

JUSTIFICATION

1. 18 USC 2339A, amended by the USA Patriot Act of 2001, makes it illegal to provide material support or resources to terrorists. (copy attached)
2. In order to assure that recipients of assistance from USAID are not terrorists or terrorist organizations, or do not themselves provide assistance to such individuals or organizations, USAID will require applicants for USAID assistance to provide a certification substantially as follows:

" As a condition of entering into the referenced agreement, [name of organization] hereby certifies that it has not provided and will not provide material support or resources to any individual or organization that it knows, or has reason to know, is an individual or organization that advocates, plans, sponsors, engages in, or has engaged in an act of terrorism, including but not limited to the individuals and organizations listed in Annex I and other such individuals and organizations that may be later designated by the United States under: § 219 of the Immigration and Nationality Act, as amended; the International Emergency Economic Powers Act (50 U.S.C. § 1701 et seq.), the National Emergencies Act (50 U.S.C. § 1601 et seq.), § 212(a)(3)(B) of the Immigration and Nationality Act, as amended by the USA Patriot Act of 2001, 107 Pub. Law 56 (October 26, 2001) or § 301 of Title 3, United States Code. [Name of organization] further certifies that it will not provide material support or resources to any individual or organization that it knows, or has reason to know, is acting as an agent for any individual or organization that advocates, plans, sponsors, engages in, or has engaged in, an act of terrorism, or that has been so designated, or will immediately cease such support if an organization is so designated after the date of the referenced agreement.

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

For purposes of this certification, the term an "act of terrorism" shall have the same meaning as that term is defined in 18 U.S.C. § 3077(1).

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

3. At this time, USAID does not accept applications for assistance electronically. Therefore, the certification will be required as a paper document as part of the assistance application.
4. This information is not collected anywhere else in the application process. While applicants do have to certify that they are not on The List of Parties Excluded from Federal Procurement and Nonprocurement Programs, not all of the individuals and organizations identified by Executive Order 13224 have been specifically included on the list.
5. Since almost all USAID grants are issued to not-for profit organizations, the impact on small business is minimal. The impact on other applicants is minimal, since applicants can easily determine if an individual or organization is on the list of identified terrorists maintained by the Treasury Department and made available to the public on its web site, <http://www.treasury.gov/terrorism.html>.

6. The award of an assistance agreement to a terrorist organization or an organization that supports terrorism would damage the government in several ways. The targets of terrorism overseas often are governmental installations, and an award to a terrorist organization would give them an explanation for presence in an Embassy or USAID property, the opportunity to document activities and schedules. It would also put USAID in violation of the statute if it provides monetary support to a terrorist organization.

7. The certification must be obtained for each individual program the applicant applies for, since each program may support different beneficiaries. An organization would have to report more than once in a quarter if applies for more than one award in the quarter. Applicants are generally provided more than 30 days to submit an application for an assistance award. USAID does not request more than an original and two copies of any application document. Because the certifications become a condition of the award, they must be retained for three years after the submission of the final financial expenditure report.

8. Notice of this information collection was published in the Federal Register on May 8, 2006, Volume 71, Number 45, Page 11573. USAID received one comment in response to this notice. This comment requested the certification language. This information was provided to the requestor on September 7, 2006.

9. Not applicable: there were no decisions to provide any payments or gifts to respondents.

10. There is no assurance of confidentiality.

11. There are no questions of a sensitive nature.

12. The estimated number of respondents per year is 2000, and the average frequency of response time is twice a year. We estimate the annual burden to be 1500 hours, based on 22.5 minutes for each form. The estimated time is based on the amount of time needed to read and review the certification, and to review the list published by the Department of the Treasury. We estimate the annual cost to respondents to be about \$92,691. The respondents are mostly not-for-profit non-governmental organizations of various sizes.

(1) Preparation by semi-professional personnel:

Salary per hour	\$18.00
Fringe benefits & Overhead	<u>22.50</u>
Cost per hour	40.50

Hours to prepare 4000 forms at 10 min. each	x <u>667</u>
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Sec. 2339A. - Providing material support to terrorists

(a) Offense. - Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of section 32, 37, 81, 175, 351, 831, 842(m) or (n), 844(f) or (i), 930(c), 956, 1114, 1116, 1203, 1361, 1362, 1363, 1366, 1751, 1992, 2155, 2156, 2280, 2281, 2332, 2332a, 2332b, 2332c, [11](#) or 2340A of this title or section [46502](#) of title [49](#), or in preparation for, or in carrying out, the concealment or an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than 10 years, or both.

(b) Definition. - In this section, the term "'material support or resources'" means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.

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dbname=2002_register&docid=02-11336-filed.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2002_register&docid=02-11336-filed.pdf)