

# **Risk Management Review of the Australia- Middle East NGO Cooperation Agreement**

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## **FINAL REPORT**

**May 2014**

## I. INTRODUCTION

### Background

As part of Australia's overall contribution to the Palestinian Territories, the Australia Middle-East NGOs Cooperation Agreement (AMENCA) is a \$35.4 million program, representing a significant sized NGO program. The program began in 2006 and is currently in the fifth of its six-year duration. The AMENCA program's objective is to improve livelihoods to reduce the socio-economic vulnerability of the Palestinian people with priority focus on women, youth and farmers. Activities focus on providing rural livelihoods and building the capacity of community based organisations to address development needs in their communities.

AMENCA is delivered through the following four Australian NGOs (ANGOs) and their Palestinian Partners:

- World Vision Australia/International – in partnership with the Union of Agricultural Working Committees (UAWC)
- CARE Australia/International - in partnership with the Applied Research Institute (ARIJ) & Economic and Social Development Centre (ESDC)
- ActionAID Australia/International – in partnership with the Palestinian Businesswomen's Association (ASALA) and Institute for Community Partnership (ICP)
- Union Aid Abroad APHEDA – in partnership with the MA'AN Development Centre

### Rationale and Scope of Review

In 2012, allegations were made that AMENCA funding had been used by an Australian NGO to provide support to a local partner that had links to a terrorist organisation. The Australian Government took these allegations seriously. It undertook extensive investigations and found that there was no evidence of this allegation being substantiated. To strengthen its ability to demonstrate due diligence and respond to allegations, DFAT developed an AMENCA-wide counter-terrorism due diligence framework in 2013. Aspects of this new framework were incorporated into an amendment to Australian NGO Funding Agreements in mid 2013.

Given the sensitivity of the context in which AMENCA operates, and the size of the program, the Australian Government commissioned an independent review to undertake an assessment of the adequacy of established risk management systems within the program. The review looked at overall risk management systems and practices with a particular focus on reviewing the risk management mechanisms that have been established in relation to counter-terrorism.

A Review Plan was developed prior to the review and is attached at Annex A.

### Methodology

DFAT engaged an independent consultant, Belinda Lucas, to undertake the Risk Management Review. The purpose of the review was to determine whether AMENCA risk management systems and systems of ANGOs and their implementing partners are appropriate to the context of the Palestinian Territories. Background documentation was provided by DFAT, including project design and reporting documentation, due diligence materials, and contractual agreements.

The fieldwork consisted of interviews with ANGO representatives present in-country, local partner staff, DFAT staff and the AMENCA Monitoring and Evaluation Advisor. Fieldwork was scheduled and undertaken over four working days and allowed for three to four hour interviews with each ANGO (where present) and their implementing partner.

The primary purpose of the in-country fieldwork was to explore the risk management systems and practices of local implementing partners. Fieldwork consisted of interviews with second tier partner staff and the appraisal of sample evidence provided by these partners to provide an indication of the extent to which risk management is understood and has been integrated into its systems and practices. Two of the four second tier partners were also accompanied by representatives from their Australian NGO partner. The location and timing of the fieldwork was coordinated by DFAT in conjunction with ANGO and Palestinian partners.

Underlying this review was a fundamental focus on the systems in place to manage program risk. The review included interviews of three to four hours with each implementing partner and relied on discussion and sample evidence presented by DFAT and by implementing partners to demonstrate that the systems described are evident in practice.

An in-country roundtable discussion was also held with other donors during the review to gain a general indication of how other donors approach risk assessment considerations and how far downstream their risk management requirements are applied. The information shared in this meeting was supplemented with a review of other research that has been undertaken on the approaches of donors in the region towards counter-terrorism.

## II. FINDINGS

### Risk Identification and Management Systems

#### **Partner Risk**

Prior to awarding contracts, DFAT undertook a competitive tender process that was restricted to accredited Australian NGOs (ANGOs). This ensured that the systems and practices of organisations had already been comprehensively assessed through a due diligence assessment. The tender process also provided DFAT with the additional opportunity of appraising the capacity and approach of applicant organisations.

Three of the four ANGOs have partnered with a local field office of its international network. There are obvious strengths to this approach, as it provides confidence that the two organisations share a common mission and are guided by similar organisational systems and standards. In the case of the fourth NGO, it partnered with a local Palestinian NGO with whom it had a well established and long term (30 years plus) relationship, thus providing it with deep knowledge of partner capacity. These implementing partners are also referred to as 'second tier partners' in this report.

A key feature of AMENCA has been the provision of support to community based organisations (CBOs). All of the implementing partners outlined formal processes by which potential CBOs are assessed. These processes include an assessment of governance arrangements, financial systems, and integrity checks. The results of the assessment determine whether implementing partners will provide support to a CBO. They also influence the type of capacity building support that will be provided to a CBO. Ongoing

monitoring and regular integrity checking enables NGOs to maintain up to date knowledge of CBO's systems, practices and capacities.

