

Department of State

§ 140.6

(a)(1) That is receiving or providing covered assistance as a party to a grant, loan, guarantee, cooperative agreement, contract, or other direct agreement with an agency of the United States (a “first-tier” recipient); or

(2) That is receiving covered assistance

(A) Beyond the first tier if specifically designated to receive such assistance by a U.S. government agency; or

(B) In the form of a scholarship, fellowship, or participant training, except certain recipients funded through a multilateral institution or international organization, as provided in §140.7(c); and

(b)(1) That is located in or providing covered assistance within a covered country or within any other country, or portion thereof, that the Secretary of State or the Secretary’s designee may at any time determine should be treated, in order to fulfill the purpose of this part, as if it were a covered country; or

(2) As to which the agency providing assistance or any other interested agency has reasonable grounds to suspect current or past involvement in drug trafficking or conviction of a narcotics offense, regardless of whether the assistance is provided within a covered country.

Examples: (1) Under a \$500,000 bilateral grant agreement with the Agency for International Development providing covered assistance, Ministry Y of Government A, the government of a covered country, enters into a \$150,000 contract with Corporation X. Ministry Y is a covered entity. However, Corporation X is *not* a covered entity because the contract is *not* a direct contract with an agency of the United States.

(2) Under a \$1,000,000 grant from the Department of State providing covered assistance, Corporation B makes a \$120,000 subgrant to University Y for the training of 12 individuals. If Corporation B is located in or providing assistance within a covered country, it is a covered entity and the 12 individuals receiving participant training are covered individuals. University Y is *not* a covered entity.

(3) University C, which is not located in a covered country, receives a \$1 million regional assistance research project grant from the Agency for International Development, \$80,000 of which is provided for research in covered countries. University C is *not* a covered entity. (However, if \$100,000 or more

were provided for research in a covered country or countries, or if University C were located in a covered country, then University C would be a covered entity.)

Subpart C—Enforcement

§ 140.5 Overview.

This subpart sets forth the enforcement procedures applicable pursuant to §140.4 to the various types of covered individuals and entities with respect to covered assistance. Section 140.6 establishes the procedures applicable to foreign government entities, including any such entity that is covered by the definition of a “foreign state” set forth in the Foreign Sovereign Immunities Act, 28 U.S.C. Sec. 1603(a). Section 140.7 establishes the procedures applicable to multilateral institutions and international organizations. Section 140.8 establishes the procedures applicable to recipients of scholarships and fellowships and participant trainees. Section 140.9 establishes the procedures applicable to non-governmental entities. Section 140.10 sets forth additional procedures applicable to intermediate credit institutions. Sections 140.11 through 140.14 contain general provisions related to the enforcement process.

§ 140.6 Foreign government entities.

(a) *Determination Procedures.* (1) The Country Narcotics Coordinator shall be responsible for establishing a system for reviewing available information regarding narcotics offense convictions and drug trafficking of proposed assistance recipients under this section and, except under the circumstances described in §140.6(a)(6), determining whether a proposed recipient is to be denied such assistance or other measures are to be taken as a result of the application of FAA Section 487.

(2) Prior to providing covered assistance to or through a proposed recipient, the agency providing the assistance shall provide the Country Narcotics Coordinator in the country in which the proposed recipient is located or, as appropriate, where assistance is to be provided, the information specified in §140.6(a)(3) in order that the Country Narcotics Coordinator may