

# International Programs Counter-Terrorism Policy

## Policy Statement

Transform Aid International (TAI) is an agency that receives funding from the Australian Government and the Australian public. TAI accepts it has a duty in managing and implementing Australia's overseas aid program to use reasonable endeavors to ensure that aid funds and resources are not being used to support terrorist activity.

TAI recognises that terrorism flourishes in environments of despair, humiliation, poverty, political oppression, extremism and human rights abuse; it also flourishes in contexts of regional conflict and foreign occupation; and it profits from weak state capacity to maintain law and order. TAI does not support terrorism/violence in all its forms as a means to bring about social change.

The Australian government has enacted legislation consistent with a number of international counter-terrorism treaties designed to combat terrorism. There are two separate legislative mechanisms directly prohibiting activities in relation to individuals and organisations associated with terrorism. They are:

- (i) Part 5.3 of the *Criminal Code Act 1995 (Criminal Code)*;

Under the Criminal Code there are stringent penalties for, amongst other things, intentionally or recklessly 'getting funds to or from a terrorist organisation' (section 102.6), 'providing support to a terrorist organisation' (section 102.7) and 'financing terrorism' (section 103.1).

- (ii) Part 4 of the *Charter of United Nations Act 1945 (UN Charter Act)*

Under the UN Charter Act, it is an offence to "directly or indirectly make any asset available to a proscribed person or entity". A list of proscribed persons and entities is available from DFAT: <http://dfat.gov.au/international-relations/security/sanctions/Pages/consolidated-list.aspx>

In addition to our legal obligations, the threat posed by terrorism itself and the discovery of any links between aid funds and organisations associated with terrorism poses significant risks. This can potentially impact on continued community support for overseas aid in general, and to an organisation's reputation specifically. This applies equally to the Australian aid program as well as other organisations working in international aid delivery.

TAI acknowledges that an inherent element of our obligations to donors supporting TAI expect that TAI observes good stewardship of funds.

It is important to ensure that TAI does not knowingly become involved with persons or organisations engaged in terrorist activities, and that it does not provide any financial, material, or other support to such entities and/or activities.

TAI will use reasonable endeavors to ensure that no project funds are used to support terrorist groups.

## **Scope and Purpose**

This policy applies to all the International Programs development and disaster management projects of TAI. The policy purpose is to ensure that funds provided to TAI are used in a transparent manner and in accordance with the principles and guidelines set down by the Australian government, international and regional donor groups related to financing of terrorist groups. This policy applies to all TAI partners and implementing organisations. TAI's project agreement stipulates under lead clause 20:

Clause 20

Ensure that no activities carried out by the Organisation or its representatives provide direct or indirect support to organisations or individuals associated with terrorism and that no third parties involved in the implementation of the program or components of the program are associated with terrorist organisations or terrorist activities. If, during the course of this Agreement, the Partner Organisation discovers any link whatsoever with any organisation or individual associated with terrorism you must inform Transform Aid immediately.

## **Policy Objectives**

The objectives of this policy are:

- To ensure that TAI's partners and implementing organisations are aware of TAI compliance standards relevant to the receipt of Australian government funds.
- To ensure that TAI's partners and implementing organisations are aware of all relevant security watch lists provided by the Australian Department of Foreign Affairs, the Australian National Security Agency, the World Bank and the Asian Development Bank.
- To ensure that TAI's partners and implementing organisations check the aforementioned security watch lists on an annual basis as part of annual proposal requirements.
- To ensure that TAI, partners and implementing organisations must use reasonable endeavours to ensure that all Activities (including those carried out by a Delivery organisation) comply with relevant Australian and Partner Government laws and regulations as well as TAI policies, including but not limited to:
  - those in relation to the proscription against providing direct or indirect support or resources to organisations and individuals associated with terrorism, including 'terrorist organisations' as defined in Division 102 of the Commonwealth Criminal Code Act 1995 and listed in regulations under the act and regulations made

under the Charter of the UN Act (Cth) 1945; and

- o Those in relation to corrupt practices, in particular the bribery of public and foreign officials.

## **Responsibilities**

Responsibility for the operationalisation of the counter-terrorism policy resides with the Director of International Programs. A review is conducted annually by the International Programs Department to confirm the status of Australian government counter terrorism watch lists and any other associated watch lists such as those with the World Bank and Asian Development Bank.

TAI is committed to communicating all policy changers via the QA Bulletin published monthly.

The importance of compliance with this policy is to clearly demonstrate the importance to TAI partners and implementing organisations of TAI's commitment to good stewardship of funds and the accountability of those funds to the Australian public.

This policy will be available on TAI's intranet. This policy will be reviewed annually, or sooner as required.

## **Definitions**

The phrase "reasonable endeavours" is used in recognition of the difficulties that may be encountered in ensuring that indirect support is not provided, particularly when there are multiple layers of decision making between the organisation TAI is providing funding to and the ultimate beneficiaries. The phrase denotes a positive obligation to act. The test of whether or not reasonable endeavours have been used will be specific to the circumstances including the degree of risk in the particular operating environment.

Reasonable endeavours mean that TAI has a positive obligation to act.

In particular, it will ensure that it:

- (i) knows the persons/organisations that it is directly assisting;
- (ii) makes sure the people/organisations that it is directly assisting are not on either of the lists before assistance is provided; and
- (iii) makes sure that directly funded persons/organisations are aware of and obliged to comply with these laws, and that they in turn are obliged to make sure that their distribution of the funds or support is made on the same basis.

## **Related Policies and Procedures**

This Policy should be read in conjunction with:



- Counter Terrorism Procedure
- TAI Proposal Assessment Tool and Capacity Assessment Tool
- Consultants Engagement checklist

## External References

- ACFID Code of Conduct Program Principles B 2.3 – Control of funds and resources
- Australian Department of Foreign Affairs (DFAT) Consolidated List
- Australian National Security Listed Terrorist Organisations
- [World Bank Listing of Ineligible Firms and Individuals](#)
- [Asian Development Bank Sanctions List](#)

## Document Control Information

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