Risk at the field level is also addressed within the program through the 'capacity building' component of the AMENCA program.<sup>1</sup> Dedicated resources have been applied to strengthening the governance and management of CBOs including resource mobilization.<sup>2</sup> Each implementing partner outlined governance and financial training that had been provided to CBOs and was able to describe capacity improvements. The 2013 Program Annual Synthesis Report confirmed that the program has supported CBOs in project management, with a focus on design, finance, implementation and monitoring of projects in their communities, training of staff and developing manuals and guidelines for the CBOs.

### **Program Risk**

DFAT provided a copy of the Ramallah Post Risk and Fraud Management Plan and Risk Register, which demonstrated DFAT awareness of key risks and appropriate mitigation measures in place. Both documents included reference to risks associated with working with civil society organisations and outlined appropriate risk management approaches. DFAT also provided sample meeting minutes showing discussion of and attention to emerging risks.

It is noted that an AMENCA Risk Management Framework was developed in the original design of AMENCA, although has not been updated at an overall program level since that time. This is compensated by each of the ANGO funded programs having their own risk management frameworks, which are updated within the annual planning process. The risk matrices included in the most recent annual plans were reviewed against original project risk matrices, which showed that the matrices have been updated significantly since the beginning of AMENCA. The risks identified in the updated risk management matrices were consistent with the discussion of project progress and current issues of risk.

Each of the implementing partners was able to describe current and emerging risks to programs, and outline the strategies that have been introduced to address these risks. A review of the current risk management matrices for each program confirmed that these risks have been formally documented. This demonstrates that risk is being actively assessed. There was also good evidence that risks had been communicated with the Monitoring and Evaluation Adviser and DFAT and that the local DFAT office was actively using its influence with local authorities and other aid actors to address emerging risks.

### **Program Monitoring**

AMENCA has a sound monitoring framework and a dedicated program resource in an external Monitoring and Evaluation (M&E) Advisor. The M&E Advisor has ongoing contact with each ANGO and implementing partner throughout the year. This has been a key risk management feature of the program as the M&E Advisor both monitors partners and projects, and also provides capacity building support to partners to increase the quality of programming, thereby increasing the likelihood of program success.

The review learned that implementing partners are monitoring CBOs on a day to day basis, with formal reporting required on a monthly and quarterly basis. It was evident through discussion that implementing partners then prepare quarterly reports for their internal

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<sup>1</sup> Component 2 – Capacity Building; Outcome 2 - Strengthened CBOs and NGOs to serve their communities to improve self-reliance and resilience; drive social and economic change (through a rights-based approach).

<sup>2</sup> This is listed as Key Result 9 – 'Strengthen the governance and management of CBOs including resource mobilisation'

reporting processes, and are using these as a basis to develop six monthly reports for DFAT. ANGOs work with their implementing partners to prepare six monthly reports. Reports are reviewed by DFAT and the M&E Advisor and feedback is provided to partners. The review found that the quality of reporting was good overall, providing a sound basis on which to identify and manage risk.

The level of field program monitoring undertaken by the Australian NGOs differed, with all undertaking field trips at least twice a year, but in some cases much more frequently and for much longer duration. It was evident in two cases, that the role of the Australian NGO had been significant in terms of providing technical support and capacity development to implementing partners.

Another key feature of AMENCA's monitoring framework is the partner workshop held annually, at which all ANGOs and implementing partners attend and discuss issues of coordination. In the 2013 workshop, the issue of due diligence was explored in detail, with a presentation made by DFAT. This provided an opportunity to brief partners on the issues relating to counter terrorism and DFAT's requirements, which was then followed up with DFAT developing clear guidance on minimum standards for counter terrorism in the Palestinian Territories.

### **Financial Risk**

The financial monitoring systems outlined and demonstrated by partners appear to be robust and comprehensive. For each of the Australian NGOs and their immediate field office or local partner, accounting procedures are documented. This is a requirement of the Palestinian Authority Ministry of Interior. Implementing partners all undertake audits on an annual basis and copies of these are provided to the ANGO. Undertaking an annual report is also a requirement by the Palestinian Authority to maintain local registration as an NGO. No ANGO has received any allegation of fraud or identified cases of fraud.

Financial monitoring processes demonstrated during the review were extremely comprehensive. The financial systems described and demonstrated during the review provide a clear audit trail and are capable of verifying statements of acquittal. Each implementing partner was able to describe and demonstrate its financial monitoring procedures, which included a monthly review of all expenses and supporting documentation by third tier partners. In some cases, this takes two to three days with each partner per month. Each of the implementing partners showed sample documentation that showed that receipts and records are kept for project expenditure. Supporting documentation showed payment requests with supporting documentation prepared by one staff member, and reviewed by other staff members before approval of payment is made. Each was also able to provide evidence that expenditure against the budget is monitored and variances investigated.

All implementing partners had clearly documented procurement processes and were able to show supporting documentation to demonstrate the application of these processes. Procurement documentation showed tender committee members are present to witness the opening of submitted tenders; that tenders are assessed against criteria; and that final procurement recommendations are accompanied with justifications and approved by committee members.

