



Submission No 92

**Review of Australia's Relationship with the  
Countries of Africa**

**Organisation:** Australian Agency for International Development –  
Supplementary Submission



Australian Government

AusAID

Submission No:	92
Date Received:	22/07/10
Secretary:	

Mr John Carter  
House of Representatives Committee Office  
Joint Standing Committee on Foreign Affairs, Defence and Trade  
Suite R1 120  
Parliament House  
Canberra ACT 2600

21 July 2010

Dear Mr Carter

**Joint Standing Committee on Foreign Affairs, Defence and Trade:  
Inquiry into Australia's Relationship with the Countries of Africa**

Thank you for your email of 21 May 2010 requesting responses to a series of follow-up questions raised by the Committee following the hearing on 20 April 2010.

The Committee requested of AusAID responses to Questions 9 to 22 relating to the *draft Framework for Development Assistance to Africa 2009-2016* and the *provision of aid to Africa*. Please find attached our responses to these questions. Following advice from the Committee office, I also attach supplementary information clarifying staff resources supporting the aid program.

Yours sincerely

A handwritten signature in blue ink that reads 'C. E. Walker'.

Catherine Walker  
Deputy Director General  
Africa, West Asia, Middle East & Humanitarian Division



## **Q9. Would you describe how the Paris Declaration and the Accra Agenda for Action have informed the development of the Draft Framework?**

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The **Paris Declaration** is based on the important consideration that improved aid effectiveness will increase the impact aid has in reducing poverty and inequality, increasing growth, building capacity and accelerating achievement of the Millennium Development Goals.

The Paris Declaration identified five principles to increase the effectiveness of aid:

- **ownership** (developing countries set their own strategies for poverty reduction, improve their institutions and tackle corruption);
- **alignment** (donor countries align behind these objectives and use local systems);
- **harmonisation** (donor countries coordinate, simplify procedures and share information to avoid duplication);
- **managing for results** achieved by development assistance; and
- **mutual accountability** (donors and partners are accountable for development results).

The **Accra Agenda** built on these principles and highlighted four issues:

- **predictability**;
- **use of country systems** in aid delivery;
- reduction in donor reliance on **conditionality**; and
- **untying of aid** to enable developing countries to buy goods and services at the best quality at the lowest price.

Australia's approach to development assistance to African countries is in line with the principles of the Paris Declaration and the Accra Agenda:

**Ownership:** Sectors of focus were determined in consultation with African partner governments and reflect priority needs. For example, in Malawi and Mozambique Australia is supporting partner Government investment plans for water supply and sanitation, which are developed, owned and implemented by the relevant Government. Australia also contributes to the African Water Facility, an initiative of the African Ministers' Council on Water to help mobilise investment and drive progress against Africa's Water Vision for 2025.

**Alignment:** Australia is aligning its efforts with those of key African institutions. For example, the Australia-Africa Food Security Initiative closely aligns with the African Union's Comprehensive Africa Agricultural Development Programme (CAADP), which is working to better manage the continent's land and water use, improve market access for small farmers and to strengthen African efforts in agricultural research.

**Harmonisation:** Australia works with other donors to coordinate, simplify procedures and avoid duplication. Where it makes sense to do so, this has extended to developing effective partnerships with other like-minded donors. For instance, Australia contributed funding to the Protracted Relief Programme in Zimbabwe to support food security and livelihoods, initiated by DFID. Our contributions enabled the Programme to scale up, rather than establishing a separate standalone Australian

program that imposed additional administrative burdens on fragile Zimbabwe systems. Australia and Germany have agreed to work together in the water and sanitation sector in Southern Africa.

**Managing for Results:** Australia is committed to ensuring funds are used to achieve intended outcomes. AusAID monitors the use of its aid funds and progress towards defined outputs and outcomes through regular financial and performance reports, fraud control measures, field visits, contractual obligations and independent reviews. AusAID develops performance frameworks to measure the effectiveness of our aid to Africa and measures the results through annual activity-level quality reporting and annual program performance reporting that aggregates results across the program.

**Mutual accountability** (donors and partners are accountable for development results): AusAID's performance measurement system described above also takes into account the mutual accountability for development results. This process examines areas for improvement on AusAID's part, and could make recommendations to improve management by AusAID or adjustments to program design or other issues.

AusAID also participates in a range of existing and evolving mechanisms for mutual review at various levels, which contribute towards mutual accountability. For example, for some sectoral programs, such as the Food Security Initiative, donors and partners are finalising a mutual accountability framework for food security initiatives under CAADP.

