



WHAT NONPROFIT ORGANIZATIONS NEED TO KNOW ABOUT THE FOREIGN AGENTS REGISTRATION ACT



The federal government has [indicated](#) that it may use the Foreign Agents Registration Act (FARA) to investigate non-governmental organizations with ties to foreign governments, organizations, and influence networks—causing concern that nonprofits engaging in activities disfavored by the current administration could become targets.

FARA is a broad federal law that can apply to domestic nonprofits even if they have no ties to foreign governments. For instance, it may encompass nonprofits working on advocacy in the United States if the advocacy is funded by people, charities or companies located outside the United States. FARA could also apply to nonprofits that co-host certain events with foreign organizations if the events intend to influence U.S. public opinion.

This guidance document is intended to provide an overview of the scope of FARA for nonprofits. If your organization suspects it might be engaged in activities covered by FARA or is planning to engage in advocacy or other influence activities in conjunction with a non-U.S. organization, you should consult with an attorney who has FARA expertise.

The attorney can review relevant guidance from the Department of Justice (DOJ), advise you about the likelihood that your organization may face obligations under FARA and, if so, how to proceed. The attorney can also provide advice about ways to reduce the risk that your activities might trigger FARA concerns, such as avoiding funding from non-U.S. sources; ensuring that your organization—and not donors or others outside the United States—are in control of your organization’s activities and decisions; and using clear language to avoid inadvertently implying that your organization works on behalf of others (a misperception that could create FARA risks).

This alert is meant to provide general information only, not legal advice. If you have any questions about this guide, please contact NYLPI via <https://bit.ly/ClearinghouseIntake> or the Lawyers Alliance Legal Resource Call via ResourceCall@lawyersalliance.org. For information about our organizations, visit www.nylpi.org and www.lawyersalliance.org.

WHAT IS FARA?

Under FARA, people or organizations must disclose their relationships to foreign governments, groups, or individuals (together, “foreign principals”) if they are doing certain activities in the United States for, in coordination with, or supported by those foreign principals. The general purpose of FARA is to ensure that the American public and lawmakers know the source of information intended to influence U.S. public opinion, policy, and laws on behalf of foreign interests.

Congress enacted FARA in 1938 to require the registration and disclosure of persons disseminating Nazi and communist propaganda in the United States—shining “the pitiless spotlight of publicity” on those activities. For decades, FARA was seen as a relatively obscure law that was rarely enforced; that changed in 2017, when DOJ charged Paul Manafort and Richard Gates for acting as unregistered agents of the Ukrainian government. Both of them pled guilty; Manafort was eventually pardoned by President Trump. Numerous other indictments and civil enforcement actions of varying success followed in subsequent years.

WHY SHOULD NONPROFITS PAY ATTENTION TO FARA NOW?

On September 25, 2025, President Trump specifically [referenced](#) FARA in a Presidential Memorandum on Countering Domestic Terrorism and Organized Political Violence (the “Presidential Memorandum”). This Memorandum directed the National Joint Terrorism Task Force to investigate “non-governmental organizations and American citizens residing abroad or with close ties to foreign governments, agents, citizens, foundations, or influence networks engaged in violations of the Foreign Agents Registration Act (22 U.S.C. 611 et seq.) or money laundering by funding, creating, or supporting entities that engage in activities that support or encourage domestic terrorism.”

Thus, the Trump administration has signaled that FARA may be one tool in its toolbox for investigating American NGOs and foundations with ties to foreign organizations or funding sources.

WHO IS AN “AGENT OF A FOREIGN PRINCIPAL”?

FARA requires individuals and organizations engaging in certain covered activities as “agents” of “foreign principals” to register with DOJ and to file public reports detailing the agent’s activities, unless the activities fit within one of FARA’s statutory exemptions.

Under FARA, an “agent of a foreign principal” is defined very broadly to include anyone who acts “at the order, request, or under the direction or control of” a “foreign principal.” It also includes those whose activities are “directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal.” The DOJ has issued guidance [explaining](#) that many kinds of relationships could be viewed as agency, but ultimately states that the “circumstances must evince some level of power by the principal over the agent or some sense of obligation on the part of the agent to achieve the principal’s request.”

Foreign principal, in turn, is also defined broadly to capture foreign governments, political parties, individuals, and charities and other legal entities.

WHAT ACTIVITIES DOES FARA COVER?

Generally speaking, FARA covers “political activities”—that is, activities intended to influence the U.S. government or public on matters of U.S. policy, or with respect to the political or public interests of a foreign government or political party.

Importantly, for nonprofit organizations that rely upon grants or donations, FARA also covers anyone who, within the United States, “solicits, collects, disburses, or dispenses contributions” on behalf of a foreign principal.