The Australian NGO also plays a role in reviewing financial reports and reviewing systems. In the case of World Vision, for example, it undertook a project audit of AMENCA in 2013. It

also supported Jerusalem, West Bank and Gaza staff to travel to Australia in December 2013 for due diligence training. This included a review of contractual requirements and their implications. World Vision Australia states that it undertakes its own review of due diligence on an annual basis and provides technical and financial support to World Vision Gaza, including visits two to three times per year.

DFAT also undertook its own 'Due Diligence Spot Checks' in 2013 to verify the application of financial management systems, including testing randomly selected examples of financial transactions, which did not identify any significant areas of concern. An independent Financial Review was also undertaken in 2011 and this made a number of recommendations.<sup>3</sup>

### **Child Protection**

Three of the four ANGOS are undertaking activities that are working directly with children. Of these, one ANGO's implementing partner<sup>4</sup> has a dedicated Child Protection officer, provided evidence of having provided training in child protection to its partners, and has comprehensive child protection induction processes for its own staff. The other two ANGOS<sup>5</sup> who are working with children are not child focussed agencies, and as such have more limited experience in child protection. While both of these organisations have a child protection policy, there was no evidence of child protection risk assessments having been undertaken at the activity level, nor mitigation strategies having been incorporated into their child-focused activities. For all three ANGOS working in child related activities, it is strongly recommended that each undertake a child protection risk assessment. For the two ANGOS that are not child focussed, but who are supporting child focused activities, it is also strongly recommended that child protection training be provided to their local partners.

### **Partner Agreements**

There are three levels of partner agreements in the AMENCA program:

- between DFAT and ANGOS (first tier)
- between ANGOS and International or Palestinian NGOs (second tier)
- between second tier partners and other local PNGOs (third tier)

The Head Agreement that forms the basis of the contractual arrangements between DFAT and Australian NGOs includes regular DFAT contractual requirements.<sup>6</sup> In 2013, the Funding Agreement with each of the ANGOS was supplemented with an amendment to provide further guidance on minimum due diligence requirements. These requirements were developed specifically to ensure that ANGOS have sufficient systems in place to demonstrate due diligence processes. This was identified as particularly important in the context of the Palestinian Territories, where there are a number of groups included on the Australian Government's listings of terrorist organisations. The additional requirements included in the amendment are outlined in Annexes B and C in this document. DFAT consulted with the Australian NGO's prior to the proposed new requirements being included in the amendment and ANGOS indicated that this was useful guidance in the context of working in the Palestinian Territories. Copies of signed amendments with each of the Australian NGOS have been sighted.

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<sup>3</sup> Note that a copy of this document was not reviewed within this Review.

<sup>4</sup> World Vision

<sup>5</sup> APHEDA and ActionAid

<sup>6</sup> Refer to <http://aid.dfat.gov.au/ngos/Documents/ngo-head-agreement-template-august-2011.pdf> for the template agreement

Agreements between Australian NGOs and second tier partners (also referred to as 'implementing partners' in this report) were reviewed for the inclusion of key requirements directly related to the DFAT agreement. A summary of contractual inclusions in these second tier partner agreements is outlined in Annex E. A review of agreements with third tier partners was also undertaken and a summary of contractual coverage is outlined in Annex F. With the exception of counter-terrorism, the Australian Government has not specified that any particular clauses must be included in sub-partner agreements.

Overall, this review of agreements found that there was comprehensive coverage of financial management, monitoring and reporting, and counter terrorism in agreements with all partners. There were not always explicit clauses, however, relating to the risk areas of fraud, corruption, conflict of interest, and mandatory incident reporting. While the Australian Government has not specified that these clauses must be included in sub-partner agreements, the absence of these clauses in second and third tier partner agreements should be noted. These absences represent a risk that certain contractual obligations may not be communicated. It is recognised, however, that the responsibility for meeting contractual obligations ultimately rests with the Australian NGO and is a matter for the Australian NGO to manage.

The risk management review focused on DFAT's and partners' risk management systems. The description of systems, including partner risk assessments, regular financial monitoring, annual audits, regular field monitoring, and regular program reporting were found to be comprehensive and is considered a legitimate form of risk management. Discussion with second tier partners demonstrated that their staff are very conscious of their obligations in relation to financial management, program reporting, counter-terrorism, and incident reporting. Through the due diligence spot check undertaken in 2013, DFAT has established a similar confidence that second tier partners have a sound understanding of key Australian Government requirements.

## Counter-Terrorism

Australian NGOs have a Funding Agreement relating to AMENCA that falls under a 'Head Agreement' with DFAT. The DFAT Head Agreement clauses relating to counter-terrorism have two key components. Firstly, they require the NGO to use their 'best endeavours' to comply with Australian law. Secondly, they require that the other party inform DFAT immediately if, during the course of the agreement, any link whatsoever to a proscribed person or entity is discovered.

By way of a general guide<sup>7</sup>, DFAT expects all development partners at a minimum:

- to know the persons or organisations that are being directly assisted
- to make sure that people or organisations being directly assisted are not on either of the lists before assistance is provided
- to make sure that directly funded persons or organisations are aware of and obliged to comply with these laws
- to make sure that directly funded persons or organisations in turn are obliged to make sure that their distribution of the funds or support is made on the same basis.

