



Australian Government

Department of Foreign Affairs and Trade



INQUIRY INTO THE EFFICACY OF THE DEPARTMENT OF FOREIGN AFFAIRS AND TRADE DUE DILIGENCE FRAMEWORK

November 2023

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CONTEXT

Australian Humanitarian and Development Assistance in Myanmar

The 2021 military coup in Myanmar has reversed years of democratic, economic and development gains. Conflict is ongoing across the country and economic and humanitarian crises are set to deepen. Despite the challenges, Australia's assistance continues to reach communities in need throughout Myanmar and on the Thai Myanmar border, including those displaced and in conflict-affected areas, as well as Rohingyas and host communities in Bangladesh.

Australia remains committed to supporting the people of Myanmar through provision of sustained development and humanitarian assistance. Our support aims to meet immediate needs and to build community resilience to respond to future challenges, with a focus on the most vulnerable. Australia continues to support the promotion of peace and democratic values.

Australia's aid program in Myanmar is our fourth largest ODA country program - after Papua New Guinea, Indonesia and Solomon Islands. Australia has supported conflict- and crisis-affected communities in Myanmar to meet their basic food, health, education, water and sanitation needs.

In 2021-22 through our humanitarian partners we provided almost 20,000 people with emergency shelter and almost 80,000 people with healthcare. In the same year, around 30,000 children were provided with basic education and almost 115,000 people received food assistance. The scale of our support increased in 2022-23. For the 2023-24 financial year, the Australian Government is providing a total of \$121 million to Myanmar in Official Development Assistance (ODA) (Budget Estimate). Australia's development and humanitarian assistance reaches all states and regions in Myanmar.

Australia does not provide any direct funding to the Myanmar military regime. Australia takes proactive steps to ensure our assistance to Myanmar does not go to the regime or lend it credibility or legitimacy. Whether we are working with United Nations (UN) agencies or non-government organisations (NGOs) Australia selects development and humanitarian partners that have rigorous processes in place to ensure that funding is delivered appropriately and to intended beneficiaries. These partners have established systems and networks in place which seek to mitigate risks in the current environment and ensure accountability. For security reasons the Australian Government does not identify all of its development partners in Myanmar, or where those partners operate within Myanmar.

Table 1: Australian ODA to Myanmar

Australian ODA to Myanmar	2021-22 (Actual)*	2022-23 (Budget Estimate) *	2023-24 (Budget Estimate) *
Country Programs	\$40.1 million	\$42.1 million	\$42.1 million
Regional	\$14.8 million	\$14.6 million	\$15.4 million
Global	\$34.6 million	\$63.2 million	\$63.3 million
Other Government Departments	\$1.1 million	\$0.8 million	\$0.3 million
Total Australian ODA	\$90.7 million	\$120.6 million	\$121.0 million
Percentage total Aust. ODA	2.1%	2.6%	2.5%

*Due to rounding, discrepancies may occur between sums of the component items in totals.

DFAT'S DUE DILIGENCE FRAMEWORK

Overview of DFAT's Due Diligence Framework

DFAT makes extensive use of a range of partners, and in turn their downstream partners, to support implementation of the Australian development program. DFAT's Due Diligence Framework (the Framework) is part of its broader risk management approach, applying a structured and consistent methodology to review a potential partner's ability to deliver services in line with the policy requirements of the Australian development program. A copy of the Framework is available at: [Due Diligence Framework \(dfat.gov.au\)](https://dfat.gov.au)

The Framework requires that a due diligence assessment is in place before DFAT enters into a funding agreement unless there are other comprehensive, approved processes in place to assess a potential partner. For example, Australian non-government organisations (NGOs) accredited under the Australian NGO Cooperation Program (ANCP) are considered to have completed due diligence. Further information on the accreditation process is provided later.

Under the Framework, financial delegates are responsible for determining whether to proceed with an agreement with a potential partner, taking into consideration due diligence assessment findings. Where a decision is taken to proceed, key risks identified in the assessment process are documented and mitigation measures are implemented and monitored through contract conditions and a risk register. A delegate must not enter into an agreement where the assessment identifies a potential partner is on a prohibited dealings list, for example if a potential partner is listed as a terrorist organisation under the *Criminal Code Act 1995*.

