introduction and the BIFAD for taking on this important topic. He asked the audience to think of operational examples from the Sorghum and Millet Innovation Lab as beyond anecdotal, as many of the Feed the Future Innovation Labs have similar issues.

Dr. Dalton stated that there were two important issues he wanted to highlight with regard to ADS 252 and 253: efficiency and risk management. On the efficiency side, almost every U.S. university has an established international student and scholar services (ISSS) office that handles international visitors who are processed through programs besides TraiNet. When these visitors come through universities, they have established services that can assist them, established orientations and in-take procedures, full-time advisors, etc. In contrast, those visitors processed through TraiNet do not have access to these resources. The challenge in administering USAID-funded visitor programs is compounded by a lack of familiarity with the various university support systems for international student success by the Innovation Lab R1s and R2s staff members who initiate TraiNet processing.

On the issue of risk management, many offices of ISSS refuse to handle USAID-funded exchange visitors requiring TraiNet. Dr. Dalton said that by requiring Innovation Labs or university partners to administer TraiNet and USAID J-1 visa process initiation USAID is placing key issues of security and policy compliance in the hands of untrained individuals (R1s and R2s). This creates the need for a “shadow” visitor services program to manage a few special cases, and USAID-sponsored students can easily fall through the cracks. For example, the R1 and R2 processors often only process one to two TraiNet cases each year and never become very familiar with the system. This not only results in differential implementation and unintended non-compliance, but also in negative consequences vis a vis the Department of Homeland Security and the Internal Revenue Service for students. Innovation Labs have occasionally had to conduct a Security Risk and Fraud Inquiry for a student coming from a country where there was no Mission, and this imposed a new liability that the university had to assume. Dr. Dalton said that a further liability has emerged in providing tax advice to students. These risks are a disincentive for universities to take on new students who require a USAID-sponsored J-1 visa.

Dr. Beck provided a brief background on ADS 253. She said that ADS 253.3.7, which focuses on the prescriptive provisions for U.S.-based training requirements, is necessary for institutions that don't have procedures in place, but not useful for universities that already have the processes and infrastructure in place to administer U.S.-based trainings through their ISSS offices.

Dr. Dalton said that Kansas State University often subcontracts exchange visitor program implementation to other U.S. universities that lack familiarity with TraiNet procedures and ADS 252 and 253 policies. In one example, a PhD student nearly missed the application deadline for his program because of processing problems at the Mission and sub-contracting at the university. It was only through pressure from the management entity at Kansas State on the implementing partner's R1 and R2 that the student was able to make the final cut-off date for his visa. As he had already quit his job in his home country, the potential consequences could have been significant if his program had been further delayed.

In general, Dr. Dalton continued, it takes three to five months from the initial J-1 visa request until the student's arrival in the United States. He said for very short-term visits of 4-6 weeks, rapid response is required, and it is difficult to justify the effort required for such short-term visits. In such cases, he recommends that universities look for funding from other sources besides USAID so that visits can be arranged in a timely manner. This cumbersome process is interfering with universities' ability to respond to global disease outbreaks, such as Fall Army Worm, and their ability to fulfill their capacity development mandate.

Dr. Beck recognized that while TraiNet will be replaced by a new platform, she suspected the new platform will similarly have the dual responsibility of compliance and tracking participant training. Therefore, on the point of the reporting burden placed on universities, she wondered if the data taken from the new platform could be derived from other sources, such as annual reports or other reporting platforms.

Dr. Dalton estimated that it takes 20 to 40 hours of administrative effort from the time a student begins the process until the return to the home country. Each program brings in up to 50-70 students throughout the life of their program, this is roughly a one year full-time equivalent.

Dr. Beck expressed interest in a dialogue with USAID and Department of State colleagues to explore the ways in which universities with existing compliant exchange visitor designations could administer USAID-funded exchange

visitors in the way that they comply with uniform guidance from other funding agencies. Dr. Beck suggested that a way to ensure Mission concurrence might be to require confirmation of support for training from Missions prior to university issuance of J-1 visas in order to address consistency and administrative concerns. She asked, if there were some way for universities to use their own exchange visitor program designation and follow uniform guidance, if the new TEAMS platform could accommodate a participant training reporting function as opposed to a compliance function.