**Predictability of aid:** For Australia's focus sectors, AusAID is developing large multi-year programs, which are announced through the budget process. For example:

- In May 2009, the Minister for Foreign Affairs announced \$100million over four years (2009-13) for African food security;
- In 2009-10, AusAID commenced implementation of water sanitation and hygiene projects in Africa through the \$300 million water and sanitation budget initiative announced in the Australian Governments' 2008-09 budget.
- The 2010-11 budget highlighted the \$346.9 million over four years to scale up the number of Australia Awards to Africa.

Australia communicates its aid program funding to partner governments through diplomatic posts and regular visits including Ministerial and senior officials.

**Use of country systems:** The expansion of the Australian aid program in Africa means that AusAID is engaging with many new countries with which we have no prior experience. As we scale up, AusAID takes into account each country context, capacity to engage and operational risks, including risks around corruption. AusAID and DFAT are in ongoing consultation on these issues and new program designs consider this. To mitigate risks, at this time more aid funds are channelled through trusted Australian and international partners who have in place international standards for monitoring, accounting and auditing.

**Reduction in reliance on conditionality:** AusAID does not utilise conditionality in relation to the aid program in Africa.

**Untying of aid:** Procurement of Australia development assistance to Africa, as to other regions, is untied.



**Q10. ACFID recommends (sub.37, p.12) that in respect of the Paris Declaration, Australia should provide aid information in a timely manner to improve the predictability of aid specifically:**

- (a) full information on annual commitments and actual disbursements so that the countries of Africa are in a position to accurately record all aid flows in their budget estimates and their accounting systems, and**
  - (b) regular information on...rolling three to five-year forward expenditure and/or implementation plans, with at least indicative resource allocations.**
- **Would you respond to this recommendation?**
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Each year AusAID publishes budget information that includes multi-year budget measures and the total estimated budget allocations for the coming year. AusAID also publishes annual financial statements including expenditure, as part of the Annual Report.

Australia communicates its aid program funding to partner governments through: regular meetings with African Heads of Missions to inform them of scale up and support; discussions with partner government officials by Australian diplomatic representatives located in Africa; and meetings of senior officials with relevant African counterparts. The Minister has regular bilateral meetings with his counterparts and informs them of support Australia is providing to Africa and the specific country.

In Australia's focus sectors, AusAID is developing large multi-year programs, which are reported on through the budget process. For instance:

- In May 2009, the Minister for Foreign Affairs announced \$100 million over four years (2009-2013) for African food security, focusing on support to improve: agricultural research, the functioning of rural markets and the resilience of communities most affected by price hikes in basic necessities.
- In 2009-10, AusAID commenced implementation of water, sanitation and hygiene projects in Africa, including support for infrastructure in Malawi and Mozambique, as part of the broader \$300 million water and sanitation budget initiative announced in the Australian Government's 2008-09 budget.
- The 2010-11 budget highlighted the Government would invest \$346.9 million over four years to scale up the number of Australia Awards to Africa, to enable the provision of 1000 Awards by 2012-13.

Australia also participates in the *International Aid Transparency Initiative*<sup>1</sup>, a global campaign to create transparency in development assistance. It aims to develop a common approach for all those involved in aid programs to better track what aid is being used for and what it is achieving. Greater transparency from donor countries that provide the money and developing countries that benefit from aid spending will enable aid to be managed more effectively.

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<sup>1</sup> <http://www.aidtransparency.net/>





**Q11. Sub 47 states (p.11) that Australia's aid program focuses on key priorities of agriculture and food security (MDG1), maternal and child health (MDG4&5), and water and sanitation (MDG7).**

**The submission from the Australian Council for International Development (Sub.37, p.14) contains the following criticism:**

*The four MDGs identified by AusAID .... are important but the ACFID Africa working group believe that these alone are too narrow, as the MDG is a really important global communication tool (which ACFID strongly supports), but not necessarily a basis for aid programming in complex environments on their own. It is unclear whether it is intended that the MDG targets are the focus, or whether the MDG is being used as a shorthand description of the broader sector of which the MDG is one part.*

- **Would you respond to ACFID's criticism?**
  - **Why were the four MDGs chosen for Australia's aid focus?**
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- **Why were the four MDGs chosen for Australia's aid focus?**

The Australian Government's aid program is guided by the Millennium Development Goals (MDGs), the internationally agreed targets for poverty reduction. The program aims to assist developing countries reduce poverty and achieve sustainable development. The Sub-Saharan African region is lagging behind in relation to the majority of MDGs.

