



DevelopmentAid Dialogues

Season 2. Episode 4: Surviving US Stop Work Orders: Recovery Tactics and Legal Recourse | A dialogue with Katherine Gentic

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Hisham Allam

Hello, everybody. Welcome to DevelopmentAid Dialogues, where we dive into the complexities of global development and humanitarian aid. I'm your host, Hisham Allam. Today we are tackling a pressing issue for USAID partners, navigating stop work orders and ensuring project consistency. Recently, the USAID's use of stop work orders has surged, leaving partners scrambling to balance compliance, financial survival, and urgent need to sustain critical development projects. Front laid aid deliveries to strain the cash flows the ripple effects are profound. How can organizations navigate this high-stake landscape while protecting their teams, subcontractors, and missions?

To answer this, we are joined by Katherine Gentic, a power horse in USAID compliance and contract management. With over 20 years of experience and leadership at her firm Akiri Consulting, Katherine and her team have guided over 50 USAID partners, crafted 500 million dollars in winning proposals, and guided clients through 2.6 billion on contract ceilings. But what truly sets Katherine apart is her knack for translating complex regulations into actionable strategies. She is the architect behind compliance frameworks used by NGOs, contractors, and the primes across sectors like healthcare, education, infrastructure, and cybersecurity. Katherine, welcome to the show. We are thrilled to have your expertise today.

Katherine Gentic

Thank you for having me, Hisham.

Hisham Allam

Let's start with the basics. Can you explain to us the regulatory definition of stop work order and how recent USAID SWO differ from standard practice?

Katherine Gentic

Uh, sure. Yes. so, while there isn't necessarily a true definition in the regulations there is a practice that should be followed. For contractors in particular, there's a body of regulations called the Federal Acquisition Regulation or FAR and this set of regulations governs how the government is supposed to implement procurement.

Whenever they need to buy a service or a good from the private sector in the commercial space, they have to follow these rules and per those rules, there are times when the government may determine that they need to put a stop to the work that's ongoing, sometimes usually for, you know, programmatic adjustments. When that occurs, a written stop work order, will be sent out by the contracting officer to a contractor and we'll guide them through, how to minimize costs and other



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certain actions to take to seize activities, following that they should be promptly discussing the stock or stop work order with their contractors, to make sure everyone's on the same page, make sure the contractor has an opportunity to get clarity about what activities they need to stop and how to minimize costs.

The way we've seen this play out has been different from the way it's supposed to be per the regulations. What has happened instead, while a lot of contractors have received the written stop work order, they have not had the opportunity to discuss the stop work order with their contracting officers.

And that has that is because from what we understand, USAID staff have kind of been instructed not to discuss outside the agency what's been going on. It's left this void for the contractors to have to interpret what these stops work orders mean. And there's a lot of, I've seen a few of these, a number of these, and none of them are alike. They're all quite different and they are vague in language. And it leaves a lot of room for interpretation about how to determine, you know, what costs they can continue to incur.

Hisham Allam

That's correct introduction, but do you think it was meant to be fake and translating these orders?

Katherine Gentic

I believe so, because I think it, the entire, the reason these stop work orders came out was on Friday, the 24th, Secretary of State Rubio sent out a cable to USAID saying telling everybody to put a halt to current work. And so contracting officers had to act quickly. There was really no time, I guess, given to contract contracting officers to really think this through and determine what to put in the stop recorder. So, it was kind of a knee jerk reaction to this instruction. And so, I believe that's what led to kind of the vague language that we've been seeing.

Hisham Allam

Katherine, you have emphasized reasonable steps to minimize costs during SWOs. How do these steps vary from small businesses versus large partners, especially when managing fixed costs like office lease?

Katherine Gentic

Yeah, so from my take, it's not so much the size of the business that's going to impact the reasonable steps. It's going to be the scope of the project. For example, a company, I'll give you an example for like, maybe a company that's a subcontractor, they may just perform ad hoc services here and there for the prime contractor. It's easy for them to stop work, you know, perhaps they just, you know, they had a consultant out, in a field office in the cooperating country and flew them home and that was it. It becomes more complex for the prime contractors. Who have more activities, what they've had to do, had to set up, you know, offices out in the cooperating country. They have full time staff. So, they need to then consider. What do they do with all their staff who are under contract employment contracts?

They have office leases. They have to, you know, stick with, they can't just cancel them, you know, on a day's notice. So, it really kind of depends on the size of the project as opposed to the size of the company.



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Hisham Allam

Correct me if I'm wrong, reasonable steps, you mean actions contractors must take to reduce expenses without compromising operations.

Katherine Gentic

So, yeah, reasonable steps. That's a term that we see in the FAR around stop work orders, reasonable steps to minimize costs. I wouldn't say it's to not compromise operations. That's not language that we see. And because they've been told to stop work, operations are kind of coming to a halt. So, the reasonable steps, are really just reasonable steps to keep costs low during this period.

