



USAID | WEST BANK/GAZA

March 17, 2006
2006-WBG-13

To: All USAID Contractors and Grantees

Subject: Updated Anti-Terrorism Procedures

Attached is a copy of a new Mission Order that updates the Mission's procedures for ensuring that USAID-funded assistance does not inadvertently provide support to entities or individuals associated with terrorism. The Mission Order was approved by the Mission Director on March 13, 2006, and is effective as of that date.

Also attached is a memo from the Mission's Legal Advisor outlining changes from previous guidance. The Mission's last comprehensive written guidance on this topic was Contractor/Grantee Notice No. 2003-DIR-01, "Guidance Regarding Vetting and Certification," issued on August 26, 2003. The Mission's procedures have evolved since then, culminating in the new Mission Order.

If you have any questions about the Mission Order, please address them to Peter Sullivan, psullivan@usaid.gov, with a "cc" to me.

Sincerely,

Roy Plucknett
Contracting Officer
USAID West Bank & Gaza Mission

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USAID | WEST BANK/GAZA

MISSION ORDER NO. 21

Subject: Anti-Terrorism Procedures

References: Executive Order 13224 (September 24, 2001)
Section 559 of the FY 06 Foreign Operations Appropriations Act
18 U.S.C. §§ 2339A and 2339B
AAPD 04-14 (September 24, 2004)
AAPD 02-04 (March 20, 2002)

Effective Date: March 13, 2006

I. PURPOSE

The purpose of this Mission Order is to describe and update procedures to ensure that the Mission's assistance program does not inadvertently provide support to entities or individuals associated with terrorism.

II. LEGAL AUTHORITIES

On September 24, 2001, shortly after the terrorist attacks of September 11th, President Bush issued Executive Order 13224, which blocks property and interests in property of individuals and entities that are designated as committing or posing a significant risk of committing terrorist acts. The Order prohibits all transactions and dealings in blocked property or interests in the U.S. or by U.S. persons. It also prohibits transactions with, and provision of support for, individuals or entities designated in or subject to the Order.

Initially, 28 individuals and entities were designated under E.O. 13224. The Order authorized the Secretary of State to make additional designations. It also authorized the Secretary of Treasury to designate additional individuals and entities that provide support or services to, are owned or controlled by, act for or on behalf of, or are "otherwise associated with," an individual or entity that has been designated in or under the Order.

E.O. 13224 is just one of several statutes, regulations and Executive Orders pertaining to terrorism. Others include Sections 2339A and 2339B of Title 18 of the U.S. Code, which prohibit the provision of material support or resources for terrorist acts or to designated foreign terrorist organizations, and Executive Orders 12947 (January 23, 1995) and 13099 (August 20, 1998), which prohibit transactions with terrorists who threaten to disrupt the Middle East peace process.

Hundreds of individuals and entities have been designated under these and other statutes, regulations and Executive Orders. A complete list of designated parties can be found online at <http://www.treas.gov/offices/eotffc/ofac/sdn/t11sdn.pdf>. The list includes several Palestinian

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organizations that have been designated as terrorist entities, including Hamas, the Popular Front for the Liberation of Palestine (PFLP), Palestinian Islamic Jihad (PIJ), and the Democratic Front for the Liberation of Palestine (DFLP).

A statutory provision of special relevance to USAID/WBG is Section 559 of the FY 06 Foreign Operations Appropriations Act, which is entitled "West Bank and Gaza Program". Paragraphs (b) and (c) of Section 559 provide as follows:

(b) VETTING – Prior to the obligation of funds appropriated by this Act under the heading "Economic Support Fund" for assistance for the West Bank and Gaza, the Secretary of State shall take all appropriate steps to ensure that such assistance is not provided to or through any individual, private or government entity, or educational institution that the Secretary knows or has reason to believe advocates, plans, sponsors, engages in, or has engaged in, terrorist activity. The Secretary of State shall, as appropriate, establish procedures specifying the steps to be taken in carrying out this subsection and shall terminate assistance to any individual, entity, or educational institution which he has determined to be involved in or advocating terrorist activity.

(c) PROHIBITION – None of the funds appropriated by this Act for assistance under the West Bank and Gaza program may be made available for the purpose of recognizing or otherwise honoring individuals who commit, or have committed, acts of terrorism.

A provision similar to paragraph (b) has appeared in each Foreign Operations Appropriations Act since FY 2003. Paragraph (c) was added in FY 2005.

III. ADDITIONAL BACKGROUND INFORMATION

The vetting procedures described in Section V are the culmination of an evolutionary process that began in July 2001, following consultations on Capitol Hill, and gathered momentum after the terrorist attacks of September 11, 2001. Draft review procedures were developed in the fall of 2001, based on consultations with the ANE Bureau, USAID's anti-terrorism task force, the Office of the General Counsel, the U.S. Embassy/Tel Aviv, USAID Mission staff, U.S. implementing partners, and Palestinian non-governmental organizations (NGOs). Since then, the review procedures have been further refined to take into account concerns raised by these and other parties.