Mr. Ash thanked Dr. Beck and Dr. Dalton for their perspectives and invited comments by the BIFAD members. Mr. Ash introduced the next speakers, Ms. Grace Lang, Higher Education Division Chief in E3/ED of USAID and Ms. Jennifer Nupp, Supervisory Program Analyst in the Office of Private Sector Exchange in the Bureau of Educational and Cultural Affairs in the Department of State.

Key University Concerns: USAID and Department of State Response

Grace Lang, Higher Education Division Chief, E3/ED, USAID

Jennifer Nupp: Supervisory Program Analyst, Office of Private Sector Exchange in the Bureau of Educational and Cultural Affairs (ECA/EC), Department of State

Ms. Lang provided an overview of the U.S. government presentation: the purpose and intent of the Exchange Visitor Program (J-1 visa), the benefits of the Exchange Visitor Program (J-1 visa) to USAID beneficiaries, the regulations surrounding the Exchange Visitor (J-1 visa) Program and intent, and recent changes to the ADS chapter on visa compliance for exchange visitors.

Ms. Nupp said that the Department of State's Office of Private Sector Exchange regulates the J-1 visa program. She outlined the 13 different categories of educational and cultural exchange that are under the Exchange Visitor Program (J Non-immigrant visa program). Half of the programs are in the academic area (e.g., students, professors, and scholars), and other types of programs have a work component so that exchange visitors can defray some of their program costs (e.g., internships, trainees, teachers, camp counselors, etc.). Each year, 300,000 individuals participate in the EVP from around 200 countries and territories. Nupp said that the program's goal is primarily educational and cultural exchange, including to do research, to teach, to study, to practice English, and to build networks. The overall purpose of the program is public diplomacy, i.e., for participants to come to the United States, interact with Americans in their field, and then return home to share what they learn in their home country. Many of the programs have a two-year residency requirement, although in many cases, the program can be extended.

Private sector programs are self sufficient, not drawing from appropriated funds. State Department has a designation to run its funded programs.

The EVP is regulated under 22 Code of Federal Regulations (CFR) 62. There are different parts of the regulations: sub-part A is a general overview category, and specific regulations for different categories of the program are described in sub-part B. Ms. Nupp said that the Foreign Affairs Manual (FAM) is an authority on program structures, policies and procedures that govern Department of State operations and affairs of the Foreign Service. The FAM conveys codified information in line with statutory and executive mandates. The FAM relies on regulation. If regulations are changed, the FAM must be updated. In order to change FAM regulations, Consular Affairs within the

Department of State would need to be involved. Those activities done in the private sector and by other government agencies are also regulated by the FAM. Ms. Nupp directed anyone looking for more information to the online Exchange Visitor Program [regulations](#) and the [online FAM](#) to view the different regulations that govern each category of the exchange visitor program.

Private sector exchanges are carried out in the private sector by roughly 1,500 sponsors. Many exchange visitors stay longer than one year. For example, the graduate medical residents remain in the United States up to seven years. About 500,000 individuals participate in exchange visitors programs each year. Program sponsors are designated by the Department of State, and sponsorship involves their applying to be designated to run particular programs. USAID has a long-standing designation with the Department of State. Designations are not transferable and are generally good for one to two years. After that, the sponsors have to apply again to become designated. The reason the Department of State designates is to ensure that the sponsor is reputable, financially viable, and follows certain uniform practices to support the program.

Among the benefits of working with a designated sponsor are monitoring how the exchange visitor programs are running; monitoring the health, safety, and welfare of program participants; giving participants accurate information at the time of their applications; having standard screening processes; selecting participants with sufficient English ability; providing accurate pre- and post-arrival information; providing medical insurance that reaches certain standards; conducting SEVIS work to monitor the status of exchange visitors in case of emergency, such that the Department of State has access to exchange visitor data and can ensure its protection and privacy. USAID is required to report to the Departments of State and Homeland Security to ensure foreign policy and national security goals of the program are met and to repay costs incurred for students who do not return to their home country as required.