Australia's increased aid to Africa is supporting efforts to achieve the MDGs in areas where Australia has experience and expertise to offer, and which are high priorities for African partner governments. Australia's focus is directed towards improving food security and agriculture (MDG 1), increasing access to clean water and sanitation (MDG 7), and addressing maternal health and child mortality (MDGs 4 and 5).

Building Africa's human resource capacity is critical to its long-term development and is central to achieving all MDGs, providing a pathway out of poverty, driving productivity and promoting economic growth. For this reason, Australia is expanding its long-standing efforts to build human resource capacity through, for example, the Australia Awards (Scholarships) in Africa Program.

#### MDG 1 Eradicate Extreme Poverty and Hunger

Australia recognises that improved agricultural research can make a meaningful contribution to food security in Africa, alleviating hunger and malnutrition. Currently one in three people in Sub-Saharan Africa suffers from chronic hunger. Australia is committed to working with the countries of Africa to ensure that agricultural research activities are relevant to smallholder farmers, and to build capacity within African agricultural institutions, in line with Africa's needs. In this way, Australia's efforts are directed towards assisting African countries make progress against one of the targets for MDG 1 "Halve, between 1990 and 2015, the proportion of people who suffer from hunger".

#### MDG 4 Reduce Child Mortality

AusAID is developing a new maternal and child health program in Africa; for children this has a focus on improving newborn care. This will contribute to meeting the target “Reduce by two thirds, between 1990 and 2015, the under –five mortality”. Australia’s efforts are targeted, and do not attempt to address the whole gamut of health issues facing children under five in Africa. We recognise the importance of building the capacity of health systems to respond to these objectives and in working with other donors Australian efforts will be targeted to the specific assistance we can promote to help countries meet these MDGs. We note that addressing food security, will contribute in the longer term to overall family nutrition, including child health. Additionally, Australia’s efforts to address MDG 5 will also have an impact of health of infants.

#### MDG 5 Improve Maternal Health

AusAID is developing a new maternal and child health program in Africa; for mothers this has an emphasis on training midwives and improving basic obstetric care. Australia’s efforts in this area will focus on key priorities for preventing maternal death and related disabilities (including fistula), skilled attendance at birth (including through supporting midwifery training), better access to emergency obstetric care, and reproductive health (including improved access to family planning). These measures will assist African countries in progressing towards the target “Reduce by three quarters the maternal mortality ration” and “Achieve universal access to reproductive health.

#### MDG 7 Ensure Environmental Sustainability

Australia’s efforts are directed towards assisting African countries to advance against one of the targets under this MDG, namely, “Halve by 2015, the proportion of the population without sustainable access to safe drinking water and basic sanitation”.

Australia’s support is consistent with African priorities. Australia is working at a bilateral level in Southern Africa to improve access to clean water and effective sanitation services; and is supporting key regional programs to strengthen water policies, improve service provider performance and develop sustainable water and sanitation services.

AusAID is also funding civil society organisations in delivering water, sanitation and hygiene programs at a community level.

- **Would you respond to ACFID’s criticism?**

As indicated above, the Australian aid program’s focus on the MDGs reflects the critical needs of African countries, Australia’s expertise and experience and ability to make a difference.

**Q12. The submission from ACFID comments (Sub.37, p.14) that it appears likely that AusAID will fund a small number of five to six NGOs – a fraction of the 33 organisations already working with partners in Africa – and may exclude medium-sized organisations or those that are sectorally focused. ACFID suggested that the number should be increased to a list of around 15 to 20.**

- **How many NGOs have been supported by AusAID in the past?**
  - **What is your response to ACFID's suggestion that the number of supported NGOs be increased?**
- 

- **How many NGOs have been supported by AusAID in the past?**

AusAID funds Australian Non Government Organisations in Africa through a range of funding mechanisms, the main examples of which are outlined below:

#### Australian Partnerships with African Communities (APAC) (2004-10).

The Australian Partnerships with African Communities (APAC) program has funded seven accredited Australian NGOs (Adventist Development and Relief Agency, CARE, Oxfam, Australian Foundation for Peoples of Asia & the Pacific; Burnet/Plan (a consortium) and ChildFund) to respond to development challenges in seven countries in southern and eastern Africa, particularly around food security and HIV/AIDS with some water components.