In addition to vetting, the Mission implements three other formal anti-terrorism measures: (1) the anti-terrorism certification (ATC) (see Section VI below), (2) mandatory clauses reminding contractors and grantees of their legal duty to comply with applicable anti-terrorism laws and regulations (see Section VII below), and (3) a clause implementing the restriction imposed by Section 559(c) of the FY 06 Appropriations Act (see Section VIII below).

There are also several less formal means by which support for terrorist organizations is avoided. First, in order to ensure compliance with E.O. 13224 and related requirements, U.S. contractors and grantees are expected to conduct their own review of proposed non-U.S. awardees. Second, before an award is made to a non-U.S. organization, staff of USAID (in the case of prime awards) or staff of the U.S. prime contractor or grantee (in the case of subawards) scrutinize various aspects of the organization's operations as part of the standard due diligence and pre-award survey. Third, the personal knowledge of USAID staff is taken into account before an award is made or a subaward is approved. Finally, knowing that individuals and

organizations will be subject to such scrutiny, organizations that are involved in terrorism are discouraged from applying for USAID-financed assistance in the first place.

IV. DEFINITIONS

As used in this Mission Order –

- A. "Award" means any contract, grant or cooperative agreement awarded by USAID, and any cash or in-kind assistance provided by USAID in any other form, including construction services, equipment, supplies, technical assistance, and training. "Awardee" means any individual or organization that receives an award. Unless the context otherwise requires, "award" includes "subawards," and "awardee" includes "subawardees" as defined below.
- B. "Cognizant Technical Officer" or "CTO" means the USAID officer responsible for day-to-day management of the project or activity in question.
- C. "Key individuals" means the individuals defined in Section V.C below. (The definition of "key individuals" is not the same as "key personnel" under a contract or cooperative agreement.)
- D. "PSU" means the Program Support Unit of the USAID Mission.
- E. "Subaward" means any grant, subgrant or subcontract awarded by a USAID implementing partner, and any cash or in-kind assistance provided by an implementing partner in any other form. "Subawardee" means any individual or organization that receives a "subaward."

V. VETTING PROCEDURES

- A. **Applicability:** Vetting is conducted by USAID in connection with its review and approval of proposed awards and subawards to non-US organizations. Vetting applies to the following organizations and individuals:
 - (1) Contractors and subcontractors: Any non-US organization or individual proposed for award of a contract or subcontract in excess of \$25,000. This includes contracts to be awarded by USAID, subcontracts to be awarded by prime contractors, and contracts to be awarded by grantees and recipients of cooperative agreements. It does not include personal services contracts (PSCs) to be awarded by USAID, which have separate security clearance procedures.
 - (2) Recipients of assistance instruments: Any non-US organization or individual (other than a Public International Organization (PIO)) proposed to receive cash or in-kind assistance under a cooperative agreement, grant or subgrant, regardless of the dollar amount. This includes grants and cooperative agreements to be awarded by USAID, grants to be awarded by prime contractors (Grants Under Contracts, or GUCs), and subgrants to be awarded by grantees or recipients of cooperative agreements (Grants Under Grants, or GUGs).
 - (3) Trainees: Non-US individuals for whom USAID finances (a) training, study tours, or invitational travel in the U.S. or third countries, regardless of the duration; or (b) training in West Bank/Gaza lasting more than five consecutive work days (regardless of the number of hours of training on each day).

- (4) Other direct recipients of cash or in-kind assistance: Except as provided in paragraph (5) below, vetting is required when other forms of cash or in-kind assistance (including technical assistance) are provided directly to one or more specifically identified persons or entities. For example, vetting generally would be required for a hospital that will receive pharmaceuticals, a company whose manufacturing equipment will be repaired or replaced, or an NGO whose recreational facilities will be renovated. Vetting is not required, however, for persons or entities that benefit from assistance indirectly. In the prior examples, no vetting would be required for patients of the hospital, customers of the manufacturer, or users of the recreational facilities.
- (5) Exceptions: Except as provided in paragraph (6) below, vetting does not apply in the following cases:
- (a) Individuals who receive jobs under employment generation activities, including incidental job training.
 - (b) Ultimate beneficiaries of cash or in-kind assistance, such as food, water, medical care, micro-enterprise loans, shelter, etc.; provided that the total value of assistance does not exceed the following amounts:
 - (i) \$1000, for assistance to an individual (other than loans),
 - (ii) \$2500, for assistance to an organization (other than loans), or
 - (iii) \$5,000, for micro-enterprise loans or assistance to a household (e.g., repair of housing units).
 - (c) Vendors of goods or services acquired by USAID contractors and grantees in the ordinary course of business for their own use – for example, utilities (water, electricity, gas, and trash collection); communications (telephone, fax, postal and courier services); office supplies, equipment and furniture; services for moving to new homes and offices; vehicles (purchase or lease) and fuel, spare parts, and repair or maintenance services for vehicles; and books, newspapers and periodicals. Vetting is required, however, before leasing housing or office space if the total amount of rent under the lease exceeds the limit stated in A(1) above.
- (6) Even if vetting would not otherwise be required under these rules, vetting will be conducted whenever there is reason to believe that the beneficiary of assistance or the vendor of goods or services commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has done so in the past.

