



Acquisition & Assistance Policy Directive (AAPD)

From the Director, Office of Procurement

Issued: December 31, 2002

AAPD 02-19

Implementation of E.O. 13224 – Certification Regarding Terrorist Financing

Subject Category: Assistance (A)
Type: New Policy/Procedure

AAPDs provide information of significance to all agency personnel and partners involved in the Acquisition and Assistance process. Information includes (but is not limited to): advance notification of changes in acquisition or assistance regulations; reminders; procedures; and general information. Also, AAPDs may be used to implement new requirements on short-notice, pending formal amendment of acquisition or assistance regulations.

AAPDs are **EFFECTIVE AS OF THE ISSUED DATE** unless otherwise noted in the guidance below; the directives remain in effect until this office issues a notice of cancellation.

This AAPD: Is New Replaces/ Amends
CIB/AAPD No: _____

Precedes change to: AIDAR Part(s) _____ Appendix _____
 USAID Automated Directives System (ADS) Chapter 303
 Code of Federal Regulations _____
 Other _____
 No change to regulations

Applicable to: Existing awards; Modification required:
 Effective immediately
 No later than _____
 As noted in guidance below
 RFPs/RFAs issued on or after the effective date of this AAPD; all other Pending Awards, i.e., 8(a), sole source...
 Other or N/A _____

New Provision/Clause Provided Herein: Yes; Scheduled update to Prodoc: ASAP
 No

Kathleen O'Hara (acting)

AAPD 02-19 Implementation of E.O. 13224 – Certification Regarding Terrorist Financing

PURPOSE: The purpose of this AAPD is to require applicants for USAID assistance to certify that they do not provide material support or resources for terrorist acts.

BACKGROUND: Section 2339A of Title 18 of the United States Code prohibits the provision of material support or resources for terrorist acts. Section 2339B of Title 18 of the United States Code prohibits the provision of material support or resources to designated foreign terrorist organizations, and requires any U.S. financial institution that becomes aware that it has possession of, or control over, any funds in which a designated foreign terrorist organization, or its agent, has an interest, to retain possession of, or maintain control over, such funds and report to the Secretary of the Treasury the existence of such funds.

Section 1189 of Title 8 of the United States Code (section 219 of the Immigration and Nationality Act, as amended by P.L. 107-56) authorizes the Secretary of State to designate an organization as a terrorist organization if the Secretary finds that the organization (1) is a foreign organization, (2) engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. § 2656f(d)(2)), or retains the capability and intent to engage in terrorist activity or terrorism, and (3) the terrorist activity or terrorism of the organization threatens the security of U.S. nationals or the national defense, foreign relations, or economic interest of the United States.

Executive Order 12947, as amended by Executive Order 13099, designated 16 individuals and entities that threaten to disrupt the Middle East peace process, and authorized the Secretary of State, in coordination with the Secretary of the Treasury and the Attorney General, to designate foreign individuals or entities that are found to have committed, or to pose a significant risk of committing, acts of violence that have the purpose or effect of disrupting the Middle East peace process, or to have provided support for or services in support of such acts of violence. The Secretary of the Treasury is authorized to designate, in coordination with the Secretary of State and the Attorney General, individuals or entities that are determined to be owned or controlled by, or are acting for or on behalf of, designated individuals or entities. All property and interests in property in the U.S. or in the possession or control of U.S. persons of designated individuals and entities are blocked, and any transaction or dealing in blocked property or interests in the U.S. or by U.S. persons is prohibited.

Executive Order 13224 designated 27 individuals and entities that have committed, threaten to commit or support global acts of terrorism, and authorized the Secretary of State, in consultation with the Secretary of the Treasury and Attorney General, to designate additional foreign individuals and entities determined to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States, and authorized the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, to designate additional individuals or entities determined to provide support for or financial or other services to or in support of such acts of terrorism or persons designated in or pursuant to the Order, or individuals or entities that are owned or controlled by, act for or on behalf of, or are otherwise associated with, certain individuals or entities that have been designated in or under the Order. All property and interests in property of designated individuals or entities in the U.S. or in the possession or control of U.S. persons are blocked, and any transaction or dealing in blocked property or interests in the U.S. or by U.S. persons is prohibited.

OMB has approved the Agency's information collection request under the Paperwork Reduction Act allowing USAID to require applicants for assistance to give a certification that they do not support terrorism. The approval is in effect from the date of this notice, and expires upon the earlier of incorporation of this AAPD into ADS 303 or December 31, 2005.

GUIDANCE: Before making the award of a grant or cooperative agreement to a non-governmental organization, the Agreement Officer must obtain a certification from both U.S. and non-U.S. organizations, substantially as follows:

“As a condition of entering into the referenced agreement, [name of organization] hereby certifies that it has not provided and will not provide material support or resources to any individual or entity that it knows, or has reason to know, is an individual or entity that advocates, plans, sponsors, engages in, or has engaged in terrorist activity, including but not limited to the individuals and entities listed in the Annex to Executive Order 13224 and other such individuals and entities that may be later designated by the United States under any of the following authorities: § 219 of the Immigration and Nationality Act, as amended (8 U.S.C. § 1189), the International Emergency Economic Powers Act (50 U.S.C. § 1701 et seq.), the National Emergencies Act (50 U.S.C. § 1601 et seq.), or § 212(a)(3)(B) of the Immigration and Nationality Act, as amended by the USA Patriot Act of 2001, Pub. L. 107-56 (October 26, 2001)(8 U.S.C. §1182). [Name of organization] further certifies that it will not provide material support or resources to any individual or entity that it knows, or has reason to know, is acting as an agent for any individual or entity that advocates, plans, sponsors, engages in, or has engaged in, terrorist activity, or that has been so designated, or will immediately cease such support if an entity is so designated after the date of the referenced agreement.

For purposes of this certification, "material support and resources" includes currency or other financial securities, financial services, lodging, training, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.

For purposes of this certification, "engage in terrorist activity" shall have the same meaning as in section 212(a)(3)(B)(iv) of the Immigration and Nationality Act, as amended (8 U.S.C. § 1182(a)(3)(B)(iv)).

For purposes of this certification, “entity” means a partnership, association, corporation, or other organization, group, or subgroup.

This certification is an express term and condition of the agreement and any violation of it shall be grounds for unilateral termination of the agreement by USAID prior to the end of its term.”

POINT OF CONTACT: Questions on any of the above may be directed to Allen Eisenberg in M/OP, aeisenberg@usaid.gov, 202-712-1467.