ARE THERE ANY EXEMPTIONS AVAILABLE UNDER FARA?

Historically, FARA’s breadth has been limited by the availability of various statutory exemptions. Three may be particularly relevant for nonprofits operating in the United States.

- **Humanitarian Exemption** – This exemption provides that registration is not required for those who only solicit or collect funds or contributions within the United States for or in the interests of a foreign principal, *provided that* the collected resources are used “only for medical aid and assistance, or for food and clothing to relieve human suffering.”¹
- **Exemption for Religion, Academics, Science, and Art** – An exemption is provided for “[a]ny person engaging or agreeing to engage only in activities in furtherance of bona fide religious, scholastic, academic, or scientific pursuits or of the fine arts.” However, long-standing DOJ regulations deny this exemption to anyone engaged in “political activities” —that is, activities intended to influence U.S. public policy or opinion.
- **Commercial Exemption** – Recent DOJ advisory opinions have indicated that nonprofit entities can benefit from FARA’s so-called “commercial exemption.” This exemption provides that persons or organizations engaging in “(1) private and nonpolitical activities in furtherance of the bona fide trade or commerce of such foreign principal; or (2) in other activities not serving predominantly a foreign interest” are not required to register. In general, the second category may not be available if the activities are deemed to promote the public or political interests of a foreign government or political party (rather than just the private interests or agenda of a foreign organization).

¹ This provision also requires compliance with the Neutrality Act of 1939, which regulates U.S. person actions with respect to foreign conflicts in order to keep the U.S. neutral. In this case, U.S. persons are allowed to fundraise for humanitarian purposes, provided that such funds are not collected in a manner that might go beyond humanitarian assistance to more overt support for one side of a conflict. See 22 U.S.C. § 613(d)(3) (citing 22 U.S.C. Chapter 9, Subchapter II).

There are also exemptions for organizations that are registered as a lobbyist under the federal Lobbying Disclosure Act (so long as the organization is actually lobbying and is not representing a foreign government or political party), and for attorneys representing a foreign principal before a federal court or agency. As a practical matter, whether an exemption is actually available is highly fact specific. Nonprofit organizations should consult with legal counsel before relying upon an exemption.

WHAT DOES FARA REGISTRATION INVOLVE?

Anyone who engages in covered activities as an agent of a foreign principal and does not fit within one of FARA's exemptions must register within 10 days of becoming a foreign agent.

Although the registration and reporting processes are straightforward (both may be accomplished electronically via DOJ's FARA website and do not necessarily require legal counsel to complete), the extent of FARA's disclosure obligations may come as an unwelcome surprise to many, as would the bureaucratic burden of tracking and making regular filings. Some of the information required includes:

- The residential addresses of all partners, directors, officers, or other leadership for the registering entity, as well as employees and other (non-clerical) individuals providing services on behalf of a foreign principal.
- Detailed financial information, such as money expended on behalf of a foreign principal; money received from or in the interests of the foreign principal; the form (and potentially the value) of compensation provided to the employees and other individuals performing services on behalf of the foreign principal; and political contributions made by either the registrant or its registered employees.
- A description of all "political activities" conducted on behalf of a foreign principal, including specific information concerning contacts with U.S. government officials and U.S. media representatives—their names as well as the date, purpose, and method of the communication.

- All “informational materials” distributed on behalf of the foreign principal must be marked with a “conspicuous statement” stating that the information comes from a foreign principal, and must also be timely filed with the DOJ.

Registrants are required to file supplemental statements every six months detailing expenditures and activities undertaken during that period. FARA also requires registrants to keep detailed records concerning their political activities for a period of three years following the termination of their registration. Moreover, FARA authorizes DOJ to conduct inspections of FARA registrants’ documents to better understand the activities conducted on behalf of foreign principals and validate their filings.

WHAT DOES THIS MEAN FOR NONPROFITS?

The reference to FARA in the Presidential Memorandum indicates a potential focus on nonprofit organizations with foreign ties. This could include organizations that receive funding from foreign sources (e.g., organizations located outside of the United States or non-U.S. citizens), organizations that have operations overseas, organizations that interact with foreign governments, or organizations that engage in U.S. advocacy perceived to serve foreign interests.

One relevant area of risk for nonprofits is engagement in advocacy or cultural arts programming in the United States where the activity is funded in whole or in major part by foreign donors. Nonprofits should track the presence and use of such funding to ensure that they can address this area of risk.