B. Further Rules on Applicability:

- (1) The \$25,000 threshold for contracts and subcontracts is cumulative for multiple awards to the same firm within a 12-month period. For example, if a firm receives a subcontract for \$20,000 and later is selected to receive another one for \$10,000, the second award would trigger vetting if fewer than 12 months have passed since the first award. Amendments, however, will be treated differently. If an amendment would increase the amount of a contract or subcontract above \$25,000, vetting would be required no matter how many months have passed since the original award was made.
- (2) With respect to organizations, vetting applies only to first-tier and second-tier recipients. If, for example, a U.S. prime contractor (first tier) awards a grant to a Palestinian NGO (second tier), which in turn awards a subgrant to another Palestinian NGO (third tier), the second-tier grantee would be vetted, but the third-tier subgrantee would not be.

- (3) Palestinian government officials, including PLC members and municipal officials, are subject to vetting to the same extent as other individuals. They must be vetted, for example, before participating in training or invitational travel outside of the West Bank and Gaza. They need not be vetted, however, with respect to USAID-financed public works that benefit broad segments of the general public – for example, the construction of schools, development of parks, or repair of roads. However, screening may be required under the circumstances described in part IX below, “Cooperation with Government Officials.”
- (4) Vetting applies to colleges, universities and other educational institutions to the same extent as other types of organizations.
- (5) Although PIOs are not themselves subject to vetting, organizations and individuals to whom PIOs provide assistance are subject to vetting by USAID in accordance with these rules.
- (6) No one under age 16 will be vetted. Where vetting is required for a household (e.g., for housing assistance that exceeds \$7000), only members of the household who are 16 years of age or older will be vetted.
- (7) If an organization has been previously vetted, whether subsequent vetting will be required for each of its branches that receive assistance will be decided by the Deputy Director on a case by case base. This will depend largely on the extent to which the organization’s headquarters oversees and controls the activities of its branches.
- (8) For contracts and grants under interagency agreements pursuant to Section 632(a) or (b) of the Foreign Assistance Act, it will be incumbent upon the recipient agency to implement appropriate review procedures to ensure compliance with E.O. 13224 and related requirements. A provision to this effect will be included in all interagency agreements pertaining to the West Bank and Gaza.

C. Vetting of “Key Individuals”: Whenever an organization must be vetted, each of the organization’s “key individuals” must also be vetted. “Key individuals” means:

- (2) The program manager or chief of party for the USAID-financed program;
- (3) The principal officer and deputy principal officer of the organization (e.g., executive director, deputy director, president, vice president);
- (4) Principal officers of the organization’s governing body (e.g., chairman, vice chairman, treasurer and secretary of the board of directors or board of trustees); and
- (5) Any other person with significant responsibilities for administration of USAID-financed activities or resources.

Note that the definition of “key individuals” differs from the definition of “key personnel” under a contract or cooperative agreement.

D. Obtaining Data Needed for Review: Before USAID awards a contract, grant or cooperative agreement to any organization described in A(1) or (2) above, the proposed awardee must submit to USAID data needed to vet the organization and its “key individuals.” Similarly, before an implementing partner makes a subaward of the type described in A(1) or (2) above, or provides assistance of the type described in A(3) or (4) above, the

implementing partner must submit to USAID data needed to vet the proposed recipient of the subaward or other assistance.

To vet an individual, USAID needs the person's full four-part name. To vet an organization, USAID needs the full name and address of the organization and the full four-part name of each "key individual" of the organization. In addition, other identifying data for individuals – such as ID number, date of birth and/or place of birth – should be submitted to USAID when available. Such additional data will greatly expedite the vetting process.

The Cognizant Technical Officer will be responsible for gathering the information described above, using the form shown in Attachment A. This information will be forwarded to USAID's Program Support Unit ("PSU") for submission to the U.S. Embassy/Tel Aviv for review. Before initiating a vetting request, however, the CTO should consult with PSU to see whether a vetting approval is already in effect for the individual or organization in question. (See "Duration of Approval," below.)

Vetting should be initiated as early as possible during the process of selecting recipients. Selection decisions should not be disclosed to the proposed recipient or any other outside party until the vetting process has been completed and USAID has determined that the recipient is eligible.

- E. Review by the U.S. Embassy, U.S. Consulate General and USAID:** After submission of the data described above, the U.S. Embassy will review the data and notify USAID in writing of the results of its review, including whether any derogatory information has been located – that is, whether any of the vetted organizations or individuals appear to be, or to have affiliations with, problematic organizations or individuals. Notification will be sent to PSU, which in turn will notify the CTO.

In cases where no derogatory information is located, USAID will proceed with the proposed award, or notify the contractor, grantee or recipient that it may proceed with the proposed subaward, as the case may be. See Attachment B for suggested notification language.

In cases where derogatory information about a proposed awardee or a key individual is located, the Deputy Mission Director and the CTO will decide whether to request additional information about the organization or individual(s) in question – for example, an individual's date of birth or ID number. This information may enable USAID and the U.S. Embassy to determine that a "false positive" has occurred, or it may confirm that suspected affiliations truly exist. When additional identifying information is needed, the request will be made to more than one person whenever possible – for example, to all "key personnel" of an organization – to avoid disclosing which individual(s) triggered the request.

