



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

March 25, 2024

Via E-mail

[Requestor Name and Contact Information]

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

Dear [Requestor Name]:

We write in response to your January 4, 2024, e-mail requesting an advisory opinion, pursuant to 28 C.F.R. § 5.2(a), which you supplemented by e-mail on February 23, 2024, concerning whether your client, [U.S. Entity], must register under the Foreign Agents Registration Act of 1938 (“FARA”), as amended, 22 U.S.C. § 611 *et seq.*, for its ongoing activities regarding [Foreign Political Party] and [Foreign Government Official]. Based on the representations in the letters attached to your e-mails (respectively, the “January Letter” and “February Letter”), and for the reasons discussed below, we have determined that [U.S. Entity] must register for its activities.

I. Background

According to the January Letter, [U.S. Entity] is a [State] limited liability company located in [U.S. City] whose purpose is “[Redacted].”¹ The January Letter notes that [U.S. Entity] is equally owned and controlled by three managers [Manager Names].² As the February Letter indicates, each manager is a U.S. resident and is not a member of [Foreign Political Party].³ The January Letter explains that [U.S. Entity] has no employees and that its only independent contractors are its law firm and its web developer, both of whom [Redacted].⁴

The January Letter states that “[Redacted]” [U.S. Entity] “[Redacted]” volunteers to do the following:

¹ Jan. Letter at 1.

² *See id.*

³ *See* Feb. Letter at 2. The February Letter indicates that [Manager Names] are citizens of and domiciled in the United States, while [Manager Name] resides in the United States and has held a Green Card as a Permanent Resident of the United States since [Redacted]. *Id.*

⁴ *See* Jan. Letter at 1-2.

[Redacted].⁵

The January Letter explains that “[Redacted].”⁶ In addition, the February Letter represents that [U.S. Entity] does not intend to influence any U.S. government agency or official or the U.S. public through its articles and blog postings, “[Redacted].”⁷ According to the February Letter, the volunteers whom [U.S. Entity] recruits and coordinates and the activities that the volunteers perform are “[Redacted]” within the United States.⁸

Your advisory opinion request indicates that [U.S. Entity] has interacted directly with [Foreign Government Office] about certain activities relating to [U.S. Entity’s] volunteers. The January Letter explains that in October 2023, “[Redacted]” and that, through multiple text messages and phone calls between October 2023 and November 2023, one of [U.S. Entity’s] managers [Manager Name] asked [Foreign Government Office Employee] for “[Redacted].”⁹ [Redacted] that [U.S. Entity] received from [Foreign Government Office] – a copy of which were attached to the February Letter – contain [Redacted].¹⁰ On October 6, 2023, [U.S. Entity] posted [Redacted] on the social media site, [Redacted].¹¹

Additionally, the January Letter states that [U.S. Entity] “[Redacted].”¹²

The January Letter asserts that [U.S. Entity] “[Redacted].” Further, the January Letter states that [U.S. Entity] has engaged in its activities “[Redacted].” The January Letter also comments that there is “[Redacted]” that [U.S. Entity] “[Redacted]” and that “[Redacted]” during [U.S. Entity’s] communications with [Foreign Government Office] between October 2023 and November 2023.¹³

You have requested our opinion on whether [U.S. Entity] must register as an “agent of a foreign principal” under FARA for engaging in the activities described above.

⁵ See Jan. Letter at 1.

⁶ *Id.*

⁷ Feb. Letter at 2.

⁸ *Id.* The February Letter explains that [U.S. Entity] also recruits “[Redacted]” whose only activities are “[Redacted].” Feb. Letter at 1. In addition, the February Letter remarks that [U.S. Entity] volunteers may contact [Redacted] to refer them to “[Redacted]” and that [Redacted] “[Redacted].” *Id.* The February Letter also states that [U.S. Entity] “[Redacted].” *Id.*

⁹ Jan. Letter at 2.

¹⁰ See Feb. Letter (Attachments 1-7).

¹¹ See [Redacted]; Feb. Letter (Attachment 1).

¹² Jan. Letter at 1. The February Letter notes that [U.S. Entity] “[Redacted].” Feb. Letter at 2.

¹³ Jan. Letter at 2.

II. FARA Analysis

FARA defines a “foreign principal” as, among other things, “a government of a foreign country and a foreign political party.”¹⁴ Because [Foreign Government Office] is an agency of [Foreign Country’s] government and [Foreign Political Party] is [Foreign Country] political party, each qualifies as a “foreign principal” under FARA.¹⁵

FARA defines an “agent of a foreign principal” to include:

(1) any person who acts as an agent, representative, employee, or servant, or any person who acts in any other capacity at the order, request, or under the direction or control, of a foreign principal [and] —

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

(ii) acts within the United States as a . . . publicity agent [or an] information-service employee . . . for or in the interests of such foreign principal; [and]

(2) any person who agrees, consents, *assumes or purports to act as*, or who is or holds himself out to be, *whether or not pursuant to contractual relationship*, an agent of a foreign principal as defined [by FARA].¹⁶

In relevant part, the term “political activities” under FARA means:

any activity that the person engaging in believes will, or that the person intends to, in any way influence . . . any section of the public within the United States . . . with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party[.]¹⁷

Further, the term “publicity agent” under FARA 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,

¹⁴ 22 U.S.C. § 611(b)(1).