For example, potential fact patterns that may raise concerns include:

- **A U.S. nonprofit receives funding from a foreign embassy to organize programming in the United States that celebrates the culture of the embassy’s home country.** Although it is conceivable that the exemption for activities in furtherance of the “fine arts” would apply, DOJ advisory opinions have construed this exemption narrowly—in some cases requiring registration for organizations also involved in “political activities.” This risk may be especially present where the funder is a foreign government.

- **A U.S. nonprofit receives funding from a foreign foundation to provide food and clothing to the needy in the United States.** The nonprofit may benefit from the Humanitarian Exemption, which covers fundraising within the United States for disbursement of certain items, although this exemption is not elaborated upon in the FARA regulations, and has not been the subject of many DOJ advisory opinions—so legal counsel is likely to be important to assess the specific facts at issue.
- **A U.S. organization actively involved in policy advocacy receives funding from a foreign organization with a shared mission.** It is possible the U.S. organization may be required to register with DOJ if the provision of funding creates an agency relationship, because policy advocacy is clearly a “political activity” under FARA.
- **A U.S. organization relies on foreign funding to conduct job training for recent immigrants, or legal training around encounters with immigration officials.** It is possible the organization may be able to rely on the Commercial Exemption for “other activities not serving predominantly a foreign interest,” although other specific facts may introduce complexity and risk.

In sum, whether a nonprofit can qualify for one of the FARA exemptions depends on a highly fact-specific analysis.

The stakes can be high, as FARA is a criminal statute. Willful violations are punishable by fines of up to \$10,000 and up to five years’ imprisonment. Although FARA itself does not contain a mechanism for civil fines—providing only for DOJ to seek injunctive relief against noncompliant parties—the Department has on occasion looked to other sources of authority to recover funds even in the absence of any criminal conduct. FARA thus represents one of several mechanisms available for criminal and civil investigations of the nonprofit sector—and even a letter of inquiry requesting information can create significant concerns for the recipient.

PRACTICAL GUARDRAILS TO REDUCE FARA RISK

As discussed throughout, the scope of FARA depends on the facts of each case and can raise complex questions. Accordingly, organizations with foreign ties, or that engage in political activities or public relations activities on matters affecting foreign interests, would be well-advised to seek guidance from experienced FARA counsel.

Here are general guardrails for nonprofits to consider to reduce the risk that their activities might trigger FARA requirements.

First, avoid foreign sources of funding. Although receiving foreign funding does not, standing alone, trigger FARA requirements, it can significantly increase risks—especially for organizations engaged in advocacy work. For example:

- Consult with legal counsel before using foreign sources of funding (especially foreign government funding) for activities in the United States—especially those that involve advocacy.
- Fund U.S. activities using U.S.-sourced funds, paid through U.S. bank accounts.
- Carefully record the source of all funds.
- Avoid soliciting funds in the United States for or on behalf of foreign organizations before first consulting with legal counsel.

Second, maintain clear U.S. control and independence over your activities.

Working to make sure that your organization is always acting for itself, to accomplish its own goals and objectives—and is not working at the direction or request of a foreign organization—can help to reduce the risk of triggering FARA requirements. For example:

- Be cautious when engaging in political activities (e.g., public relations activities, publishing op-eds, legislative or policy lobbying), especially if your organization has ties to foreign organizations.
- Keep U.S. governance, decision-making, and strategy clearly under U.S. control (e.g., make sure that decisions are made by a U.S. board, leadership, and staff).

- Ensure that, when collaborating with other organizations—especially foreign organizations—all agreements clearly indicate that they do not create an agency relationship with the other organizations.
- Ensure that you do not allow foreign organizations the right to approve, veto, or control your agenda, programming, strategy, or communications.
- Avoid engaging in political activities because a foreign organization has asked you to do so.

Third, use careful language clearly indicating that your organization acts at its own initiative to advance its own objectives. FARA risks can arise from ambiguity or misperceptions about how an organization describes its work. For example:

- Avoid saying that your organization is “working on behalf of” a foreign organization, or that you are “advocating for” a foreign organization or its programs or objectives.
- Clarify that, when you work with a foreign organization, you are “working with [foreign organization] to advance [our] goal of...,” even if it seems obvious.
- Tie your messaging to your organization’s mission first and then, if appropriate, how working with other organizations helps to achieve that mission.
- Emphasize that your organization makes decisions based on its mission and is in control of all advocacy and engagement strategies, even when you decide to work with other organizations to implement your programs.



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The [Nonprofit Resiliency Network](#) strengthens and protects the nonprofit sector by providing informational resources, relationship-building, practical training, and legal advice and representation to nonprofits and CBOs dealing with the changing landscape at a time when nonprofits are needed more than ever. It fosters collaboration, builds capacity, and distributes essential resources and legal advice to build resilient nonprofits.



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ABOUT ASIAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND

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