Australian NGOs have ensured awareness of these expectations through the inclusion

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<sup>7</sup> Guidelines for Strengthening Counter-Terrorism Measures in the Australian Aid Program

of contractual clauses in their own agreements with second tier partners and providing support to their partners in developing systems that enable them to fulfill these obligations. The agreements between each Australian NGO and their implementing partners were reviewed and all included a clause that committed the partner to counter terrorism. In three of the four agreements, there is explicit reference to Australian Government requirements. In the fourth agreement, the commitment to counter terrorism is expressed in terms of actively supporting, within the framework of the partner's own national legislation, the implementation of the United Nations Security Council Resolution 1373 and other relevant international conventions against assisting terrorism.

The contractual agreements between second tier and third tier partners were also reviewed and in all cases, there are clauses that commit the third tier partner to counter terrorism. Second and third tier partners also provide direct funding and support to community based organisations, but these are considered to be beneficiaries of the program, rather than partners, and as such, second tier partners have assumed all responsibility for vetting these organisations and their key individuals against Australian Government listings, as per their contractual obligations.

To strengthen awareness of the Australian Government requirements in relation to counter-terrorism, DFAT has used program mechanisms such as the annual workshop in 2013 with first and second tier partners to explain DFAT requirements and partner obligations. DFAT also developed and shared a discussion paper with its partners, proposing additional guidance to strengthen AMENCA's ability to demonstrate counter-terrorism due diligence. This discussion paper led to DFAT amending its AMENCA funding agreements with Australian NGOs in 2013 to include a new risk management clause. This new clause included:

- the requirement for vetting key organisations and personnel against described minimum vetting standards (outlined in Annex B)
- the requirement to maintain risk management and financial documentation against minimum documentation standards (outlined in Annex C)
- the requirement to report on counter terrorism due diligence on an annual basis (outlined in annex D)

MoUs between APHEDA, ActionAID, World Vision and their respective partners were reviewed by DFAT's audit section in 2012 and recommendations were incorporated into the 2013 contractual amendments.

In addition, DFAT also introduced a spot check mechanism of NGOs' due diligence and finance files at a minimum yearly, and more regularly if weaknesses or concerns are found. This is intended to provide confidence in the existence and application of risk management systems relating to counter terrorism and provide an opportunity for dialogue between DFAT and NGOs on counter-terrorism due diligence approaches and standards.

DFAT conducted the first of what is intended to be at least an annual spot check in the latter part of 2013 on each of the second tier partners in the Palestinian Territories. The spot check was undertaken using a 'Due Diligence Spot Check Form', which includes a comprehensive list of questions and requires a response to be made against each. In addition to verifying due diligence is undertaken of partners, the spot check seeks to verify the steps that NGOs undertake to ensure second tier partners understand Australian Government requirements. Responses to spot check questions were descriptive of second tier partner systems and also referenced supporting documentation that had been sighted. Examples of supporting documentation sighted within the DFAT spot checks included field



reports from second tier partner staff on Community Based Organisation (CBO) board meetings and copies of names, IDs, dates of birth, etc for board members and CBO members. DFAT also checks randomly selected samples of financial transactions to test whether appropriate controls are being followed. No significant issues were identified by DFAT through this round of due diligence spot checks.

The Risk Management Review also sought evidence of second tier partners' systems to demonstrate compliance with DFAT requirements. While the scope of the review was far more limited than the spot checks undertaken by DFAT, the review found that each of the second tier partners have systems in place to regularly check the names of organisations and key individuals against the Department of Foreign Affairs and Trade Consolidated List and the Attorney General Department's list under the Criminal Code. All second tier partners also described informal systems through which they become aware of changes to key individuals of third tier partners, which they are then able to check.

The Risk Management Review found that the assessments made during DFAT spot checks in relation to financial controls were consistent with the descriptions provided by second tier partners and the sample financial documentation provided during the review. Interestingly, in some cases, the administrative effort that is made by second tier partners to demonstrate strong financial management appears to be duplicative. Partners responded that their review of every single transaction made by third tier partners provides them with assurance that funds are appropriately managed and supporting documentation of this nature is required by local auditors in any case.

While the requirements outlined in the 2013 DFAT Amendment are more prescriptive for the AMENCA program than in any other DFAT funded program, at least two of the second tier partners indicated that these requirements did not exceed their own organisational requirements. In one case, this is because the second tier partner has developed systems according to the state in which their international organization is registered, which has more prescriptive counter terrorism requirements than those imposed by DFAT. In the case of another, the organization has developed its own systems in response to its interpretation of Australian legislation.

In addition to the risk management mechanisms outlined above, it should be noted that the AMENCA Program has only partnered with accredited Australian non-government organisations. Accreditation assesses the systems and practices used by NGOs, including ensuring that they do not provide support to organisations or individuals associated with terrorism. This includes a review of the systems and processes used by NGOs such as formal anti-terrorism policies ratified by the governing body, the screening of partners and how anti-terrorism requirements are passed on to partners through agreements and communications.

