Secretary Clinton made the advancement of LGBT rights an integral component of U.S. human rights foreign policy and institution building at State. As a result, our community achieved a great deal towards equality with our straight colleagues. While we are encouraged by these advances in recent years, there is still much work ahead to achieve full equality for LGBT employees and their families at State and other foreign affairs agencies.

President Obama established a clear mandate for all executive agencies to extend all possible benefits under current law to LGBT employees and their families. The implications of equal treatment are particularly meaningful for Foreign Service Officers and Specialists serving at a growing number of hardship posts around the world that require considerable personal sacrifice. On behalf of State and other federal foreign affairs agencies, Gays and Lesbians in Foreign Affairs Agencies (GLIFAA) hopes that Secretary Kerry -- who was a tremendous ally of the LGBT community throughout his tenure in the Senate -- will further the Department’s advocacy for the rights of its LGBT employees, our families, and LGBT persons around the world.

On behalf of GLIFAA, we ask your support in overcoming the many challenges that impede equal treatment for the LGBT foreign affairs community, and we look forward to meeting with you and Secretary Kerry at your earliest convenience.

Attachments:
1. GLIFAA Position Paper

cc: Under Secretary Patrick Kennedy
    Director General Linda Thomas-Greenfield
GLIFAA Position Paper

Issue 1:
*Immediate recognition of same-sex marriages should the Supreme Court overturn Section 3 of the Defense of Marriage Act (DOMA) in June.*

**Background**
On December 7 the Supreme Court granted review of *Windsor v. United States*, in which the Second Circuit Court of Appeals declared Section 3 of the Defense of Marriage Act (DOMA) unconstitutional. DOMA Section 3 currently prevents all federal agencies from recognizing otherwise legal same-sex marriages by defining marriage for federal purposes as those only between opposite sex spouses. Should the Supreme Court uphold the Court of Appeals’ ruling overturning DOMA Section 3 as unconstitutional, as many legal analysts anticipate, federal agencies, including State, must officially recognize same-sex marriages.

**Recommendations**
In preparation for the court’s ruling, expected before the end of June, the Department must ensure that its personnel systems are fully prepared to begin registration of same-sex spouses and the extension of all equitable benefits to same-sex spouses.

Recognition of same-sex marriage will also require the Department to reassess its “Same Sex Domestic Partner” (SSDP) program, which in 2009 began offering same-sex partners of Foreign Service employees the same “Eligible Family Member” (EFM) status as opposite-sex spouses. Given that not all SSDPs have married their Foreign Service partners, in the interest of fairness the Department should apply a grandfather clause to any Foreign Service employee who, before DOMA Section 3 was overturned, already registered a SSDP with Human Resources.

Issue 2:
*Extending federal benefits to same-sex spouses and domestic partners*

**Background**
Under DOMA, LGBT Americans cannot sponsor their spouses and partners for immigration to the United States nor obtain for their spouses and partners health insurance or other federal benefits. Private sector employers, however, generally extend full benefits packages to the spouses or partners of LGBT employees.

**Recommendation**
The Secretary should intensely lobby Congress to pass two important pieces of legislation aimed at promoting LGBT employees’ rights. The Uniting American Families Act would grant immigration/naturalization rights for “permanent partners” equivalent to those provided to married spouses and enable Foreign Service retirees to return home with their partners. The
Domestic Partnership Benefits and Obligations Act would offer partners the full range of federal benefits, including health insurance, currently enjoyed by employees’ opposite-sex spouses.

**Issue 3:**
*Application of equal overseas employment opportunities for foreign national partners*

**Background**
Overseas family member employment programs often require that eligible applicants be U.S. citizens. Opposite-sex spouses are eligible to expeditiously naturalize and gain American citizenship, but DOMA denies our spouses and partners these important opportunities.

**Recommendation**
Efforts should be made to convert positions abroad that do not require a security clearance from the “Family Member Appointment” (FMA) hiring mechanism to a local, “Personal Services Agreement” (PSA) that does not require U.S. citizenship. In addition, the Department must prioritize renegotiation of Bilateral Working Agreements (BWA) that do not currently permit our spouses and partners to work on the local economy in countries where opposite-sex spouses can.

**Issue 4:**
*Increased engagement with governments which fail to meet their obligations to accredit SSDPs*

**Background**
After establishing the SSDP program in 2009, the Department launched a campaign to inform foreign governments of its intention to request full diplomatic accreditation of SSDPs as family members under the Vienna Convention. The Department also implemented a reciprocal policy of accrediting the same-sex spouses of foreign diplomats assigned to the United States. Many countries have refused to accredit same-sex spouses and partners of U.S. diplomats, severely limiting LGBT employees’ ability to bid on all positions and/or bring their families overseas.

**Recommendation**
Through sustained high-level engagement, the Department should redouble its efforts to remind all governments of their obligations to accredit family members recognized by the sending state.

**Issue 5:**
*Combating discriminatory behavior in the workplace*

**Background**
Foreign Service officers with SSDPs serving abroad continue to report discriminatory behavior by Locally Engaged Staff (LES), Post Management, Diplomatic Security and other colleagues. In addition, unlike other federal agencies, State has not uniformly required contractors to abide by the same non-discrimination policies that the agency itself enforces.
Recommendation
Implement a training program for all staff, including LES, highlighting the importance of non-discrimination against LGBT employees and clarifying management officers’ obligation to assist SSDPs and the family members of LGBT employees. State should create a senior coordinator for LGBT issues to help implement this and related programs. In addition, the Department should revise non-discrimination clauses in all contracts to prohibit contractors from discriminating against LGBT persons consistent with State’s own non-discrimination policy.

Issue 6:
Broadening the J-1 Visa Program to other foreign affairs agencies.

Background
State created a special J-1 visa program to allow foreign national SSDPs of Foreign Service employees to join their partners in the United States during assignments for up to five years. The program has been a success and was expanded to include Foreign Service employees at USAID.

Recommendation
The Department should lead efforts to expand the program to SSDPs of Foreign Service employees at Agriculture, Commerce, the Millennium Challenge Corporation and Peace Corps. Furthermore, the program could also be used to support the foreign-born partners and spouses of American employees at the World Bank, IMF, and other international organizations.

Issue 7:
Coverage for transgender health under the Federal Employees Health Benefits Program.

Background
All federal health plans currently exclude any care related to gender reassignment, including procedures supported by the American Medical Association to treat transgender individuals.

Recommendation
State must take the lead in lobbying the Administration to change OPM’s policy so that gender confirmation services can be included as mandatory services in FEHB contracts.

Issue 8:
State only offers SSDP benefits to U.S. Direct Hire Foreign Service employees.

Recommendation
To the extent allowable by law, extend as many SSDP benefits to all employee classifications, including Personal Service Contractors (PSCs), Third-Country Nationals (TCNs) and Locally Engaged Staff (LES/FSN) across all foreign affairs agencies.