In cases where additional information does not dispel derogatory information, USAID will either (1) disapprove the award or subaward to the proposed recipient, or (2) submit the matter to the U.S. Embassy and U.S. Consulate General/Jerusalem for further review, in consultation with Washington as appropriate.

- F. Notification of Final Decision:** Once a final decision has been made, the Cognizant Technical Officer will promptly send written notice of the decision to (1) USAID's Contracting Officer, in the case of a proposed award by USAID; or (2) the proponent of the subaward, in the case of a subaward proposed by a party other than USAID. Notices to outside parties

should conform to the language shown in Attachment B. A copy of the final decision will be retained in PSU's files.

- G. Duration of Approval:** Once an awardee has been approved pursuant to these procedures and received an award, the approval generally will remain in effect for that particular award until its expiration date. However, new vetting will be required if there is any change in the awardee's "key individuals" or if an extension of the award is proposed. Also, vetting approval may be rescinded if USAID obtains information indicating that the awardee or any of its "key individuals" is or has been involved in terrorist activity. When such information arises, the Cognizant Technical Officer will consult with the Deputy Director, the Regional Legal Advisor, and the Contracting Officer.

For any new awards or extensions of existing awards, the awardee must be vetted if more than 12 months have passed since the awardee was last approved pursuant to these procedures. If fewer than 12 months have passed, vetting is not required for that award or extension.

As provided in the mandatory clause shown in Attachment C, awardees are required to keep USAID apprised of changes in the "key individuals" of the awardee and of all subawardees that were vetted by USAID. The clause reserves the right of USAID to rescind its approval of subawards at any time. If vetting approval is rescinded for a subaward, USAID's Contracting Officer will provide written instructions to the prime awardee to terminate the subaward. The clause also reserves the right of USAID to terminate the prime award if USAID determines that the awardee is involved in or advocates terrorist activity or has failed to comply with the requirements of the clause.

- H. Database:** PSU will maintain a database showing all organizations and individuals that have been submitted for review and the status of each case. Due to the sensitivity of information in the database, it will be made available only to those with an official need for access, as determined by PSU and/or the Deputy Director.

VI. ANTI-TERRORISM CERTIFICATION (ATC)

On September 24, 2004, USAID/Washington's Office of Acquisition and Assistance issued AAPD 04-14, "Certification Regarding Terrorist Financing Implementation E.O. 13224 (Revision 2)". The AAPD requires that all U.S. and non-U.S. organizations certify, before being awarded a grant or cooperative agreement by USAID, that the organization does not provide material support or resources for terrorism. The text of the certification is shown as Attachment C. (This version supersedes earlier versions that were issued in AAPD 02-19 on December 31, 2002, and AAPD 04-07 on March 24, 2004.)

The ATC requirement applies to the prime recipients of grants and cooperative agreements, as well as the recipients of Grants Under Contracts (GUCs). USAID/WBG also applies the requirement to the first level of subgrantees under grants and cooperative agreements (Grants Under Grants, or GUGs). Thus, the ATC applies to all first-tier and second-tier assistance recipients, but it does not apply to lower-tier recipients.

The ATC applies only to the Non-Governmental Organizations that receive awards of cash or in-kind assistance. It does not apply to (1) individuals, (2) Public International Organizations, (3) the host government (including local government units), (4) contractors, or (5) subcontractors. Note that because municipalities are not NGOs, they need not sign the ATC when they receive

in-kind assistance (e.g., technical assistance, training, supplies, equipment, or construction services).

The Office of Contracts Management (OCM) is responsible for obtaining ATCs before making awards to prime awardees. USAID's implementing partners are responsible for obtaining ATCs, and providing copies of them to OCM, before making subawards to subawardees.

VII. MANDATORY CLAUSES

On March 20, 2002, the Office of Procurement issued AAPD 02-04, "Implementation of E.O. 13224 – Executive Order on Terrorist Financing." The AAPD prescribes a mandatory provision for inclusion in all solicitations and awards for contracts, grants and cooperative agreements.

The Contractor/Recipient is reminded that U.S. Executive Orders and U.S. law prohibits transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the contractor/recipient to ensure compliance with these Executive Orders and laws. This provision must be included in all subcontracts/subawards issued under this contract/agreement.

The Mission has revised this clause with Washington's approval. The revised clause is shown as Attachment D. Paragraph (a) is identical to language stated in the AAPD. The other paragraphs are unique to the Mission.

For grants to the United Nations or UN agencies, the clause shown as Attachment E is used to supplement the standard provision entitled "Terrorist Financing Clause (UN Grants) (May 2003)". (See ADS 308, Mandatory References, Standard Provisions for Grants to Public International Organizations, Required as Applicable Standard Provisions.)

VIII. RESTRICTION ON FACILITY NAMES

Section 559(c) of the FY 06 Foreign Operations Appropriations Act, provides as follows: "None of the funds appropriated by this Act for assistance under the West Bank and Gaza program may be made available for the purpose of recognizing or otherwise honoring individuals who commit, or have committed, acts of terrorism." To implement this restriction, all contracts, subcontracts, grants, cooperative agreements, and subgrants must contain the clause set forth in Attachment F, "Restriction on Facility Names."