A pre-requisite for accreditation also includes NGO partners to be a compliant signatory to the Australian Council for International Development (ACFID) Code of Conduct for Non-Government Development Organizations. This is a voluntary, self-regulatory industry code that reflects agreed standards of good practice and aims to improve the transparency and accountability of signatory organisations. It is a DFAT requirement that organisations be signatories to the Code before they can be accredited with DFAT and receive funding under the ANCP<sup>8</sup>. The Code includes a commitment that 'funds or resources will be disbursed in

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<sup>8</sup> Australian NGO Cooperation Program

accordance with relevant laws including taxation, counter-terrorism financing and anti-money laundering legislation’.

## Donor Approaches

There is significant variance in approaches taken by other donors in the Palestinian Territories. It should be noted that the differing legislation between the jurisdictions of donors<sup>9</sup> and varying levels of scrutiny from within donor jurisdictions on the issue of support for terrorists in the Palestinian Territories have a significant impact on the measures that have been undertaken by donors.

At a donor meeting in Jerusalem in April 2014, donors from the United Kingdom, the European Union, Norway, Canada, and the United States met with Australia to share information about their approaches. This meeting revealed that there is variance among donors and that while some have very prescriptive and well established procedures, others are exploring what the most appropriate approach would be based on the likely risk, their own legislation, the interests of their own donor constituency, and the type of programs they are supporting in the Palestinian Territories.

At the more prescriptive end of the spectrum, the United States has a very regulated approach that is supported by clearly documented procedures and established systems. The details of the counter terrorism procedures are outlined in a public document known as ‘Mission Order No. 21’<sup>10</sup>. Essentially, this Mission Order requires that vetting procedures are conducted by USAID on all non-US organisations and non-US individual beneficiaries when certain monetary thresholds are exceeded. For example, individual beneficiaries of in-kind assistance are vetted when the value of the assistance is more than \$1,000 per occasion. Whenever an organisation is required to be vetted, each of the organisation’s ‘key individuals’ must also be vetted. All information is collected by USAID’s implementing partners and submitted to USAID’s Program Support Unit where the information is verified and sent to a USAID Vetting Centre in Washington. New vetting is required whenever there is a change in an organisation’s key individuals. USAID has three full time staff that manage the vetting processes in its local Program Support Office in Israel.

In addition to vetting procedures, USAID makes a ‘Responsibility Determination’ before any award is made to an organisation. USAID also requires all US and non-US organisations to certify, before being awarded a grant or cooperative agreement by USAID, that the organisation does not provide material support or resources for terrorism. It includes mandatory clauses relating to terrorism in all solicitations and awards for contracts, grants and cooperative agreements. It also undertakes annual financial audits on 100% of its prime partners and significant sub-awardees. USAID recognises that there is significant administrative burden required by its partners to comply with its requirements and allows those costs to be included in the contract. The US is the only donor country to regularly

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<sup>9</sup> Research on the details of these legislative frameworks was not within the scope of this review. Reference, however, was made to the ‘Study of the Impact of Donor Counter-Terrorism Measures on Principled Humanitarian Action’, commissioned by OCHA and the Norwegian Refugee Council and published in July 2013. This study provides an overview of donor counter-terrorism laws which shows that most carry a risk of criminal liability in the context of providing humanitarian aid but that the risk varies significantly between different jurisdictions.

<sup>10</sup> <http://www.usaid.gov/west-bank-and-gaza/work-with-us/partner-resources>

require beneficiary vetting (though the EU PEGASE Trust Fund vets salary and social transfer recipients for that program only).

Australia's approach is broadly similar to Canada's in that:

- both Australia and Canada work primarily with NGOs from their own country, who in turn partner with local Palestinian NGOs<sup>11</sup>
- both Australia and Canada include standard counter-terrorism clauses in their agreements with first tier partners and require that similar clauses are passed on to second tier partners (accepting these clauses can be tailored to local circumstances)
- Australia and Canada both require vetting of board members and key personnel of NGOs.

The only difference in approach is that Canada collects lists of names of sub-contracted organisations and key personnel which it checks directly, either in Ramallah or through a central office in Ottawa where vetting is conducted; whereas Australia requires NGOs to conduct their own vetting, but carries out regular checks to ensure vetting is being carried out to a high standard.

The European Union's (EU) approach to counter-terrorism clauses and vetting varies widely depending on the type of program being delivered. For example, direct funding provided to the Palestinian Authority through the PEGASE Direct Financial Support mechanism set up in 2008 is paid against a list of 80,000 employees and 50,000 beneficiaries of social allowances. An international audit company vets this list on a monthly basis. A European Court of Auditors report on the program in December 2013 found that these verification procedures were generally robust, but there was scope to improve the efficiency of the system (the checks require the involvement of 16 full-time equivalent employees, costing in excess of EU1 million per year). Other EU programs rely on the counter terrorism mechanisms employed by partners, such as UN agencies. EU humanitarian funding provided through the European Commission Humanitarian Organization does not include any counter-terrorism clauses or vetting, in accordance with the European Consensus on Humanitarian aid.

For the UK Department for International Development (DFID), UK law is generally interpreted as imposing a requirement on organisations. Work is currently underway within DFID to provide further guidance on how this requirement should be implemented at the program level. DFID generally manages counter-terrorism as part of its standard risk management, including through:

- a due diligence assessment that is used with partners when initiating a funding agreement, and
- annual reviews and improvement plans carried out as part of routine program monitoring.