#### AusAID-NGO Cooperation Program (ANCP)

In 2009-2010, 22 Australian NGOs directed \$11,208,753 of their AusAID-NGO Cooperation Program (ANCP) funding to 20 countries in Africa. The ANCP is a government subsidy program that matches government funding with community donations provided to NGOs by the Australian public. Australian NGOs who receive government funding through ANCP can choose to direct that funding to their programs in Africa.

#### AusAID NGO Cooperation Program Innovations Fund

The ANCP Innovations Fund is an AusAID initiative to support good practice by accredited Australian NGOs working in international aid and development. It is a competitive subsidy scheme for AusAID accredited agencies designed to assist in the implementation of NGOs own innovative development activities while supporting shared learning and collaboration across the international development sector. One program on the Mozambique/Zimbabwe border implemented by the Burnet Institute was funded in the Fund's first year of operation.

#### Zimbabwe Water and Food Initiative (2010- 2012)

This program is aimed at improving food security and access to clean water and sanitation in rural areas of Zimbabwe. It follows the successful \$2 million ANGO water and sanitation program funded in 2008-9. Caritas, Save the Children Australia, Plan International Australia, World Vision Australia and CARE Australia have all been funded.

## AusAID Civil Society Water, Sanitation and Hygiene Fund (2010-2011)

This program will fund five Australian NGOs to work in eight Eastern and Western African countries. These are: Plan Australia, WaterAid Australia, World Vision, Oxfam CARE.

### Humanitarian and Protracted Crises

AusAID has funded a number of Australian NGOs during 2009-10 to deliver emergency and humanitarian assistance to countries in Africa experiencing humanitarian and protracted crises, including Save the Children, Caritas, Oxfam, CARE, and World Vision.

- **What is your response to ACFID's suggestion that the number of supported NGOS be increased?**

ACFID's question related to the new Australia Africa Community Engagement Scheme (AACES) which will replace APAC from 2010 as the major funding vehicle for Australian NGOs through AusAID's Africa program.

The new program will be implemented through a management model of 5-8 partnerships between AusAID and Australian NGOs. The final number of selected proposals could go up by one or two depending on the quality and nature of the proposals received. The program is not just a funding mechanism, but is aimed at establishing strategic partnerships with NGOs working in Africa while supporting the key priorities of the Australian Government to scale up our aid program in Africa. A large number of partnerships would not provide the necessary coherence and opportunities for strategic level engagement between AusAID and the NGOs, and within the group of funded NGOs.

In addition, by funding a smaller number of proposals, AusAID can contribute a significant level of funding to each program and enable scaling up of efforts. AusAID is not limiting the number of NGOs which we fund, but the number of proposals. The program documentation encourages NGOs to think creatively about the types of partnerships that they could form to implement the activities. In particular this would enable smaller niche NGOs to contribute to, and benefit from, the program.

The program documentation was disseminated to NGOs in May and their proposals are due for submission on 19 August. Selected NGOs will be funded to prepare designs. There will be a four month design phase with in-country peer review. The designs will be for five years with a detailed implementation plan for the first year. Partnership Agreements will be signed between AusAID and each NGO prior to activity implementation.

**Q13. In providing aid to African countries, what steps does AusAID take in coordinating with Australian NGOs and Africa-based NGOs?**

- **What are the accountability requirements when aid is provided to NGOs?**
  - **How do you measure the effectiveness of the aid programs you support?**
- 

- **What are the accountability requirements when aid is provided to NGOs?**

AusAID uses a range of mechanisms to meet the accountability requirements for aid provided to NGOs.

AusAID NGO Accreditation Policy

The majority of Australian NGOs currently funded by AusAID to work in Africa are accredited with AusAID. The accreditation process aims to provide AusAID, and the Australian public, with confidence that the Australian Government is funding professional, well managed, community based organisations that are capable of delivering quality development outcomes. Accreditation acts as a front-end risk management process and ensures accountable use of funding with minimal activity overview by AusAID.

The AusAID NGO Accreditation Policy describes the accreditation process in detail. The accreditation process is designed to promote the development and implementation of good development practice within NGOs. The process checks the organisation's internal accountability procedures (*ref: Criterion B*) as well as operational policies that ensured that it, and an organisation using its funding, is able to manage and account for its funds (*ref: Criterion E*). The Accreditation Criteria is at Attachment A.