Hisham Allam

I'm clearing guidance from contracting officers is recurring a challenge. What proactive measures can partner take to protect themselves when instructions are delayed.

Katherine Gentic

Yeah, that that's a good question. And that's a problem that everyone across the board has been seeing. And that comes back to the language in the stop work order. That is vague and open to interpretation. So, most companies, they're looking at what those reasonable steps to minimize costs are going to be. So, some of those reasonable steps are going to be looking at what is it going to cost?

If a company has full time staff out in the field office in the cooperating country, is it going to be more costly in the long run to keep these staff in place for 90 days, as opposed to terminating them. You know in the U. S. we have at will employment. So a company can let someone go, you know, immediately and there's no, severance pay or you know, they don't have to give 30 days' notice, but in a lot of these cooperating countries, they don't work at will. So, it can be quite costly to these companies to terminate these staff, rather than keep them employed, for the next 90 days while we wait to see how these, stop work orders play out. Another thing that companies can do is if their revenue is not completely dependent on USAID and they have other revenue streams, perhaps with other donor agencies or other government agencies, they can look to see if any of these staff in question could be shifted over to a different project or to a corporate initiative and build their time to those projects.

Instead, that could be a way to minimize costs. So, when it comes to staff, you really want to look at, do you have other initiatives to put them on? Or if you don't, is it going to be more costly to keep them, employed or more costly to terminate them? So that's a reasonable step that contractor should afford.

Hisham Allam

Sorry who's going to afford the cost if not.



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Katherine Gentic

That's a good question. So, and that's a question about how do these companies get reimbursed for these costs? That remains to be seen so per the regulations once this, that, that can be negotiated. But since we're not hearing anything from contracting officers about, you know, whether companies can continue invoicing and reimbursing for these costs during this period, they're kind of being forced to shoulder the burden of carrying these costs until they hear something from the government.

And at the point this period is over, they can request what's called an equitable adjustment. To get reimbursement for all these costs, but that will also depend on whether or not the contracting officer agrees. With, you know, the steps they've taken to try to minimize costs. So, it's, contractors right now are really in a lot of risk, are taking on a lot of risk by keeping these costs in place.

But, even if they were to say, terminate their staff or close out their office leases, they're going to have costs that they've incurred because of the government directive. So ultimately the government is responsible for paying these costs. It's just going to be some time, before those reimbursements come through.

Hisham Allam

Okay. The commendation is key walkthrough an effective process for recording costs during SWO, and how this supports what you have just called equitable adjustments later. Please clarify what you mean with equitable adjustments.

Katherine Gentic

Right. So equitable adjustment. So, it's actually the period during the stop work order, is really outside the scope of the contract that the contractors have. So, it's kind of separate what we call cost objective and in terms of recording these costs that they're incurring under the stop work order, they should be doing a cost analysis. So, looking at calculating what for example, with keeping staff on, what is it going to cost to keep those staff?

Documenting what it's going to cost to terminate them and then rehire if their contract, comes back on and doesn't get terminated after this period. And see what's going to be less costly and they want to keep that documentation in place. They should do the same for their office leases. So they probably have to give, say, 60 days' notice to cancel their lease.

They might have to pay a fee to cancel early. These offices out in the cooperating countries have furniture, equipment, computer equipment that these contractors have purchased using government money, they need permission from USAID to dispose of all that so they need to, you know, keep track of what all those costs are going to be as well.

So, documenting the costs, and also documenting, you know, I had mentioned in terms of the staff. Documenting any steps they took to try and find other projects to put these staff on. And they may not have them, but they want to document that. And in as much detail as possible, the next thing they want to do, once they have all that documented, whether or not they're hearing anything from their contracting officer, they should be sending this to their contracting officer via email, and saying something to the effect of, you know, until we hear otherwise from you, we have determined that we've taken these reasonable steps to minimize costs.



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And we understand that these costs, will be considered allowable, until we hear something from you stating otherwise, and understand that if we do hear something from you, otherwise, any of those changes will go into effect, you know, once we hear from you.

Hisham Allam

Katherine, don't you think that this old school bureaucracy that the USAID are following is not effective? Or do you have a different idea about it? Because I see that some donors from the EU are very flexible and dealing with the recipients of the donations. So, what's your opinion about this?

Katherine Gentic

Well, the way things are playing right out right now, I don't agree with because it's not compliant with what the regulations say to do. In an ideal world all of this should be negotiated as soon as the stop work order is issued so that both parties around the same page about what costs are reasonable to continue incurring.