While Australia does not have similar procedural guidance to that of USAID, it appears to have the second most clearly developed set of guidance for partners relating to counter-terrorism. This includes the Guidelines for Strengthening Counter-Terrorism Measures in the Australian Aid Program, general guidance for non-profit organisations "Safeguarding your organization against terrorist financing: a guidance for Non-profit organizations", and the minimum standards outlined in the AMENCA contract amendment.

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11 Australia and Canada's NGO portfolio is very similar. Australia works with four Australian NGOs who in turn work with six local partners. Canada works with five Canadian NGOs who partner in turn with around 10 to 15 local NGOs.



### III. CONCLUSIONS AND RECOMMENDATIONS

#### Conclusions

The Risk Management Review found that:

- Risk management systems within AMENCA appear to be comprehensive and appropriate for the program.
- Financial management systems of implementing partners appear to be well documented, robust and heavily scrutinised by a variety of authorities.
- DFAT's approach to counter terrorism has acknowledged the sensitivity of the issue in the context of the Palestinian Territories and has been able to achieve a comprehensive approach to the management of counter terrorism risk in consultation with its partners.
- There are some contractual obligations which are not explicitly addressed in agreements with second and third tier partners – these relate to the risk areas of fraud, corruption, conflict of interest and mandatory incident reporting. In the absence of these contractual clauses, Australian NGOs and implementing partners have demonstrated their awareness of key obligations and described risk management systems that would enable them to meet DFAT contractual requirements.
- Australia's approach to counter terrorism is similar to that of Canada. In both cases, vetting of organisations and key individuals is a requirement and first tier partners are expected to include counter terrorism clauses in their agreements with second tier partners.

#### Recommendations

The Risk Management Review has identified only one recommendation:

- That AMENCA should work with ANGO partners to undertake a risk assessment related to child protection and increase capacity among implementing partners.

## Annex A - Risk Management Review of the Australia Middle–East NGO Cooperation Agreement Review Plan

### Introduction

1. This Review Plan describes the focus and scope of the risk management review and the methods that will be used to generate evidence to address the review purpose and answer the review questions. It builds on the Terms of Reference, a preliminary review of background documents, and initial briefings from Department of Foreign Affairs and Trade staff.
2. This risk management review will focus on assessing and understanding the effectiveness of the risk management and financial accountability systems between Australian NGOs (ANGOs) and their Palestinian partners in providing assurance to DFAT that program risks are identified and managed. The effectiveness of systems will be examined through focussing on four main areas: risk management measures within AMENCA partner agreements; ANGO and Palestinian partner systems to ensure compliance with Counter-Terrorism requirements; systems within the program to identify and mitigate risks; and the application of risk management requirements at the project and program level.
3. The review will also explore what risk management systems are acceptable to other key donors. In particular, the review will examine whether other donors have systems for undertaking checks against a proscribed list, vetting partner organisation and key individuals, registration renewal, expenditure control, and financial audits.
4. The review plan sets out the descriptive mixed methods approach, founded on a systems approach to review. Multiple methods and data sources will be used to provide evidence of risk management, both by Australian NGOs and their Palestinian partners. The in-country component of the review will include in-depth, semi-structured interviews of DFAT stakeholders in the PTs; and staff of the counterpart Palestinian NGOs. It will also include a review of program documentation, systems and practices undertaken by ANGOs and their Palestinian partners. On return from the PTs, follow-up phone interviews with Australian NGOs may be held as required.

### Background

5. As part of Australia's overall contribution to the Palestinian Territories, the Australia Middle-East NGOs Cooperation Agreement (AMENCA) is a \$35.4 million program, representing a significant sized NGO program.

6. The AMENCA program began in 2006 and is currently in the fifth of its six-year second phase. The AMENCA program's objective is to improve livelihoods to reduce the socio-economic vulnerability of the Palestinian people with priority focus on women, youth and farmers. Activities focus on providing rural livelihoods and building the capacity of community based organisations to address development needs in their communities.
7. The AMENCA program is delivered through the following four Australian NGOs and their Palestinian Partners:
  - **World Vision Australia/International** –in partnership with the Union of Agricultural Working Committees (UAWC)
  - **CARE Australia/International** - in partnership with the Applied research Institute (ARIJ) & Economic and Social Development Centre (ESDC)
  - **ActionAID Australia/International** – in partnership with the Palestinian Businesswomen's Association (ASALA), Institute for Community Partnership (ICP)
  - **Union Aid Abroad APHEDA** – in partnership with the MA'AN Development Centre
8. The AMENCA program has a comprehensive M&E framework and an M&E adviser. Each of the four Australian NGOs participating in the program commission independent mid-term and completion evaluations of their activities. A mid-term review of AMENCA was conducted in 2011.
9. The AMENCA program is supported and managed by DFAT staff in Canberra and a Programme Manager present at the Australian Representative Office.