According to regulations, designation may not be transferred. The sponsor cannot give away its authority as a sponsor, and under the regulations, USAID must issue the DS-2019 form. Very infrequently, a particular university is designated to run a full program. USAID runs programs outlined in its designation, and the funding that USAID brings to the programs is part of that designation. In the rare case that a university can run an entire program, it is designated the sponsor as opposed to USAID. The funds provided by USAID to universities are for the purpose of implementing USAID development programming and not for implementing universities' own programming.

Ms. Nupp touched on the difference between B and J visas in response to an earlier question. She clarified that participants who meet the requirements for the program as outlined in 22 CFR 62 are candidates for the J visa. This applies to longer-term programs as well as short-term activities, like participation in conferences. To be on a J visa depends on the activity that's being conducted as referenced back to the regulations. If visitors are coming on an activity not described in the regulations, participants need to apply under another type of visa, such as the B.

Every time regulations are updated or revised, the FAM is updated, and public comment is solicited. The goal is to help program implementers operate according to regulations, which protect the health, safety, and welfare of the participants and ensures that programs meet certain standards.

Mr. Ash thanked Ms. Nupp for her contribution and once again opened the floor to the BIFAD for questions.

Chairman Keenum commented that participants on these programs contribute tremendously to overseas leadership

and research in their home countries and on U.S. campuses, including universities that implement the Feed the Future Innovation Labs. He expressed an interest in making it easier for universities and the Innovation Labs to accommodate bright participant trainees who contribute to U.S. university research.

Mr. Ash referred to a question about the status of the updated TraiNet platform. Ms. Lang introduced Mr. Jeffrey Shahan, Human and Institutional Capacity Development Specialist of E3/ED, to provide further details. Mr. Shahan reported that TEAMS is in the development stage and will be beta tested on a first group, which could include BIFAD. One of the biggest differences between TraiNet and TEAMS is that TEAMS will be cloud-based and faster. TEAMS also streamlines data entry, requiring only data needed by SEVIS. It is currently envisioned that the new system will include a feature whereby USAID program implementers can transfer data to TEAMS from their own systems, rather than requiring double-entry. Ms. Lang added that USAID plans to release the new version in one month [May 2019] and requested 10 to 15 volunteer beta testers from universities.

Dr. Beck noted that many university systems are well equipped to accommodate visa processing, including J-1 visas, that are sponsored by domestic U.S. government funding agencies, including the National Institutes of Health, the U.S. Department of Agriculture, and the National Science Foundation. She recognized that many of the institutions with which USAID works do not have the same capabilities as universities and that regulations and guidance are needed for organizations that don't "make a business" of routinely training people, as universities do. She asked Ms. Nupp to elaborate on the benefits of having two separate compliance systems for universities (TraiNet and the university's own system) as opposed to simply relying on a university's own compliance system to meet the needs of J-1 visa holders. Ms. Nupp responded that it depends on what type of designation each entity has. While many universities are designated to run their own programs, if USAID provides funding for the program and has requirements for its programs and works with different partners, such as universities, and a designation has been submitted for the program under USAID, then USAID is held responsible for program activities and compliance of the program, which is one of the benefits of the Department of State designation. Many universities are designated to run their own programs. If a university took on a program without reference to USAID and without USAID funding, it would not be a USAID program and would not need to follow USAID standards. Because transfer of designation is not possible, the Department of State holds USAID responsible for implementing programs. She added that one of the benefits of the exchange visitor programs under USAID, as outlined previously, avoids the complication of additional "sub-sponsors" that are not necessarily designated for USAID programs or responsible for activities or funding for the program. She noted that the Department of State also follows its own regulations.

Following up on Ms. Nupp's comments, Mr. Ash asked for clarification as to whether USAID had opted into this Department of State approach. Ms. Nupp confirmed that USAID has and that many U.S. government agencies have different designations for their specific programs. U.S. Department of State and USAID have their own internal designation, but many U.S. government agencies have opted in. No visitors can come on the J program without following the program and categories of exchange.

Steve Guice, Policy Director for the Bureau of Educational and Cultural Affairs (ECA) from the Department of State, mentioned that the funding for the Department of State and USAID programs is viewed by Congress as developing a specific country's capacity and potential. Some of the other programs run by other U.S. government agencies are not viewed in the same way. Ms. Nupp added that those who are designated need to meet the authorizing legislation requirements, and each category is outlined in the regulation. It is not easy to transfer the authority and processes under multiple institutions under this program.