The Framework assists financial delegates to satisfy *Public Governance, Performance and Accountability Act 2013* requirements to discharge their duties with the degree of care and diligence a reasonable person would exercise.

DFAT's approach to the delivery of official development assistance in Myanmar applies the DFAT Due Diligence Framework as one element of our approach. We apply our due diligence assessments to take account of the high risk and high sensitivity environment in which our assistance is delivered. Our risk management approach extends beyond the selection assessment of partners (as set out on pp.4-10 and pp.11-12 below) to the close monitoring of program delivery and implementation (as explained on pp.10&12 below). We actively monitor programs throughout their life-cycle to confirm that Australian assistance has not been misdirected to the regime.

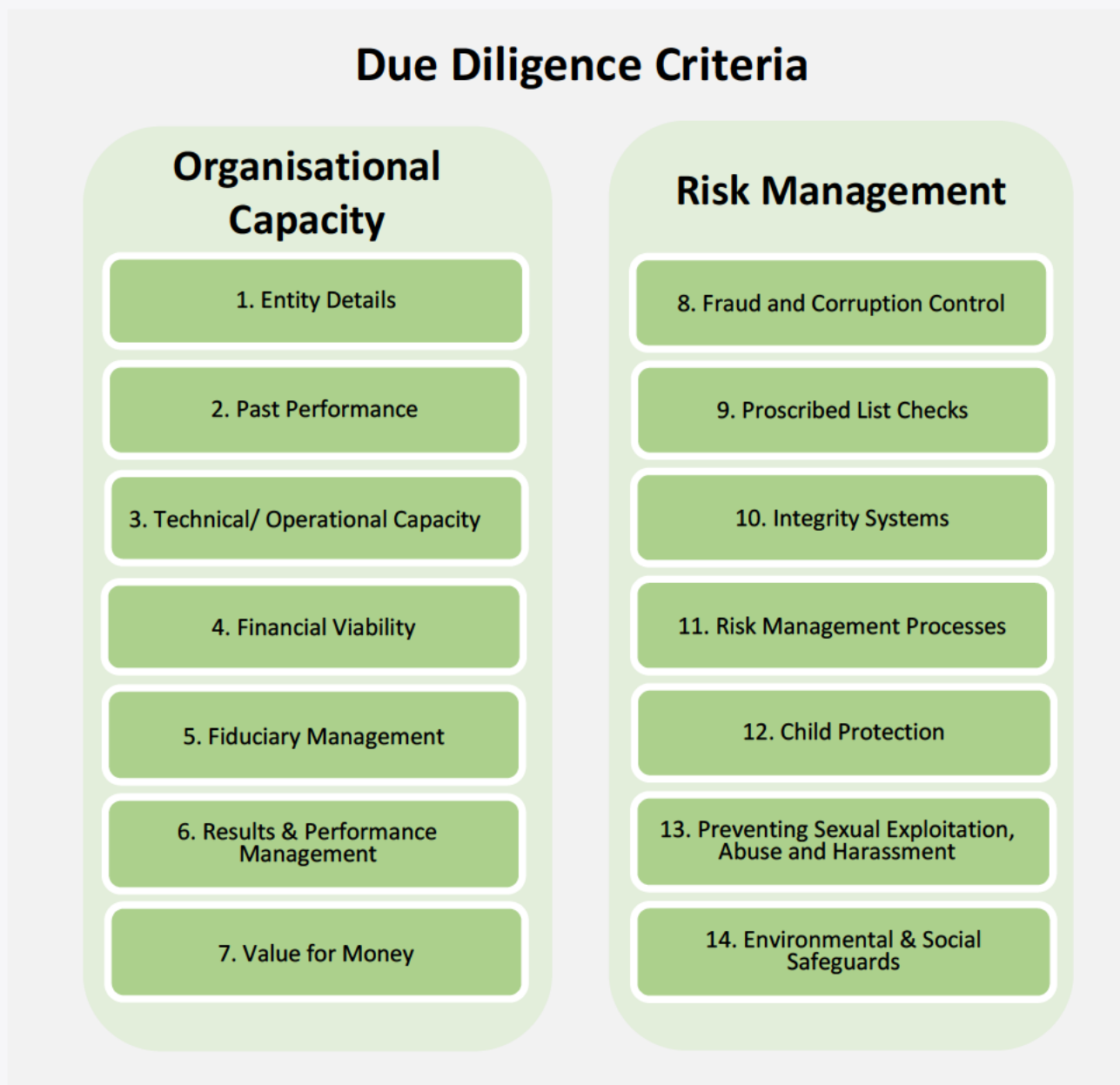
All potential partners must be assessed against the applicable requirements of DFAT's Due Diligence Framework prior to receiving Australian development assistance funding. Identified risks are managed and partners that are engaged in-country are required to regularly report to DFAT to ensure Australia's aid funding is used effectively.