## Review scope, objectives and methodology

### Rationale for the review

10. Given the sensitivity of the context in which the AMENCA program operates, and the size of the program, it is important that the Australian Government has assessed that appropriate risk management systems are established and operational within the program.

### Overall purpose

11. The purpose of the review is to provide assurance to DFAT that program risks are appropriately identified and managed.

### Objectives and scope

12. The objective of the risk management review is to make an assessment of the appropriateness of risk management and financial accountability systems within the AMENCA program.

### Review questions

13. The questions for the review fall into five categories.
  1. Risk Identification: How effective is the program at identifying risks before they occur in addition to mitigating them.
  2. Partner Agreements: Are the risk management and financial accountability measures included in AMENCA partner agreements robust enough to ensure funding is used for intended purposes in the high-risk Palestinian context?
  3. Counter-terrorism: Do the Australian NGOs/Palestinian partners have systems to ensure compliance with 'Guidelines for Strengthening Counter-Terrorism Measures in the Australian Aid Program'?
  4. Risk Management Systems: To what extent have risk management requirements been understood and implemented at the project and program level?
  5. Donor Approaches: What risk management systems are acceptable to other key donors? Do they have checks against a proscribed list, vetting of partner organisation and key individuals, registration renewal, expenditure control systems, financial audits undertaken?

### Methods

14. The review will take a descriptive, mixed methods approach guided by a systems review to explore the extent to which NGOs and their Palestinian Partners have developed systems that are appropriate to context. Multiple methods and data sources will be used to provide evidence of systems in practice. The methods are:
  - document review
  - discussion with staff
  - review of organisational policies
  - review of systems
  - review of a sample of program documentation for each partner
  - roundtable discussion with donors

### Document review

15. The review of documents will focus on existing evidence that demonstrates the management of risk within the AMENCA program and the key contractual agreements in place that set out the conditions for funding and the roles and responsibilities of respective partners.
16. In addition to assessing the risk management provisions within formal contractual agreements, the review seeks to assess to what extent NGOs and



their partners have developed systems to accommodate and respond to risk management requirements. Documentation review will include evidence provided by ANGO and Palestinian partners to verify the application of risk management practices, as outlined in the table of questions above.

### **In-country fieldwork**

17. The primary purpose of the in-country fieldwork is to explore the risk management systems and practices of Palestinian partners. The approach that will be taken is a systems approach – that is, the review of systems that are established and limited sampling to demonstrate that systems are in practice.
18. In the first instance, the review will explore how ANGOs undertake their own verification of partner systems and practice. The review will seek to verify that the Australian NGO has verified and documented that adequate internal controls are operating in Partner organisations to ensure accountability of DFAT funds. Evidence may be demonstrated through monitoring visit reports, checklist results, field trip reports, or other program documentation.
19. The review will also include interviews with partner staff and the appraisal of sample evidence from partners to provide an indication of the extent to which risk management is understood and has been integrated into its systems and practices.
20. Engagement with other donors in this review will seek to understand their approach to risk assessment considerations including the capacity of the NGO, the type of operation, the operational context, and how far downstream their risk management requirements are applied.
21. The location and timing of the fieldwork is being coordinated by DFAT in conjunction with ANGO and Palestinian partners.
22. The fieldwork will consist of interviews with ANGO representatives present in-country, Palestinian partner staff and DFAT staff. A roundtable discussion will also be held with other donors. Fieldwork is scheduled over five working days. A draft program for the conduct of the field-work has been developed by DFAT.
23. To prepare for interviews with Palestinian partner staff, the questions in the table above will be shared. The Reviewer has prepared worksheets to help collect and distil information methodically.

### **Oversight and quality control**

24. The Reviewer is committed to fully meeting DFAT requirements for this review through sound review process, analysis and appropriate quality controls.
25. The Reviewer will maintain regular contact with DFAT throughout the project. The Reviewer will bring any issues that may impact on the successful completion of the project within the agreed timeframe and budget to the attention of DFAT as they arise. If DFAT has any issues or concerns about the

review, it is expected that these will also be raised with the Reviewer as they arise.

#### **Ethical standards**

26. The review will be conducted, especially the in-country fieldwork in line with the key principles of independence, impartiality, integrity and respect for individuals.
27. The Reviewer recognises the sensitivity of the project and will maintain strict confidentiality of all data, information and documentation provided or obtained during the course of the project. The Reviewer is aware of the Privacy Act 1988 and the Privacy Amendment (Private Sector) Act 2000.

#### **Timeframe**

28. The review will be completed during April 2014, with five days allocated to a field visit.
29. A draft report will be provided to DFAT by 2 May, 2014.

