

**Foreign Affairs, Defence and Trade References Committee
DFAT Due Diligence**

QUESTION ON NOTICE / Spoken

IQ23-000075— DFAT Due Diligence

Hearing Date: 16 November 2023

Topic: Due Diligence Framework

Senator David Fawcett

Question

Senator FAWCETT: We've had a couple of proposals from people about how you could possibly vary the due diligence framework and that—you probably heard the discussion with Mr Bartlett—perhaps the threshold would be where you have an authority that is a non-cooperative authority. In the case of Myanmar, they are the problem. So, in a situation like that that is abnormal, do you support the contention of any of the witnesses that there are ways to provide a structured approach—coming back to my point about your desk officers—to enable a sensible balancing of risk in those non-business-as-usual scenarios?

Ms Mudie: I don't think I'm in a position to offer an opinion on what's being brought forward.

Senator FAWCETT: No. I'm asking you to take it on notice, as in: is there a way that you can do that?

Ms Mudie: We'll certainly look at the proposals that have been raised and the points that you've made.

Answer

DFAT conducts a comprehensive design process to determine areas for investment and selection of partners, as outlined in DFAT's International Development Programming Guide (<https://www.dfat.gov.au/sites/default/files/international-development-programming-guide.pdf>). This includes considering the purpose of the investment, how it addresses Australia's strategic development objectives, how it will be delivered, value for money and efficiency. Due diligence is just one component of this broader process, used to assess a partner's organisational capacity. We regularly review our delivery partners and are open to new partnerships.

The Australian NGO Cooperation program (ANCP) provides annual grants to accredited Australian NGOs. In 2023-24, base organisations received \$277,000 and fully accredited NGOs received \$400,000 plus a proportion of the total remaining funding based on their respective Recognised Development Expenditure (RDE). ANCP NGOs design their own projects within their funding grant, which are then approved by DFAT. Further details on these processes are available through DFAT's Australian NGO Cooperation Program Manual (<https://www.dfat.gov.au/sites/default/files/ancp-manual.pdf>). For 2023-24, 11 Australian

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NGOs are delivering projects in Myanmar or on the Thai-Myanmar border through ANCP, at a value of \$3.4 million.

DFAT has reviewed submissions to the inquiry and notes some indicate there are challenges in applying DFAT's Due Diligence Framework (the Framework) given the institutional context in Myanmar, and modifications are suggested. DFAT considers the Framework is fit-for-purpose, already provides sufficiently flexibility to address the challenges identified in the submissions and supports DFAT to utilise a range of implementing partners, including local partners, to deliver Australian assistance in Myanmar.

DFAT notes the submission from the Australian Council for International Development (ACFID) Myanmar Community of Practice indicates a number of significant barriers to the delivery of assistance in Myanmar are not a result of DFAT due diligence requirements, but rather the difficult operating context for development partners. The submission recognises DFAT's high degree of flexibility in the use of Australian NGO Cooperation Program (ANCP) funds to support work in Myanmar since the 2021 coup. It notes DFAT's flexibility in discussing risk matters on a case-by-case basis, as well as DFAT articulating that partners are best placed to recommend how to deal with specific operational issues.

DFAT is currently undertaking a strategic review of the ANCP Accreditation and Funding policies to ensure these are fit for purpose and able to adapt to multiple contexts, including in Myanmar. DFAT is currently considering recommendations to create a more enabling environment to operate in varying contexts, including in Myanmar.

The submission from Baptist World Aid Australia (endorsed by Act for Peace) is the most specific in identifying areas of the Framework requiring greater flexibility. Key areas cited in the submission are briefly discussed below to illustrate they can be addressed within existing flexibility in the Framework:

- waiving requirements for registration - in instances where providing evidence of registration is not possible for local partners operating in Myanmar, the Framework already allows for other sources of evidence to establish the potential partner that DFAT is engaging with. Guidance for staff outlines a range of evidence that can be utilised to complete an assessment against criterion 1 (entity details) and is not limited to registration details;
- tolerating the use of informal funds transfer - the Framework does not prohibit the use of alternative remittance services or payment for goods or services in cash, rather than using formal financial mechanisms. It does, however, require the potential partner demonstrate it has appropriate systems for analysing and treating associated risks, such as increased risks of terrorism financing; and
- remote monitoring arrangements – the Framework does not prohibit the use of remote monitoring arrangements. Rather, it seeks to establish the potential partner has adequate policies, procedures and systems for monitoring and measuring performance and impact in relation to assistance being delivered. This may include the use of remote monitoring alongside more traditional monitoring and evaluation methods.

As noted in DFAT's submission to the inquiry, due diligence assessments take account of the high risk and high sensitivity of the environment in which Australian assistance is delivered in

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Myanmar. Guidance to DFAT officers indicates assessments are to be based on a pragmatic evaluation of the best available evidence at the time of completion.

In the event gaps in a potential partner's policies, procedures or systems are identified, any material risk to Australian development funding or DFAT is documented, and risk treatments developed. Financial delegates approving the commitment of funding and entering into an agreement consider whether appropriate risk controls and treatments are in place to manage risks to the achievement of intended objectives. DFAT's risk appetite statement and tolerances for the development program provide guidance as to which categories of risk require greater attention and effort in management.

The Baptist World Aid Australia submission also notes small local actors may be unable to meet DFAT's due diligence requirements without direct support. Australia's *International Development Policy* prioritises locally led development, including greater use of local partners in the delivery of the development program. As part of this initiative, DFAT recognises it will need to assist local partners to address gaps identified through due diligence assessments, with sequenced capacity building and support.