Due Diligence Assessment Criteria

How DFAT assesses potential delivery partners across our development assistance programs

Under the Framework, delivery partners are assessed against a maximum of 14 criteria aligned to the two key pillars of organisational capacity and risk management – see Figure 1 below.

Figure 1: Due Diligence Criteria Pillars



An explanation of the assessment criteria is provided below:

1. Entity Details	Verify the entity's identity, including legal ownership, legal/group structure and ownership, governance arrangements, and key decision makers. Criteria includes whether there is any negative press or pending lawsuits or concerns around their business processes?
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2. Past performance	Verify the entity's past performance including performance on DFAT funded programs.
3. Technical/ Operational Capacity	Verify the technical and operational capacity of the entity to deliver development outcomes. Includes assessment of the capacity/capability of the key personnel.
4. Financial Viability	Verify that the entity is in robust financial health and in a position to finance its operations as applicable. This criterion seeks information as to the underlying financial position of the entity.
5. Fiduciary Management	Verify that the entity has appropriate fiduciary management processes and systems in place. For example: budgeting and forecast, insurance cover, asset management, financial manuals, petty cash, procurement policy, etc.
6. Results and Performance Management	Verify the entity's approach to performance management, including its processes for monitoring and (where appropriate) addressing underperformance on both personnel and program delivery.
7. Value for Money	Verify that the entity has policies, procedures, and systems in place to manage and monitor cost effectiveness and value for money in the spending of DFAT funds.
8. Fraud and Corruption Control	Verify that the entity has appropriate fraud and corruption control prevention, management, and reporting systems in place to prevent, detect, report, and manage incidents of fraud and corruption.
9. Proscribed List Checks	Verify the entity is not listed on any of the proscribed lists. I.e., Asian Development Bank (ADB) Sanctions List, World Bank (WB) List of Ineligible Firms and Individuals, DFAT Consolidated List of persons and entities listed under Australian sanctions laws, and the Australian Government's List of Terrorist Organisations. Assess the risk of resources being diverted to terrorism, and where the risk identified is Medium/High/Very High, conduct additional checks on the partners relevant policies, procedures, and systems.
10. Integrity Systems	Verify that the entity has appropriate processes and practices to check the integrity of staff and contractors prior to and post engagement. That all personnel engaged directly or indirectly on activities funded through the development program, are of good fame and character at the time of their engagement and remain so for the term of their engagement.
11. Risk Management Processes	Verify that the entity has appropriate risk management processes and systems in place. Includes: appropriate risk management of DFAT funded activities; Workplace Health and Safety; Cyber security; Internal audit; Business continuity and etc.
12. Child Protection	Verify that the entity is compliant with DFAT's Child Protection Policy and has appropriate child protection policies, procedures, and systems in place.

13. Preventing Sexual Exploitation, Abuse and Harassment (PSEAH)	Verify that the entity is compliant with DFAT's Preventing Sexual Exploitation, Abuse and Harassment (PSEAH Policy) and has appropriate processes and systems in place to mitigate sexual exploitation, abuse, and harassment.
14. Environmental and Social Safeguards	Verify that the entity has adequate policies, procedures, systems, and resources in place to identify, assess and manage impacts on the environment and people in a way that meets the requirements of DFAT's Environmental and Social Safeguard Policy to manage: Environment protection; Displacement and resettlement; Children, vulnerable and disadvantaged groups; Indigenous peoples; and Health and safety.

Proportionality is a key principle underpinning the Framework. The scope of the assessment is proportional to the overall risk of the agreement. Issues such as the complexity of the activity, operating environment, size and experience of the organisation, delivery arrangements and financial value are considered.

Due Diligence Assessment Levels

Financial delegates are accountable for deciding the extent to which due diligence is applied prior to entering into an agreement. A risk-based approach is used to determine the level of due diligence conducted. Assessment options include: Comprehensive; Baseline; Baseline Downstream Partners; Multilateral; or Individuals.