When, in accordance with this clause, an implementing partner submits information concerning a facility's name, the CTO will review the information to determine whether it might be problematic. If there is any possibility that the proposed name will be controversial, the CTO will consult with the Deputy Mission Director for guidance. The CTO will document this review in a memorandum to the project file.

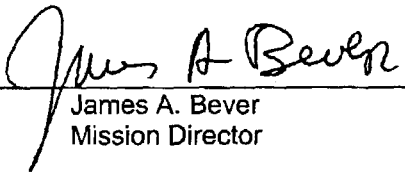
The use of "shuhada" or "shaheed" ("martyr" or "martyrs") in a facility's name may be approved by the Mission Director if he determines that the name does not refer to anyone who has advocated, sponsored or committed acts of terrorism. Such approval will be granted only after consultation with the U.S. Ambassador and/or the U.S. Consul General, as appropriate.

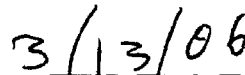
IX. COOPERATION WITH GOVERNMENT OFFICIALS

Additional vetting may be required in cases where certain government officials – i.e., members of the Palestinian Legislative Council, officials of the Palestinian Authority who are political appointees (as opposed to career civil servants), or elected municipal officials – will sign an MOU, grant agreement or project agreement, or will otherwise be involved in project implementation or publicity for a project. When such cases arise, the Deputy Mission Director should be contacted for guidance.

X. APPROVAL

This Mission Order will go into effect on the date signed by the Mission Director below.


James A. Bever
Mission Director


Date

Attachments:

- A. Vetting Form
- B. Sample Notification Language
- C. Anti-Terrorism Certification
- D. Mandatory Clause
- E. Mandatory Clause (UN Grants)
- F. Restriction on Facility Names

Drafted: RLA, P.Sullivan, ^{PWS} 09/14/05, revised 12/28/05, 02/17/06, 03/03/06 & 3/13/06.

VETTING FORM

Part A: Information About Proposed Activities (to be completed by USAID CTO)	
1. Name of the prime contractor, grantee or recipient proposing the award or other assistance:	
2. Type of proposed award or other assistance (check one): <input type="checkbox"/> contract or subcontract <input type="checkbox"/> grant or subgrant <input type="checkbox"/> training <input type="checkbox"/> other benefit	
3. Dollar amount and duration of proposed award or assistance: \$	
4. Purpose of proposed award or assistance:	
5. Organization (if any) proposed to receive award or other assistance:	
a. Name:	
b. Address:	
c. Telephone:	d. Fax:
e. Brief statement of proposed awardee's mandate:	
6. Full four-part name of each individual to receive training or other direct benefits, or full name and title of each "key individual" (as defined below) of the organization named in 5 above, plus other identifying data when available, such as ID number, date of birth and/or place of birth:	
a. Name & title:	Other ID data:
b. Name & title:	Other ID data:
c. Name & title:	Other ID data:
d. Name & title:	Other ID data:
e. Name & title:	Other ID data:
f. Name & title:	Other ID data:
g. Name & title:	Other ID data:
h. Name & title:	Other ID data:
"Key individual" means (a) the program manager or chief of party for the USAID-financed program; (b) the principal officer and deputy principal officer of the organization (e.g., executive director, deputy director, president, vice president); (c) principal officers of the organization's governing body (e.g., chairman, vice chairman, treasurer and secretary of the board of directors or board of trustees); and (d) any other person with significant responsibilities for administration of USAID-financed activities or resources. Note that this definition differs from the definition of "key personnel" under contracts and cooperative agreements.	
Part B: Submission details (to be completed by USAID vetting official)	
Vetting request number	
CTO who initiated request	
Strategic Objective number	
Date submitted to Embassy	
Part C: Summary of screening results (to be completed by USAID vetting official)	
Date returned by Embassy	
Summary of results	

SUGGESTED NOTICE LANGUAGE

[The language below is suggested for notices to prime award recipients about proposed subawards. Notices to prime awardees about themselves should be modified as appropriate.]

Notice of Eligibility

I am writing with regard to _____, which your organization has proposed to receive an award of USAID assistance. USAID has determined that _____ is eligible to receive such assistance. This determination will remain in effect for the duration of the award to _____. However, USAID reserves the right to rescind this approval in the event that USAID becomes aware of information indicating that the award is contrary to U.S. law or policy prohibiting support for terrorism. Furthermore, a new request for approval will be required if your organization wishes to extend this award or make a new award to _____ more than 12 months after the date of this letter.

This approval does not relieve your organization of its legal obligation to comply with U.S. Executive Orders and U.S. law prohibiting transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism.

As required by the terms of your contract/agreement with USAID, please promptly notify me in the event of any change in the identity of _____'s "key individuals." I request that you also notify me if there is a material change in the program or operations of _____, or any development that might cause USAID to reconsider _____'s eligibility.