Mr. Ash welcomed Ms. Lang to present recent revisions to ADS 252 at the request of university partners and BIFAD members representing their concerns.

Ms. Lang clarified the use of university health insurance plans. University implementers wanted to use plans available on campus vs. commercial plans available. She noted that the revised ADS text clarifies that implementing partners can use their plan of choice, as long as the plans comply with the requirements (including maximums on copayments and minimum coverage per incident) under the Code of Federal Regulations chapter (22 CFR 62) that Ms. Nupp previously mentioned.

The second revision concerns the operation of vehicles. USAID took into consideration that many university campuses where USAID-funded exchange visitors are studying lack sufficient public transportation. The revised language clarifies that exchange visitors are authorized to drive in the United States as long as they receive approval from the implementing partner, (i.e., the university), USAID is informed, and the driver is in compliance with all state and local laws for operating a motor vehicle. (i.e., driver's license and insurance) Ms. Lang added that the Conditions of Sponsorship form prohibiting exchange visitors from operating a motor vehicle will be changed accordingly.

The third revision concerns dependents accompanying exchange visitors. Ms. Lang said that the revised language clarified that dependents can accompany exchange visitors. The updated ADS language eliminates the language that the exchange visitors show that funds are available in a U.S. bank equal to 50% of the exchange visitor's monthly maintenance of each dependent, for each month they are to reside in the United States. Instead, exchange visitors can show that they have "sufficient funds" to support the dependent. Individual USAID Missions will determine the policy for dependents to travel.

On the subject of allowance rates, the university implementers felt that allowance rates were insufficient to cover visitors' basic needs. The revised text states that implementing partners can adjust the allowance rate to make sure exchange visitors have sufficient funds to cover basic needs while they are studying.

Finally, on work authorization, Ms. Lang stated that exchange visitors can work in the United States if they are completing an assistantship, internship or practical training or are experiencing a financial hardship. Both are subject to approval and permissible by law up to 20 hours per week on the J visa. Ms. Nupp clarified that work authorization depends on the category of exchange for which the visa is granted, as internships are part of university exchanges, but there is also a specific J intern and trainee program. If USAID is designated in that program, interns may work for 12 to 18 months. There are possibilities for longer internship and trainee programs, but USAID would have to apply for these specifically.¹

Mr. Ash asked on behalf of the audience if there was a distinction in ADS 252 between using a vehicle and owning a vehicle. Ms. Nupp responded that from the Department of State perspective, participants are allowed to own a vehicle as long as they meet the requirements of the state in which they drive and abide by the law when operating the vehicle, which includes licensing and maintaining proper insurance. She mentioned that the Department of State does not monitor that visitors get insurance, but if an accident happens, they would be liable. Exchange visitor program regulations do not cover ownership and rental of automobiles, but each sponsor is allowed to make stricter

¹ Currently, USAID's J-1 program designation allows for the following five categories: Student, short-term scholar, specialist, research scholar, and government visitor. The designations are explained in 22 CFR 62.

sub-requirements within the Department of State regulations. They cannot make requirements that are broader than the regulations.

Mr. Ash expressed concern about the specific exclusion of the need to support dependents from the “urgent and unusual financial hardship” criterion for the work authorization regulation. He asked E3 or the Department of State to look into this, as it had implications for the empowerment of women. Ms. Lang responded that they would look into the operating space around that question.

Mr. Ash asked a final question from the online audience: are dependents required to come on a J-2 visa and be processed through TrainNet as well? Ms. Nupp responded that under Department of State regulations, dependents are not required to come on J-2 visas, but many individuals that come on J-1 visas choose to bring their dependents on J-2 visas, which are processed in SEVIS at the time the exchange visitor’s DS 2019 form is written. There are other examples of dependents coming on other types of visas or who stay at home and have a schedule of coming and going not on the J-2. Mr. Guice noted that from a consular point of view, it is more difficult to obtain a B visa than a J-2. Ms. Nupp added that the regulations of the J-2 visa only govern activities while individuals are in the United States, and not in the home country.

Mark Keenum thanked the speakers for their thoughtful comments and announced a brief break until 4:15 pm EDT, at which time the public comment period would begin.