## Annex B – Minimum Vetting Requirements for demonstrating counter-terrorism risk management in AMENCA

Partner organisations	
Who should be vetted?	Possible methods
All partner organisations (NGOs, Civil Society Organisations (CSOs) receiving Australian aid	Check organisation name against Australian lists (Bridger/Watchdog plus)
	Use of internet search engines to check organisation name for current or previous affiliations with proscribed organisations
Private businesses receiving large amounts of Australian Government funding (e.g. over \$10,000)	Check business name against Australian lists (or use Bridger/Watchdog plus)
	Use of internet search engines to check for current or previous affiliations with proscribed organisations
Other organisations with the ability to influence the use of Australian aid on a risk assessed basis	Depending on outcome of the risk assessment
Key personnel	
Who should be vetted?	Possible methods
Board members of partner NGOs	Check names against Australian lists (or use Bridger/Watchdog plus), Internet Checking or other independent sources of information
Senior Executive staff of partner NGOs	Check names against Australian lists (or use Bridger/Watchdog plus) Internet Checking or other independent sources of information
Financial staff of partner NGOs	Check names against Australian lists (or use Bridger/Watchdog plus) Internet Checking or other independent sources of information

<b>Partner organisations</b>	
Board members and staff of CBOs or private sector partners on a risk assessed basis, taking into account their role in recommending or approving the use of Australian funds	Depending on outcome of the risk assessment
<b>The following organisations and individuals do not require vetting</b>	
Beneficiaries – aid is provided based on need	No vetting – however NGOs should have documented and defensible systems for assessing and targeting need. They should also understand the beneficiary group and the local context in which Australian funds are being provided.
Accredited Australian NGOs and their staff	No vetting – these NGOs are vetted through Australia’s NGO accreditation process

## Annex C - Minimum Documentation Requirements for demonstrating counter-terrorism risk management in AMENCA

<b>Minimum counter-terrorism due diligence documentation</b>
Evidence of vetting of key organisations and personnel (paragraph 20) (e.g. a signed statement by the vetting officer or a report from vetting software)
Details of key personnel (name, date of birth, occupation, ID number)
Registration documents for key organisations (paragraph 21)
Evidence that registration is up to date (e.g. receipts for registration payments)
Due diligence assessments for any <b>new</b> NGO partnerships taking into account AusAID's due diligence guidance (draft expected late February)
Evidence of robust systems for selecting beneficiaries
Minutes of board meetings (showing active governance processes)
Partner constitutions
Annual reports
Documented policies and procedures related to counter-terrorism
Documented recruitment process addressing the issue of counter-terrorism
Staff employment contract template and partner agreements including clauses relating to counter-terrorism, including sub-contract clause
Evidence that partners have been trained/briefed on counter-terrorism requirements
<b>Minimum finance documentation</b>
A clearly documented paper trail for all AMENCA transactions
Appropriate controls over expenditure (e.g. transactions approved at an appropriately senior level)
Documented procurement processes (appropriate to the amount of the transaction)

<b>Minimum counter-terrorism due diligence documentation</b>
Evidence payments have been processed through the banking system (e.g. bank statements)
Audited financial statements
Independent audits
Financial management policies
Fraud control policies
Contractual arrangements or MoUs with partner NGOs/CBOs demonstrating financial management processes and fraud controls

## Annex D – Annual Counter-Terrorism Risk Management Report

The AMENCA Program Manager in the Australian NGO will report each year on the following:

- all suspected linkages were promptly reported to AusAID
- counter-terrorism due diligence key documents are up to date, in accordance with the minimum documentation requirements
- finance documentation is robust and up to date, in accordance with the minimum standards
- the organisation has appropriate measures in place, including appropriate arrangements with partner organisations, to ensure Australian funding has not been diverted to terrorism, and
- appropriate measures are in place to protect the privacy of the information

## Annex E – Inclusion of DFAT Head Agreement Clauses in second tier partnership agreements

	<b>ActionAid<sup>12</sup></b>	<b>APHEDA</b>	<b>CARE</b>	<b>World Vision</b>
Ensure no links to terrorism	N/A	Yes	Yes	Yes
Child Protection	N/A	Yes	Yes	Yes
Child protection – must notify DFAT	N/A	No	No	Yes
Fraud	N/A	No	No	Yes
Corruption	N/A	No	No	No
Financial management	N/A	Yes	Yes	Yes
Monitoring and reporting	N/A	Yes	Yes	Yes
Conflict of Interest	N/A	No	No	Yes
Termination	N/A	Yes	Yes	Yes

<sup>12</sup> ActionAid West Bank is not a separate legal entity and is regarded as part of ActionAid Australia, and is thus covered by the DFAT Head Agreement. When ActionAid West Bank becomes an autonomous entity, ActionAid Australia will develop a formal contractual agreement with Actionaid West Bank, For the purpose of the review, ActionAid West Bank has still been regarded as a ‘second tier’ or ‘implementing’ partner but is excluded from requiring an agreement given its relationship to ActionAid Australia.



## Annex F – Inclusion of DFAT Head Agreement Clauses in third tier partnership agreements

	<b>ActionAid</b>	<b>APHEDA</b>	<b>CARE</b>	<b>World Vision</b>
Ensure no links to terrorism	Yes	No third tier partners	Yes	Yes
Child Protection	Yes	N/A	Yes	Yes
Child protection – must notify DFAT	No	N/A	No	No
Fraud	No	N/A	No	Yes
Corruption	No	N/A	No	No
Financial management	Yes	N/A	Yes	Yes
Monitoring and reporting	Yes	N/A		Yes
Conflict of Interest	No	N/A	No	Yes
Termination	Yes	N/A	Yes	Yes