Notice of Ineligibility

I am writing with regard to _____, which your organization has proposed to receive USAID assistance. After careful consideration, USAID has determined that _____ is not eligible to receive assistance funded by USAID. We encourage you to identify another candidate to receive the proposed assistance.

CERTIFICATION

By signing and submitting this application, the prospective recipient provides the certification set out below:

1. The Recipient, to the best of its current knowledge, did not provide, within the previous ten years, and will take all reasonable steps to ensure that it does not and will not knowingly provide, material support or resources to any individual or entity that commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated, or participated in terrorist acts, as that term is defined in paragraph 3.
2. The following steps may enable the Recipient to comply with its obligations under paragraph 1:
 - (a) Before providing any material support or resources to an individual or entity, the Recipient will verify that the individual or entity does not (i) appear on the master list of Specially Designated Nationals and Blocked Persons, which list is maintained by the U.S. Treasury's Office of Foreign Assets Control (OFAC) and is available online at OFAC's website: <http://www.treas.gov/offices/eotffc/ofac/sdn/t11sdn.pdf>, or (ii) is not included in any supplementary information concerning prohibited individuals or entities that may be provided by USAID to the Recipient.
 - (b) Before providing any material support or resources to an individual or entity, the Recipient also will verify that the individual or entity has not been designated by the United Nations Security Council (UNSC) sanctions committee established under UNSC Resolution 1267 (1999) (the "1267 Committee") [individuals and entities linked to the Taliban, Usama bin Laden, or the Al Qaida Organization]. To determine whether there has been a published designation of an individual or entity by the 1267 Committee, the Recipient should refer to the consolidated list available online at the Committee's website: <http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>.
 - (c) Before providing any material support or resources to an individual or entity, the Recipient will consider all information about that individual or entity of which it is aware and all public information that is reasonably available to it or of which it should be aware.
 - (d) The Recipient also will implement reasonable monitoring and oversight procedures to safeguard against assistance being diverted to support terrorist activity.
3. For purposes of this Certification –
 - (a) "Material support and resources" means currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials."
 - (b) "Terrorist act" means –
 - (i) an act prohibited pursuant to one of the 12 United Nations Conventions and

Protocols related to terrorism (see UN terrorism conventions Internet site: <http://untreaty.un.org/English/Terrorism.asp>); or

- (ii) an act of premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents; or
 - (iii) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.
- (c) "Entity" means a partnership, association, corporation, or other organization, group or subgroup.
- (d) References in this Certification to the provision of material support and resources shall not be deemed to include the furnishing of USAID funds or USAID-financed commodities to the ultimate beneficiaries of USAID assistance, such as recipients of food, medical care, micro-enterprise loans, shelter, etc., unless the Recipient has reason to believe that one or more of these beneficiaries commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated or participated in terrorist acts.
- (e) The Recipient's obligations under paragraph 1 are not applicable to the procurement of goods and/or services by the Recipient that are acquired in the ordinary course of business through contract or purchase, e.g., utilities, rents, office supplies, gasoline, etc., unless the Recipient has reason to believe that a vendor or supplier of such goods and services commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated or participated in terrorist acts.

This Certification is an express term and condition of any agreement issued as a result of this application, and any violation of it shall be grounds for unilateral termination of the agreement by USAID prior to the end of its term.

Signed: _____
(Typed Name and Title)
(Name of Organization)

_____ Date

MANDATORY CLAUSE

Prohibition against Support for Terrorism

- (a) The Contractor/Recipient is reminded that U.S. Executive Orders and U.S. law prohibits transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the Contractor/Recipient to ensure compliance with these Executive Orders and laws.
- (b) One of the applicable orders is Executive Order 13224, dated September 24, 2001. The website of the Office of Foreign Assets Control (OFAC) of the Department of Treasury contains the text of that order and a list of the individuals and entities designated thereunder. It also contains lists of individuals and entities designated under other anti-terrorism statutes, regulations and Executive Orders. See <http://www.treasury.gov/offices/enforcement/ofac/sdn/>.
- (c) USAID reserves the right to review, and either approve or reject, the following subawards if proposed under this contract/agreement: (i) any contract or subcontract in excess of \$25,000 with a non-U.S. organization or individual; and (ii) any grant or subgrant to a non-U.S. organization or individual, regardless of the dollar value. Furthermore, the written consent of USAID is required before certain other forms of assistance may be provided to a non-U.S. organization or individual. These include in-kind assistance such as renovation of an NGO's facilities, repair or replacement of a company's equipment, and certain training activities. The details of these requirements are described in notices issued by USAID/West Bank & Gaza from time to time. No approval (or failure to disapprove) by USAID shall relieve the Contractor/Recipient of its legal obligation to comply with applicable Executive Orders and laws.
- (d) USAID reserves the right to rescind approval for a subaward in the event that USAID subsequently becomes aware of information indicating that the subaward is contrary to U.S. law or policy prohibiting support for terrorism. In such cases, USAID's Contracting Officer will provide written instructions to the Contractor/Recipient to terminate the subaward.
- (e) The Contractor/Recipient agrees to promptly notify USAID's Cognizant Technical Officer (CTO) in the event of any change in the identity of its "key individuals" or in the identity of "key individuals" of any recipient of a subaward described in paragraph (d). For purposes of this requirement, "key individuals" means (i) the program manager or chief of party for the USAID-financed program; (ii) the principal officer and deputy principal officer of the organization (e.g., executive director, deputy director, president, vice president); (iii) principal officers of the organization's governing body (e.g., chairman, vice chairman, treasurer and secretary of the board of directors or board of trustees); and (iv) any other person with significant responsibilities for administration of USAID-financed activities or resources. Note that this definition differs from the definition of "key personnel" under contracts and cooperative agreements.
- (f) Before awarding any grant or subgrant under this contract/agreement, the Contractor/Recipient shall (1) obtain from the proposed subawardee the certification required under USAID's Acquisition and Assistance Policy Determination 04-14 (AAPD 04-