Comprehensive Assessment

The full 14 risk criteria (Figure 1) are used to assess the entity and its approach to assessing its downstream partners' capacity to comply with DFAT policies and to deliver the contracted services.

Baseline (and Baseline Downstream Partners) Assessment

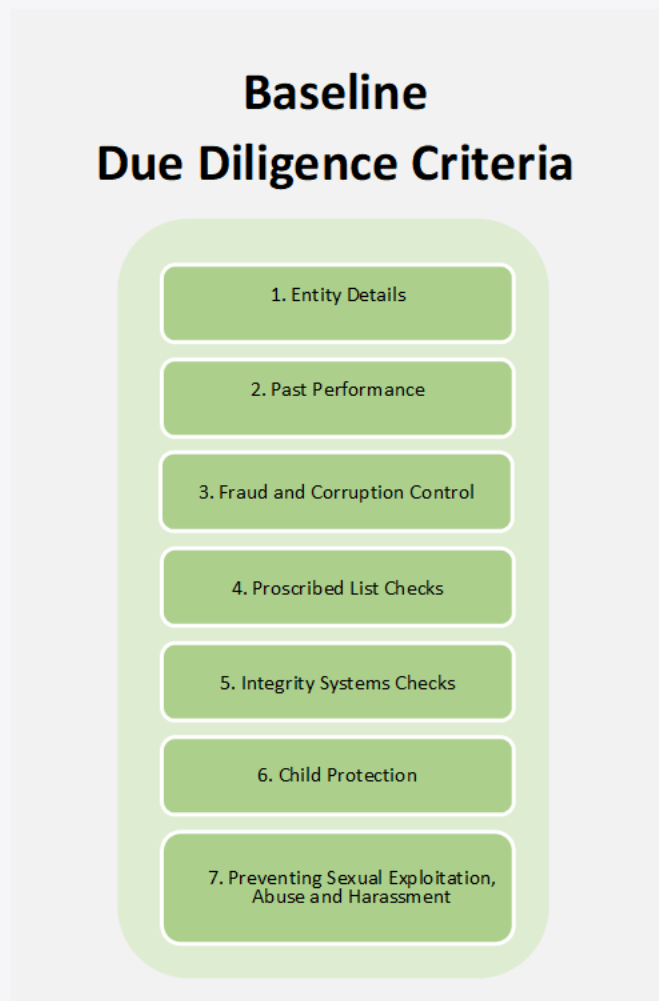


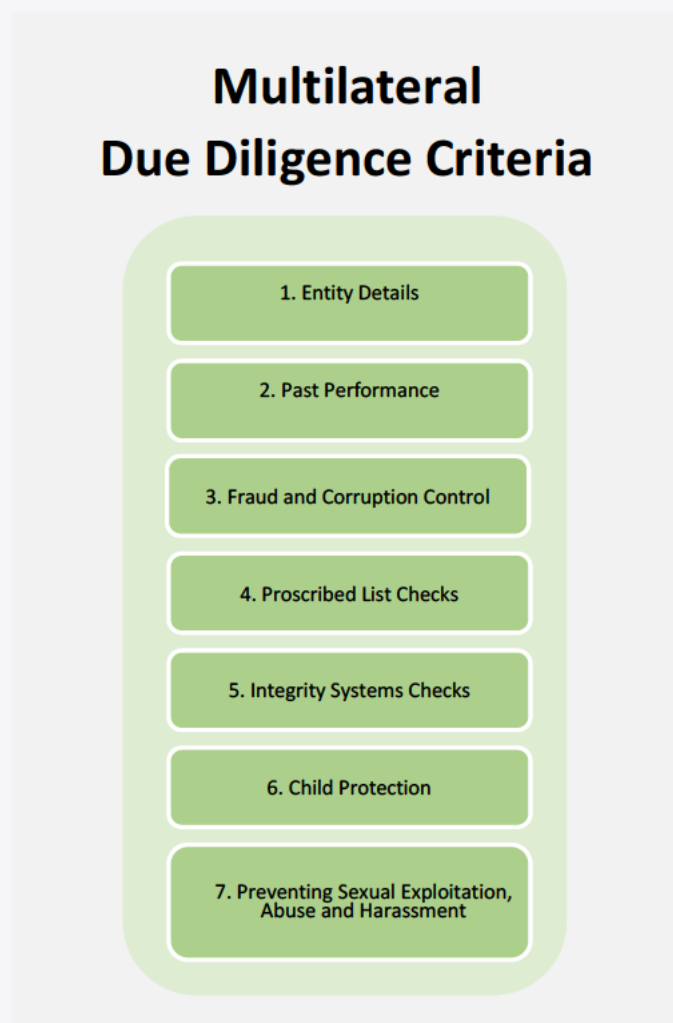
Figure 2:

Seven criteria (Figure 2) are used for Baseline (and Baseline Downstream Partner) Assessments.

The Baseline Downstream Partners assessment is applied where the potential partner intends outsourcing part or all of the services to downstream delivery partners. It expands the requirements to identify how a delivery partner understands their own downstream partners and manages the risks of working with them.

Multilateral Assessment

Figure 3:

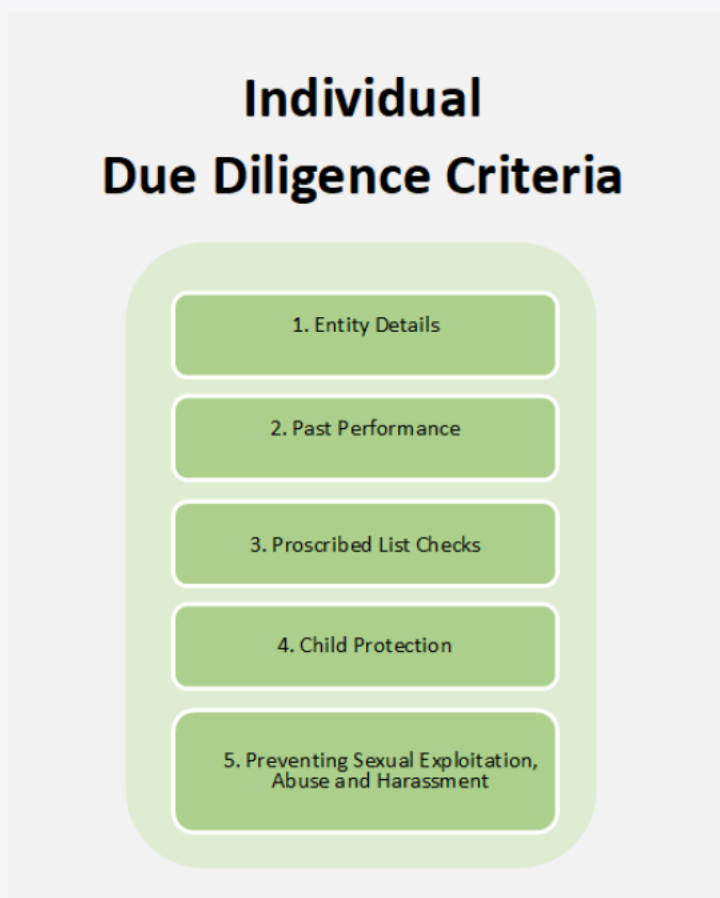


Multilateral organisations are also assessed using the same seven standard baseline criteria (Figure 3). However, the information and evidence required for the assessment is proportionate to the size and complexity of the organisation and the value of the proposed funding agreement. Assessment criteria also include the way in which the potential partner manages the risks of downstream delivery partners.

DFAT has worked with most major multilateral partners for many years and has a good sense of their capacity and risk management, directly from past experience and indirectly from the experience of likeminded countries with which we work.

Individual Assessment

Figure 4:



Five criteria (Figure 4) are used for individual assessments. This is a streamlined procedure commensurate with engaging an individual operating as a sole trader/sole proprietor or other like self-employed business type.

Australian NGO Accreditation

Australian NGOs (ANGOs) must gain DFAT accreditation to receive ANCP funding.