Public Comment Period

James Ash, Food & Agribusiness Group, Husch Blackwell LLP, Member of BIFAD (moderator)

Mark Keenum reconvened the group, reminding the audience that the public comment period is a time for the BIFAD members to hear from meeting attendees and participants on the issue.

Mr. Ash opened with a question for Ms. Nupp from Suzana Palaska from the University of Illinois, Champaign-Urbana. She asked about the difference between the B-1 and J-1 visas as they relate to USAID-sponsored programs. Ms. Nupp replied that one does not “apply” for different categories of visas at U.S. consulates. If one meets the requirements of the J-1 visa, one can apply under that category. If one does activities that do not meet those requirements, another visa option would be a B-visa, or tourist visa, which is subject to different regulations. Participants coming on a J-1 visa allows carrying the DS 2019 form, and having Department of State protections, USAID funding, etc. But participants must meet the requirements for the J-1 visa to apply.

Mr. Ash asked on behalf of Mywish Maredia, of Michigan State University, whether there were any waivers for short-term visits that could be applied for on short notice to participate in a conference or other academic activity.

Steve Guice responded that an exchange visitor on a J visa who wishes to get further academic or practical internship can continue to stay in the United States in the short term with a waiver. The waiver doesn’t eliminate the two year requirement but delays it until the exchange visitor’s return to the home country. He says often there is misunderstanding about the waiver process; exchange visitors are not required to immediately return to the home country if there is a legitimate purpose to stay. Waivers for work, except in the short term, in most cases, are not approved.

Linda Neilan Dus, Consular Officer, Advisory Opinions Division of the Visa Office of the Bureau of Consular Affairs of the Department of State, said that those participating in an exchange visitor program must come on a J visa, and that there is no exception for that. For an individual coming on a B-1 or B-2 visa temporarily for business or pleasure and not coming on an exchange visitor program, a consular officer must make a case-by-case determination whether that individual “overcomes the presumption of immigrant intent” and qualifies for the B visa classification.

Jeffrey Shahan mentioned that USAID issues DS 2019 forms to foreign nationals who are in a beneficiary role of USAID’s development assistance, which can take the form of long-term education and short-term training. Short-term training can include participation in a short-term professional meeting. If the individual is in a beneficiary role, a DS 2019 is given to the individual to take to the consular interview. If a vendor or implementing partner of a program comes to the United States in a “provider role” of a USAID development assistance activity, these individuals would enter the United States in a business capacity and would not need a DS 2019.

Mr. Ash asked on behalf of Cynthia Donovan, of Michigan State University, whether USAID would be working with the Missions on revising the Mission Orders to conform to the revised ADS 252.

Mr. Shahan responded that USAID’s E3 team does serve Missions by providing templates and by supporting implementation through simplification and streamlining Mission Orders. As part of the development of the new TEAMS system, a new support site will be developed that will provide the latest versions of Mission Orders. He relayed that universities have related feedback about the difficulty in getting copies of updated Mission Orders, which the TEAMS site will try to alleviate.

Mr. Ash asked if someone who collaborates on the administrative side of a USAID-funded program (as opposed to working on the program) would be considered an exchange visitor. Mr. Shahan responded that if someone is being paid under a grant or contract competitively awarded by USAID to an implementer or university, staff under that grant or contract cannot be sponsored for USAID training or education or other activities under the sponsorship authority of USAID. If the individual is carrying out project business, Mr. Shahan recommends that the individual apply for a B visa. If the award was not competitively awarded, such as a sole-source award, individuals may be classified as exchange visitors depending on the purpose of the travel and contract mechanism used. Mr. Shahan requested that those with questions should submit them for case-by-case evaluation. Dr. Beck commented via chat box that this case-by-case evaluation poses a heavy administrative burden to USAID. Mr. Shahan replied that the TEAMS site will have an updated FAQ support site and will feature updated content on recent changes to ADS 252.