¹⁵ The February Letter argues that [U.S. Entity’s] manager, [Manager Name], is not a foreign principal under FARA. *See* Feb. Letter at 2. Because we find that [Foreign Government Office] and [Foreign Political Party] are foreign principals, we do not consider that argument in this opinion.

¹⁶ 22 U.S.C. § 611(c)(1)-(2) (emphasis added).

¹⁷ 22 U.S.C. § 611(o).

including publication by means of advertising, books, periodicals, newspapers, lectures, broadcasts, motion pictures, or otherwise[.]¹⁸

Finally, the term “information-service employee” under FARA 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[.]¹⁹

Despite [U.S. Entity’s] claim that it is not acting at the order or request, or under the direction or control, of [Foreign Political Party] or [Foreign Government Office], there is a sufficient agency relationship in this matter to satisfy FARA’s requirements. As described above, in furtherance of its [Redacted] activities to [Redacted], [U.S. Entity] has solicited [Redacted] from [Foreign Government Office] and disseminated [Redacted] on social media and distributed [Redacted] to [U.S. Entity] volunteers who are primarily located within the United States.²⁰ In addition, [U.S. Entity] is planning to invite [Foreign Political Party Members] to [Redacted] for [U.S. Entity] volunteers.²¹ [U.S. Entity’s] coordination with [Foreign Political Party] and [Foreign Government Office] on activities that directly advance those foreign principals’ interests demonstrates that [U.S. Entity] is assuming or purporting to act as an agent or a representative of [Foreign Political Party] and/or [Foreign Government Office] within the scope of FARA’s definition of an “agent of a foreign principal.”²² While [U.S. Entity] avows that it has no “[Redacted]” agreement with and is not receiving compensation from [Foreign Political Party] or [Foreign Government Office],²³ no such agreement or compensation is required to establish agency under FARA.²⁴

¹⁸ 22 U.S.C. § 611(h).

¹⁹ 22 U.S.C. § 611(i).

²⁰ See Jan. Letter at 2; Feb. Letter at 2; *supra* note 12.

²¹ See Jan. Letter at 1.

²² See 22 U.S.C. § 611(c)(1) (defining “agent of a foreign principal” to include any person “who acts as an agent [or] representative” of a foreign principal and engages in certain enumerated activities); 22 U.S.C. § 611(c)(2) (defining “agent of a foreign principal” to include any person who “*assumes or purports to act as*” an agent of a foreign principal “whether or not pursuant to contractual relationship”) (emphasis added).

²³ See note 22, at 2.

²⁴ See 22 U.S.C. § 611(c)(2) (defining “agent of a foreign principal” to include any person who “*assumes or purports to act as*” an agent of a foreign principal “*whether or not pursuant to contractual relationship*”) (emphasis added).

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Moreover, the activities that resulted from [U.S. Entity's] coordination with [Foreign Government Office] are registrable under FARA. Specifically, [U.S. Entity's] distribution of [Redacted]²⁵ from [Foreign Government Office] to [U.S. Entity] volunteers in the United States and on social media are "political activities" under FARA because [U.S. Entity] intends that such activities will "influence . . . a section of the public within the United States . . . with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party."²⁶ Arranging for [Foreign Political Party Members] to [Redacted] for [U.S. Entity] volunteers in the United States in support of [U.S. Entity's] [Redacted] activities for [Foreign Political Party] would likewise constitute "political activities" under FARA.²⁷

[U.S. Entity's] activities also qualify it as a "publicity agent" under FARA because the activities constitute "publi[shing] or disseminat[ing] oral, visual, graphic, written, or pictorial information."²⁸ They further establish that [U.S. Entity] is acting as an "information-service employee" under FARA because the activities also constitute "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 a foreign country and foreign government.²⁹

Thus, for the foregoing reasons, [U.S. Entity] qualifies as an "agent of a foreign principal" under FARA.³⁰ Because [U.S. Entity] is not otherwise exempt from FARA's registration requirements, it must register.

²⁵ Please note that [U.S. Entity] must comply with FARA's labeling requirements for its dissemination of infographics. *See* 22 U.S.C. § 614(a) (requiring every person within the United States who is an agent of a foreign principal and required to register who transmits or causes to be transmitted in the U.S. mails or by any means or instrumentality of interstate or foreign commerce any informational materials for or in the interests of such foreign principal intended for dissemination among two or more persons to provide two copies of such materials to the Attorney General within 48 hours after transmittal begins); 22 U.S.C. § 614(b) (prohibiting any person within the United States who is an agent of a foreign principal and required to register from transmitting or causing to be transmitted in the U.S. mails or by any means or instrumentality of interstate or foreign commerce any informational materials for or in the interests of such foreign principal without placing in such informational materials a conspicuous statement that the materials are distributed by the agent on behalf of the foreign principal and that additional information is on file with the Department of Justice).

²⁶ *See* 22 U.S.C. § 611(c)(1)(i), (o).

²⁷ *Id.*; *see also supra* note 8 (indicating in the February Letter that articles and blogs on [U.S. Entity's] website are intended "[Redacted]").

²⁸ *See* 22 U.S.C. § 611(c)(1)(ii), (h).

²⁹ *See* 22 U.S.C. § 611(c)(1)(ii), (i).

³⁰ *See supra* note 25.

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Please complete [U.S. Entity's] registration within 10 days of the date of this advisory opinion. We will treat your submission in accordance with 28 C.F.R. § 5.2(m). Please contact this office by e-mail 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