Accreditation is a rigorous front-end risk-management and due diligence process for DFAT, which aligns with and satisfies DFAT's due diligence requirements. It involves an independent review team assessing an ANGO's organisational structure, philosophies, policies and practices against an agreed set of accreditation criteria. These criteria cover: Governance and Risk Management; Development Approaches and Management; Approaches to Partnership and Collaboration; Communications; and Financial Management. To gain accreditation, the ANGO must demonstrate capacity and performance against a range of indicators (such as safeguards, fraud and counter-terrorism). The ANGO must also demonstrate:

- documented arrangements with partner organisations in the countries in which it works, with specific indicators requiring that DFAT contractual obligations be reflected in partner agreements that relate to DFAT funding;
- that its partnership agreements are understood and accepted by its partners;

- it undertakes due diligence and assesses the capacity of its partner organisations, including a specific indicator that the ANGO regularly assesses the capacity of its implementing partners including across financial management, safeguarding practices and operational performance; and
- it continually supports its partners to manage joint initiatives in a manner consistent with current good practice.

NGOs may seek accreditation at either Base or Full level. ANCP ANGOs must be re-assessed for accreditation at least every five years.

Specific advice on ANGOs programming in high risk locations and/or sensitive sectors is provided in the [ANCP Manual](#), and any such projects are submitted to the DFAT Delegate (FAS DPD) for approval on an annual basis.

Accreditation ensures the Australian Government is funding professional, well-managed organisations that can deliver quality development outcomes and are accountable to their stakeholders. It assures the Australian public that the Australian Government is working with the most effective NGO partners.

Accreditation is also a capacity-building tool, enabling Australian NGOs to reflect on and improve their own performance.

Further details can be accessed here: [Accreditation of Australian NGOs](#)

RISK MANAGEMENT

Due diligence assessments of delivery partners are one aspect of DFAT's broader development risk management.

Other key aspects of DFAT's development risk management include:

- environmental and social safeguards: which include consideration of environmental protection; children, vulnerable and disadvantaged groups; displacement and resettlement; Indigenous peoples; and health and safety.
- child protection compliance
- preventing sexual exploitation, abuse, and harassment
- fraud control
- partner government systems assessments (*not relevant for Myanmar*).

Agreements with delivery partners must include standard clauses requiring compliance with DFAT's safeguarding policies and mandatory fraud clauses.

For every investment, investment managers must screen for mandatory policy considerations (including environmental and social safeguards risks and impacts, terrorism resourcing and fraud risks) as well as other common risk factors; analyse risk; and document these processes in the Risk Factors Screening Tool and risk register.

This is an ongoing process throughout the life of an investment or agreement. Investment and agreement managers must update risk registers and Risk Factors Screening Tools at least quarterly during investment implementation. This is done through ongoing monitoring and review of the agreement, including regular communication and consultation with implementing partners and senior DFAT management. Where relevant, DFAT consults with other like-minded donors and relevant policy and program areas within DFAT.

DFAT staff regularly undertake risk management training to increase risk awareness and improve risk response.

APPLICATION OF DFAT'S DUE DILIGENCE FRAMEWORK IN MYANMAR

Delivery Partners Due Diligence Assessment Requirements for Myanmar program

Table 2 below outlines the minimum due diligence assessment requirements for the range of partners supporting delivery of the Myanmar development program.

Table 2: Minimum due diligence requirements by partner type:

Partner Type	Minimum Due Diligence Assessment Requirements
1. Multilateral Organisations and Development Banks	Multilateral Assessment commensurate to risk of the investment including management of risks of downstream delivery partners.
2. International & Regional Organisations	Multilateral Assessment commensurate to risk of the investment including management of risks of downstream delivery partners.
3. Non-Government & Civil Society Organisations 3.1 International NGOs 3.2 Australian NGOs	Baseline assessment where the potential partner delivers all the services. Baseline Downstream assessment where the potential partner intends outsourcing part or all the services to downstream delivery partners.
3.3 Australian NGOs accredited to the Australian NGO Cooperation Program (ANCP)	Partners accredited under the ANCP do not require a separate Due Diligence Assessment. See further information above.
2.4 In-Country Local NGOs & CSOs	Baseline assessment where the potential partner delivers all the services. Baseline Downstream assessment where the potential partner intends outsourcing part or all the services to downstream delivery partners.
2.5 Direct Aid Program (DAP)	The Australian Embassy will undertake formal due diligence of selected DAP partners using DFAT's due diligence templates prior to awarding a grant.
3. Commercial & Private Sector Partners	Baseline assessment where the potential partner delivers all the services. Baseline Downstream assessment where the potential partner intends outsourcing part or all the services to downstream delivery partners. High risk engagements may require a Comprehensive assessment as determined by the financial delegate.