The government has, you know, a lot of requirements around what costs are what we call allowable. they're called the cost principles and it's a lot, but the intent is to protect the taxpayer's dollars. And you know, that this is what I do for a living, is make sure that companies are working within the regulations and then later on, if they get audited, they're not going to have to pay millions back to the government. So, the process when done correctly works, but we're not seeing it done correctly at this point in time.

Hisham Allam

Yeah, you're right. My next question is about subcontractors who are often caught in the crossfire. How are they impacted and what steps can they take to safeguard their interests?

Katherine Gentic

They're arguably in a tougher spot than the prime contractors and unfortunately, a lot of subcontractors are small businesses. And so, this can really impact their ability to stay in business. You know, one of the problems that I have seen in a couple cases, which I really disagree with both just ethically and, you know, per the regulations is some primes are telling subcontractors. Here's your stop work order. If you incur any costs after the state, we're not going to pay you back for them. So, they haven't, and this could apply to subcontractors who just like the primes have long term staff overseas. They're bound by these employment contracts where they have to pay termination costs.

So, to effectively tell them that they're not allowed to, you know, get reimbursed for any of that is just, you know, not right. So, I've been advocating for small businesses and it's telling them kind of what to look for in their subcontracts. There's certain language. For example, there is a far clause about stop work orders.

And that's where we see that language about taking reasonable steps to minimize costs if they have that in their subcontract. They're protected by that. And, you know, the prime can tell them. They're not going to be reimbursed, but that's in violation of the subcontract that they've signed. So, I hope that in the long term, they'll be able to get those costs reimbursed but that is definitely, a problem that I've been seeing.



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Hisham Allam

Of course, solidarity with subcontractors matters, but what specific actions can primes take to support small businesses subs, during the stop work orders and why this, why does these strengths in partnerships long term?

Katherine Gentic

Yeah, I mean, they should be advocating for their subcontractors. These small businesses are the backbone of this industry. They're extremely important to the work that's been done. They have specialized skill sets. A lot of the larger firms are you know, they're project management firms. They're generalists. So small business subs are, they're important to the industry, and it's all about making the argument of what costs are reasonable. And it doesn't make sense to say, it's reasonable for primes to continue carrying costs for local staff, because it's more expensive to terminate them, but then not apply that to their subs.

It just doesn't add up. They really should be advocating for them and helping their subs craft their arguments for that. So that when contracting officers come back online there's justification for it.

Hisham Allam

We all agree that field office courses like leases are unavoidable. How can partners balance maintaining these expenses with pressure to cut costs?

Katherine Gentic

Yeah, and that I touched on this a few minutes ago, but when it comes to the office leases, for example, disposing of the office furniture, the equipment that they have in there that they've purchased, they need to get USAID per the contract needs to approve of how contractors are going to dispose of that equipment that they've purchased. And since USAID is currently not communicating about these things with their partners, it would be a huge risk if these partners just decided to terminate their leases, dispose of all this equipment without the approval of USAID first, they could actually be accused of moving into a termination mode of the contract, but a stop work order is not a termination. It could become a termination later on, but at this point it's not. So, contractors probably should not be moving forward with shutting down their offices and disposing of any furniture or equipment that they've purchased.

Hisham Allam

Let's speak about post stop work orders recovery. How you have stressed creating new charge codes, and how does this aid in negotiating equitable adjustments, and what elements are critical in these adjustments?

Katherine Gentic

So, the reason, the importance behind having separate charge codes for the stop work order is there's a lot of regulation around accounting systems for government contractors. So, to kind of give you some context, they're required to separately track costs that they incur under each contract and then they also have their indirect costs, which are tracked separately. A staff work order is not part of an existing contract. It's been issued because of a contract that's been halted but it's considered a separate cost objective from the contract. For that reason, companies should not be tracking these costs under any charge code that they created for the contract. It should be separated out and then once it comes time to



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request the equitable adjustment. That's essentially asking, hey, here are all the costs we incurred during the stop work order.

We weren't actually performing the contract because you told us not to, but we had to keep these costs in place because it was more expensive to end them, terminate them because of all the other costs we'd incur. So, here's what we've incurred, and on top of that, contractors, you know, will also have their indirect costs they need to have recouped, and they'll include that in their equitable adjustment as well.

Hisham Allam

Yeah, about indirect costs and fees, we all agree that it's tricky. Our indirect cost is recoverable, but additional fees usually off the table.

Katherine Gentic

So indirect costs absolutely are recoverable because that is how a company stays in business. The indirect costs are fringe for their employment for their employees. It's overhead costs, which go towards managing all of their contracts and it's their general and administrative or GNA, which is the cost to run the business. So, things like their headquarters, office, rent, their utilities, their payroll staff, their HR staff, if they don't build those costs with all the costs, they're incurring.

Specifically for the stop work order, it's going to be detrimental to them staying in business. So absolutely. They can bill for those costs as well. And fixed fee or profit can also be requested during, an equitable adjustment as well.