14), "Certification Regarding Terrorist Financing Implementation E.O. 13224 (Revision 2)," and (2) provide a copy of the certification to USAID's Agreement/Contracting Officer.

- (g) USAID reserves the right to terminate this contract/agreement if USAID determines that the Contractor/Recipient is involved in or advocates terrorist activity or has failed to comply with any of the requirements of this provision.
- (h) This provision, including this paragraph (h), shall be included in all contracts, subcontracts, grants and subgrants issued under this contract/agreement. The Contractor/Recipient shall promptly provide to USAID's Contracting/Agreement Officer a copy of the pages from each subaward that contain this provision.

MANDATORY CLAUSE (UN GRANTS)

[This provision is applicable to grants to the United Nations or UN agencies. It supplements the standard provision entitled "Terrorist Financing Clause (UN Grants) (May 2003)".]

Prohibition against Support for Terrorism (UN Grants)

- (a) USAID reserves the right to review, and either approve or reject, the following subawards if proposed under this agreement: (i) any contract or subcontract in excess of \$25,000 with a non-U.S. organization or individual; and (ii) any grant or subgrant to a non-U.S. organization or individual, regardless of the dollar value. Furthermore, the written consent of USAID is required before certain other forms of assistance may be provided to a non-U.S. organization or individual. These include in-kind assistance such as renovation of an NGO's facilities, repair or replacement of a company's equipment, and certain training activities. The details of these requirements are described in notices issued by USAID/West Bank & Gaza from time to time. No approval (or failure to disapprove) by USAID shall relieve the Recipient of its legal obligation to comply with applicable laws and regulations.
- (b) USAID reserves the right to rescind approval for a subaward in the event that USAID subsequently becomes aware of information indicating that the subaward is contrary to U.S. law or policy prohibiting support for terrorism. In such cases, USAID's Agreement Officer will provide written instructions to the Recipient to terminate the subaward.
- (c) The Grantee agrees to promptly notify USAID's Cognizant Technical Officer (CTO) in the event of any change in the identity of "key individuals" of any recipient of a subaward described in paragraph (a). For purposes of this requirement, "key individuals" means (i) the program manager or chief of party for the USAID-financed program; (ii) the principal officer and deputy principal officer of the organization (e.g., executive director, deputy director, president, vice president); (iii) principal officers of the organization's governing body (e.g., chairman, vice chairman, treasurer and secretary of the board of directors or board of trustees); and (iv) any other person with significant responsibilities for administration of USAID-financed activities or resources. Note that this definition differs from the definition of "key personnel" under contracts and cooperative agreements.
- (d) Before awarding any grant or subgrant under this agreement, the Recipient shall (1) obtain from the proposed subawardee the certification required under USAID's Acquisition and Assistance Policy Determination 04-14 (AAPD 04-14), "Certification Regarding Terrorist Financing Implementation E.O. 13224 (Revision 2)," and (2) provide a copy of the certification to USAID's Agreement Officer.
- (e) USAID reserves the right to terminate this agreement if USAID determines that the Recipient has failed to comply with any of the requirements of this provision.
- (f) This provision, including this paragraph (f), shall be included in all contracts, subcontracts and subgrants issued under this agreement. The Recipient shall promptly provide to USAID's Agreement Officer a copy of the pages from each subaward that contain this provision.

ATTACHMENT F

RESTRICTION ON FACILITY NAMES

- (a) No assistance shall be provided under this contract/agreement for any school, community center or other facility that is named after any person or group of persons that has advocated, sponsored or committed acts of terrorism. This includes any facility that has "shuhada" or "shaheed" ("martyr" or "martyrs") in its name, unless an exception is approved by the USAID Mission Director. In any case where assistance is proposed for a facility that is named after, or is planned to be named after, a person or group of persons, the Contractor/Recipient shall provide to USAID's cognizant technical officer (CTO) written information about the person(s) or group and shall not proceed with the assistance unless or until the CTO has provided written approval therefor. This restriction applies to all forms of cash or in-kind assistance, including construction services, equipment, supplies, technical assistance, and training.
- (b) In case of any failure to comply with this restriction, USAID may disallow any or all costs incurred by the Contractor/Recipient with respect to the facility and, if necessary, issue a bill for collection for the amount owed. This is in addition to any other remedies that may be available to USAID for such noncompliance.
- (c) This provision, including this paragraph (c), shall be included in all contracts, subcontracts, grants and subgrants issued under this contract/agreement. The Contractor/Recipient shall promptly provide to USAID's Contracting/Agreement Officer a copy of the pages from each subaward that contain this provision.