How DFAT applies the Due Diligence Framework in Myanmar

The military coup and ongoing conflict have made Myanmar a high-risk environment, including for implementing humanitarian and development activities. It is incumbent on DFAT to manage risks to effectively deliver Australia's development and humanitarian program in this complex, challenging and changing environment.

The Framework is one risk management tool that is applied in Myanmar. Due diligence assessments contribute to ensuring that Australian development and humanitarian support can efficiently and effectively reach people in need in Myanmar.

Due diligence assessments are used in Myanmar to develop a deeper, evidence-based understanding of potential delivery partners, prior to entering into an agreement and providing them with ODA funds. This process identifies the risks of working with a potential partner on a specific program and assesses whether that partner has the capacity and capability to deliver within Myanmar's context. These risks include the partner's ability to safely manage development and humanitarian programs, manage fraud and corruption in a complex environment, ensure protection of children including in conflict zones, and prevent sexual exploitation, abuse and harassment.

This assessment and management of partner risks is important across all of DFAT's programs, but is especially important in Myanmar where in-person monitoring of partner activities is difficult. Risks identified during a due diligence assessment can be managed through agreement conditions and active use of a risk register and risk mitigation measures by the Australian Embassy in Yangon.

The Framework also assists DFAT delegates responsible for expenditure of Australian development and humanitarian funds in Myanmar to meet their legal requirement under the *Public Governance Performance and Accountability Act 2013* (PGPA Act) and the related Commonwealth Risk Management Policy.

As outlined above, the Framework applies different approaches to different types of organisations, including in Myanmar, to ensure that a systematic, transparent, evidence-based and fit-for-purpose approach is used to identify and manage delivery partner risks. Noting the sensitivities and the security situation in Myanmar, Australia does not publicise the details of our local implementing partners.

Risk Management and Monitoring in Myanmar

DFAT staff undertake quarterly updates of program specific risk registers - informed by information provided by program partners and other stakeholders. The Australian Embassy risk committee meets regularly to share information on risk, context, program implementation and challenges faced by partners.

DFAT holds meetings with program partners to discuss implementation and issues related to the changes in the context and risk – including political risk. We also seek to meet with a selection of downstream delivery partners and organisations where possible to cross-check programmatic information and ensure open lines of communication of issues around risk, implementation and political challenges.

There are specific requirements within agreements with partners to advise and address issues relating to risk and safeguards. We remind partners of these obligations during our meeting updates (especially on risk, fraud, child protection and sexual exploitation, abuse and harassment risks).

Many of our programs are multi-donor or co-funded with other donors. DFAT meets with them to cross-check and collaborate on an understanding of partner performance and issues around risk. Where other donors can travel and monitor, they share monitoring information. Many of these joint donor programs have quarterly Fund Board/Steering Committee meetings where these issues are collectively discussed.

How DFAT ensures the integrity and effectiveness of Australia's development assistance in Myanmar

It is important that Australian funding reaches those in need in Myanmar and does not get diverted to the regime or its associates.

To mitigate the risk of this, Australia selects development and humanitarian partners that have rigorous processes in place to ensure that funding is delivered appropriately and to intended beneficiaries. These partners have established systems and networks in place which seek to mitigate risks in the current environment, ensure accountability and reach those in need.

As such, we apply multiple layers of checks and balances to ensure that our assistance reaches people most in need in Myanmar. These checks and balances include:

- selecting partners that have appropriate systems in place to: ensure funding is not diverted by the regime; prevent fraud and corruption; ensure the protection of children; prevent sexual exploitation, abuse and harassment; manage risks; and ensure accountability;
- selecting partners with the right staff and experience to deliver effective programs in a complex conflict-affected environment and apply the 'Do No Harm' principle;
- designing programs with our partners that incorporate these safeguard measures to ensure we reach those in need without legitimising or lending credibility to the regime; and
- closely monitoring and managing the implementation of programs with our partners to ensure that they are achieving the intended outcomes.

Australia delivers our development and humanitarian assistance through a combination of UN agencies, multilateral and regional partners, international NGOs, local NGOs and local civil society organisations. While our direct funding partners are predominantly multilateral agencies and international NGOs, these organisations regularly partner with local groups to deliver assistance across Myanmar, including conflict-affected areas. Working with international agencies enables Australia to better coordinate with other donors and enhances the effectiveness and efficiency of our assistance, as well as contributing to risk management.