Hisham Allam

Zooming out diversification is vital. What is your advice for organizations expanding to donors like the World Bank or the FCDO with the foreign Commonwealth Development Office while staying compliant with the U. S. government rules.

Katherine Gentic

That's a loaded question because I can speak generally to that. But it's really going to depend on how much revenue each company is going to try and pursue with these shifts. For example, a company who is primarily focused on U. S. government contracting they may dabble a bit in World Bank, FCDO, any of these other donor agencies as well, and that shouldn't be problematic for them, but for companies, actually, I see more of a concern for companies who do more of the donor agency work, and then try and take on U. S. government work because the U. S. government rules are so much more stringent. When it comes to at least, for example, the accounting system and the accounting requirements, you know, one approach companies might take if they have significant income streams from both U. S. government and these other donor agencies they may want to consider creating two separate divisions.

In their company to track, you know, their costs of doing business for the U. S. government and their costs of doing business for these other donor agencies. And that way, they're not, you know, intermingling the U. S. government requirements, you know, maybe lack of requirements from some of these others or different requirements.



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So, it's. Trying to find a way to make sure you're still staying compliant with the government regulations because if they intermingled all of these costs, if they were to be audited by the U. S. government, the U. S. government could find costs that aren't compliance with the U. S. government rules and disallow those. And that could be costly too. They may want to consider, you know, separating these out in different divisions. that could be a way to mitigate that risk.

Hisham Allam

Rumors swirl about primes not being paid for pre stop work orders work. What is your take on this and how should partners respond?

Katherine Gentic

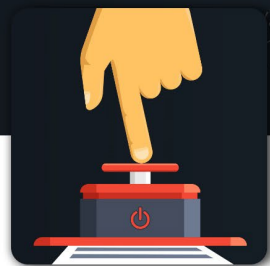
Yeah. I don't know that they're rumors. I believe they are true. It's well known I work with clients who are affected by the fact that their larger prime contractors for example are not being paid and therefore the subcontractors are not being paid and it's having this trickledown effect through the industry where companies are on the verge of bankruptcy. They're furloughing and laying off staff and this is in the U. S. I'm not even talking about the staff who have been hired to perform the contracts overseas. So, U. S. jobs are being lost to as a result of the U. S. government not paying for the work that was done, before the stop work order went into place. And that is in violation of the contract terms and the only way to get that cash flowing is to seek legal action.

Hisham Allam

Finally, let's address, legal angles. When should partners involve lawyers and the stop work order disputes? And how do they complement compliance experts?

Katherine Gentic

So, well, case in point, we were just saying about not being paid, counsel comes into the picture if there's a breach, a material breach in the contract. So, if one side isn't holding up, they're under the bargain of what's written into the contract, seeking legal action to address that, that's usually when lawyers come in. So, for example, if company's not being paid, then, a lawyer could bring a suit to the government. Compliance experts on the other hand, which is what I do. I'm not a lawyer. We specialize in the government regulations and we know contracts. So, what we do is we know how to navigate through the vast body of regulations that the government has. We know how to interpret those regulations and translate them into layman's terms for the contractors and help them implement those regulations into in practice. So that that's where our job comes in. If we find that there's a dispute, that can't be resolved between the companies. That's when things move into legal territory and that's when the lawyers come in.



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Hisham Allam

Katherine, learning from the past, what lessons from board of contract appeals cases should partners hit for potential USAID disputes?

Katherine Gentic

Yeah, that's a good question. And you know, that legal precedent is so important. I do understand from legal source that there are cases with the Armed Services Board of Contract Appeals surrounding costs incurred during stop work orders. And what we've seen is that in a particular case, those costs were approved to be reimbursed.

Because the contractor made their arguments, they had their strong justifications, like what we were talking about earlier during those cost comparisons. What's going to be more costly to the government in the long run? Is it going to be terminating staff and paying severance payments and the like or is it going to be just keeping them in place for a certain period of time? So, written justification is paramount to make sure that these can be approved. And on the flip side there has been a case, I think also with the Armed Service Board of Contract Appeals, where a company was not allowed to be reimbursed for personnel expenses for staff because they didn't have any justification.

And so, those two examples just really highlight the importance for these companies right now that you've got to document, document, document. Keep records of everything and be as detailed as you can be as specific as you can. So that nobody can poke holes in your argument.

Hisham Allam

Katherine, your insights today have been golden. Thank you for demystifying stop work orders and empowering our listeners.

To our listeners, if this conversation resonated, follow us and share this episode with your teams. These orders will not disappear overnight, but together we can turn compliance hurdles into opportunities for resilience. Until next time, this is Hisham Allam signing off.

Remember, in a sector defined by uncertainty, knowledge is not just power, it is protection. Stay sharp, stay prepared, and keep driving impact. Goodbye!