Closing Remarks

James Ash, Food & Agribusiness Group, Husch Blackwell LLP, Member of BIFAD

Robert Burch, Deputy Director, E3/ED, USAID

Mark Keenum, President, Mississippi State University and Chair of BIFAD

Mr. Ash thanked the speakers and participants from the virtual meeting and those involved in previous meetings and discussions on this topic. In closing, Mr. Ash made the following remarks:

1. USAID and BIFAD have long recognized the well-established importance of developing human and institutional capacity in the successful implementation and resilience of USAID projects and the Feed the Future initiative.
2. To develop human and institutional capacity and to ensure that USAID funded projects succeed, it is imperative that there be a free interchange of knowledge and experience across borders. The value of direct interaction of students, local actors, educators, and policy-makers from foreign countries with the educational and development organizations and systems in the United States cannot be understated.
3. Exposure of foreign students, educators, policy makers and change agents to U.S. economic and political norms, particularly through U.S. university programs, is critical. Through exposure to the inclusive and flexible systems and infrastructure, democratic processes, and robust economic systems extant in the United States, visitors see firsthand what they, their communities, and their countries can do to create successful, sustainable agricultural development and food security. This includes mentoring opportunities, as well as relationship and cohort building.
4. The exchange visitors (under USAID programs, past and present) are building and sustaining relationships and networks of support throughout the United States and the world's developing nations, finding mentors, and participating in cohort building. These activities are necessary to develop the local human and institutional capacity needed to create sustainable resilience.
5. Not only are USAID programs, such as the Feed the Future Innovation Labs, strengthening and enabling the growth of our domestic agricultural economy, they are providing the innovation needed to help developing countries reach the goal of food security.
6. Without the human and institutional capacity in the developing world to take these efforts forward, our ability to address the significant hunger and nutrition challenges of today, and the many challenges yet to come, will be limited to reactive intervention, and truly sustainable change and resilience will never be achieved.
7. USAID should make it a priority to streamline and simplify current USAID visa requirements for individuals seeking to be involved in U.S. university undergraduate, postgraduate and research programs with the intention of removing burdensome restrictions and expanding the opportunities for these individuals to enter the United States.

Dr. Keenum thanked Mr. Ash for his leadership on this subject. He said that in his year as Chairman, this has been an important issue on BIFAD agenda, and he is glad that Mr. Ash and the BIFAD have continued to pursue answers to concerns on the topic. Dr. Keenum then welcomed Mr. Robert Burch to make closing remarks.

Robert Burch thanked the BIFAD for allowing USAID to present progress on changes in ADS 252 and 253 policies

and clarity from subject matter experts from the Department of State. He thanked the BIFAD for providing concrete examples relating to university exchange visitors, which have put a human face on these concerns. He said that BIFAD's mandate to advise USAID on issues concerning agriculture, higher education, and food insecurity cannot be overstated. The high percentage of USAID agriculture programming across the Agency demonstrates that partnership with the higher education community is critical to the health and well being of people globally. People depend on knowledge and expertise from universities, and higher education is paramount to capacity development of host country governments and makes a difference to the Agency's work. He relayed that in his last post in the Philippines, many older alumni in the country, having received degrees from Cornell, had returned to the Philippines and held prestigious positions in the Commission of Higher Education, the Department of Science and Technology, and the Intellectual Property Office of the Philippines, and were key partners in programming with USAID. As an educator, Mr. Burch said he understands the concerns of the stakeholders in being responsible for student success and managing a complicated program. The goal for the day was to resolve issues, provide clarity, and raise new issues. He said he hoped USAID and Department of State speakers were able to provide insight on the importance of maintaining a balanced process across so many variables in order to report overall success to USAID management, the Department of State, and Congress. Mr. Burch noted that universities and their administrators are critical stakeholders for students' success. USAID will continue to prioritize these issues, and Mr. Burch looked forward to collaborating with the universities to work on these concerns.

Dr. Keenum thanked Mr. Ash for his leadership and the speakers for their insight and guidance on the day's issues. He was pleased to see the progress made by the ADS 252 revisions. Dr. Keenum encouraged the audience to continue to reach out and communicate with the BIFAD and the university community to assist BIFAD in making recommendations to USAID.

Dr. Keenum thanked the speakers for their presentations. He acknowledged Clara Cohen, Executive Director of BIFAD, Carole Levin, Tom Moritz, and Julie MacCartee at USAID and Susan Johnson and Devin Ferguson at the Association for Public and Land-grant Universities (APLU), for their roles in organizing the meeting. He thanked the audience for their comments and participation before adjourning.