Our robust procedures are also designed to ensure integrity is retained in downstream partnerships and Australian funds reach the intended beneficiaries.

DFAT has a range of systems and processes to ensure the effectiveness of our aid delivery. DFAT actively manages agreements with our implementing partners to mitigate risk and to make sure that agreements deliver the intended outcomes and value for money. This includes ensuring agreement objectives are achieved; financial management and legislative requirements are met; and partner performance is satisfactory. This is done through managing relationships with delivery partners and stakeholders; monitoring and evaluation; managing agreement risks; managing any complaints, disagreements or disputes; and monitoring delivery of milestones. In addition to our regular meetings with implementing partners, DFAT also undertakes annual performance assessments of our partners and investments to ensure they are achieving their expected outputs and outcomes.

ATTACHMENTS

A. MYANMAR DEVELOPMENT COOPERATION FACTSHEET



Australian Government
Department of Foreign Affairs and Trade

MYANMAR

Development Cooperation Factsheet, May 2023



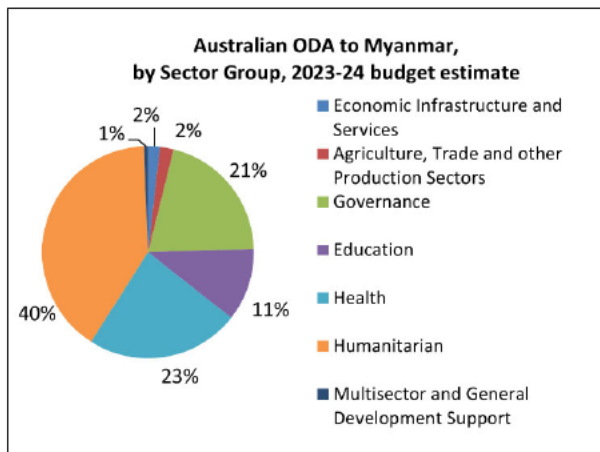
Estimated Australian ODA: 2023–24: \$121.0 mil

Gross National Income Per Capita: USD1,170 (2021)

Population: 53.8 mil (2021)

Australian ODA	2021-22 Actual (\$m)*	2022-23 Budget Estimate (\$m)*	2023-24 Budget Estimate (\$m)*
Country Programs	40.1	42.1	42.1
Regional	14.8	14.6	15.4
Global	34.6	63.2	63.3
Other Government Departments	1.1	0.8	0.3
Total Aust. ODA	90.7	120.6	121.0
Percentage total Aust. ODA	2.1%	2.6%	2.5%

*Due to rounding, discrepancies may occur between sums of the component items in totals



PRIORITY SUSTAINABLE DEVELOPMENT GOALS



The 2021 military coup in Myanmar has reversed years of democratic, economic and development gains. Conflict is ongoing across the country and economic and humanitarian crises are set to deepen. Despite the challenges, Australia's assistance continues to reach communities in need throughout Myanmar and on the Thai-Myanmar border, including those displaced and in conflict-affected areas.

Strategic direction

Australia remains committed to supporting the people of Myanmar through provision of sustained development and humanitarian assistance. We support meeting immediate needs and building community resilience to respond to future challenges, with a focus on the most vulnerable. We continue to support the promotion of peace and democratic values. We work through trusted partners including the United Nations and non-government organisations. Australia does not provide any direct funding to the Myanmar military regime, and we take proactive steps to ensure Australia's assistance does not give credibility or legitimacy to the regime.

Program highlights

- Providing life-saving assistance, including distributing basic food and non-food items, emergency food, water and shelter.
- Delivering basic education services to children living in vulnerable and conflict affected communities.
- Improving the nutrition status and food security of vulnerable populations in conflict-affected areas through agricultural and livelihoods assistance.
- Delivering primary health care, essential health supplies and mental health services through local non-government providers.
- A strong focus on gender by providing frontline services to improve women's health and well-being including obstetrics and maternal and child health care, and support for gender-based violence support and counselling.
- Supporting efforts to mitigate conflict and its impacts and help protect space for longer-term progress on human rights, rule of law and democracy.