USAID | WEST BANK/GAZA

MEMORANDUM

To: Mission Staff and Implementing Partners

From: Peter Sullivan, Legal Advisor *PWS*

Subject: Changes in Anti-Terrorism Procedures

Date: March 16, 2006

On August 26, 2003, the Mission issued Contractor/Grantee Notice No. 2003-WBG-01, "Guidance Regarding Vetting and Certification". On March 13, 2006, the Mission Director approved a new Mission Order that updates and expands the earlier guidance. The following is an outline of the major changes:

Vetting

- Lowered the threshold for vetting contracts from \$100,000 to \$25,000. [Page 3, § V.A(1) and page 4, § V.B(1)] No change with respect to grants.
- Lowered the threshold for vetting individuals receiving local training (in West Bank and Gaza) from 80 hours to five consecutive work days of training. No change with respect to training in other countries. [Page 3, § V.A(3)]
- Clarified the circumstances when other direct recipients of cash or in-kind assistance (other than contractors, grantees and trainees) must be vetted. [Page 4, § V.A(4)]
- Raised the threshold for vetting certain types of assistance from \$100 per person to \$1000 for assistance to an individual, \$2500 for assistance to an organization, and \$5,000 for micro-enterprise loans or assistance to a household. [Page 4, § V.A(5)(b)]
- Added an exception to vetting for goods and services acquired by contractors and grantees in the ordinary course of business for their own use. [Page 4, § V.A(5)(c)]
- Added a requirement that, despite exceptions, vetting must be conducted in all cases where there is reason to believe that a beneficiary of assistance or a vendor of goods or services has been involved in terrorist acts. [Page 4, § V.A(6)]
- Clarified that Palestinian government officials and educational institutions must be vetted to the same extent as other individuals and entities. However, government officials need not be vetted with respect to public works that benefit broad segments of the general public. [Page 5, § V.B(3) & (4)]
- Clarified that organizations and individuals to whom Public International Organizations (PIOs) provide assistance are subject to vetting (even though PIOs themselves are not vetted). [Page 5, § V.B(5)]
- Clarified that vetting applies only to individuals who are age 16 or older. [Page 5, § V.B(6)]

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- In addition to the full four-part name, other identifying data for individuals – such as ID number, date of birth and/or place of birth – should be submitted to USAID when available. The vetting form has been revised to request such additional data. [Page 6, § V.D and Page 10, Vetting Form]
- Clarified roles and responsibilities for gathering vetting data, reviewing it, and making final decisions. [Pages 5-7, §§ V.D-V.H]
- Revised duration of vetting approval (which had been three years). Vetting now lasts for the life of the award, but new vetting is required for extensions or new awards made more than 12 months after the last vetting. [Page 7, § V.G]

Anti-Terrorism Certification (ATC)

- Replaced December 2002 version of the ATC with the new version issued on September 24, 2004. [Pages 7-8, § VI and pages 12-13, Certification]
- Clarified when the ATC requirement applies. Now it also applies to in-kind awards, not just cash awards. [Pages 7-8, § VI]

Mandatory Clause for Contractors and NGOs

Same as before, except for these changes:

- Reserves USAID's right to rescind approval for a subaward if USAID determines that the subaward is contrary to anti-terrorism laws or policies. [Page 14, ¶ (d)]
- Requires prime contractors/grantees to obtain the ATC from proposed grantees/subgrantees and provide copies to USAID before subawards are made. [Pages 14-15, ¶ (f)]
- Reserves USAID's right to terminate the contract/agreement if USAID determines that the contractor/recipient is involved in or advocates terrorist activity or has failed to comply with any requirements of the mandatory clause. [Page 15, ¶ (g)] This implements a statutory requirement that the Secretary of State "shall terminate assistance to any individual, entity, or educational institution which he [sic] has determined to be involved in or advocating terrorist activity."
- Requires the contractor/grantee to give the Contracting/Agreement Officer a copy of the pages from each subaward that contain the mandatory clause. [Page 15, ¶ (h)]

Mandatory Clause for UN Grants

- This new clause is required in addition to the standard provision entitled "Terrorist Financing Clause (UN Grants) (May 2003)". [Page 8, § VII and page 16]
- It is analogous to paragraphs (c) through (h) of the mandatory clause for contractors and NGOs.

Restriction on Facility Names

- This new clause implements a statutory prohibition against "recognizing or otherwise honoring individuals who commit, or have committed, acts of terrorism." [Page 8, § VIII]
- Prohibits any assistance to a school, community center or other facility that is named after any person or group of persons that has advocated, sponsored or committed acts of terrorism. [Page 17, ¶ (a)]
- Requires USAID's approval before providing any assistance to a facility that is named after any person or group of persons. [Page 17, ¶ (a)]
- Noncompliance may result in disallowance of costs or bill for collection. [Page 17, ¶ (b)]