AusAID's Head Agreements for Accredited and large NGOs place an obligation on an organisation to ensure that it, and the parties that it works with are not engaged in illegal or corrupt practices (at Attachment B, Clause 28.9). AusAID's Grant Agreement for all other NGOs includes a schedule on good development practice principles (at Attachment C, Schedule 2). NGOs receiving funding under this Grant Agreement are obliged to follow these principles. One such obligation is to not be 'a willing party to wrongdoing, corruption, bribery, or other financial impropriety in any way in any of its activities.' The principles also set out policies that NGOs should put in place to satisfy the Government that this is the case.

AusAID Risk and Fraud Management Procedures

AusAID has a zero tolerance attitude towards fraud. This means that for all instances of reported suspected or detected fraud, AusAID ensures: the matter is investigated; offenders are prosecuted where appropriate; and misappropriated funds or assets are recovered and appropriate penalties are applied where possible.

AusAID provides training both in Australia and overseas to assist NGOs and other organisations understand their responsibilities in relation to fraud control. Organisations are required to report cases of suspected or detected fraud to AusAID within 5 working days where cases involve funds or assets provided by AusAID.

NGOs need to consider a range of risks to project implementation, including the possibility of corruption. For most programs, NGOs are required to develop a risk management matrix (covering local and national risks) and a monitoring and evaluation plan in addition to their program design. The plan documents the key sources of risk; main risk events, likely impacts on program, risk mitigation strategies, and responsibility for risk and fraud management. These plans are assessed by AusAID as part of the decision on whether to fund an activity. NGOs are required to update these plans on a regular basis as the type and level of risk can alter during the course of a project.

NGOs and other organisations implementing activities funded by AusAID are also required to provide annual narrative and financial statements which are reviewed by AusAID before the next tranche of funding is paid.

#### AusAID's support for the Australian Council for International Development's Code of Conduct

AusAID works in partnership with the Australian Council for International Development to promote a voluntary, self-policing Code of Conduct for the Australian international development NGO sector (at Attachment D).

The Code of Conduct includes a number of criteria promoting good practice for NGOs working in fragile states. Section Five of that Code sets out steps that NGOs can take to ensure a high level of financial accountability. NGOs are not compliant with the Code unless they fulfil all its criteria. Signing up to the Code is encouraged by AusAID and code compliance status is a prerequisite to Accreditation.

#### Small Grants Schemes

There are two programs which provide small grants to indigenous and some Australian NGOs working in Africa. Organisations funded through these schemes do not have to be accredited by AusAID.

The *Africa Regional Small Activities Scheme* which is administered by AusAID provides grants of up to AUD\$50,000. This limit will increase to \$100,000 in 2010-11. It funds proposals from reputable non-government or community-based organisations which meet the registration requirements of the country in which they operate and which undertake development work on a not-for-profit basis. Funded organisations are required to provide six-monthly and final narrative and financial reports to AusAID or the relevant Australian diplomatic mission on project implementation, identifying both positive and negative outcomes. AusAID or the relevant Australian diplomatic mission will monitor the progress of all activities and it is anticipated that AusAID or the relevant Australian diplomatic mission will undertake project visits at least once in the life of the activity

The *Direct Aid Program (DAP)* is managed by the Department of Foreign Affairs and Trade through Australian embassies and high commissions. There is no minimum or maximum amount that a single DAP project can receive, although funding for most projects will fall between \$5,000 and \$30,000. Applicants are required to

demonstrate their bona fides at the outset through referrals or references and detailed proposals. All project recipients are required to complete acquittal reports on conclusion of the DAP project. This includes evidence of expenditure, such as receipts, and written reports on tangible outcomes.

- **How do you measure the effectiveness of the aid programs you support?**

AusAID measures the results of our aid programs (including to Africa) through annual activity-level quality reporting and annual program performance reporting that aggregates results across the program. Objectives and indicators of success are defined at the activity level and measured through the implementing NGO partner's systems, with additional monitoring and evaluation by AusAID as required.

Australia monitors the use of its aid funds and the progress towards defined outputs and outcomes through regular financial and performance reports, fraud control measures, field visits, contractual obligations, and independent reviews

The Office of Development Effectiveness (ODE) was established in 2006, and reports directly to the Director General of AusAID. ODE is a standalone unit that assesses and reports on the effectiveness of Australian aid and uses its findings to continually improve effectiveness of the aid program. The ODE reports the quality of AusAID programs through the Annual Review of Development Effectiveness. (This is tabled in Parliament each year and freely available on the internet.)

(For more information see the response to Q4.)





**Q14. Sub.47 comments (p.12) that Australia's food security program is aligned with the African Union's Comprehensive Africa Agriculture Development Program. Management is shared between AusAID (\$83.3 million) and ACIAR (\$16.7 million).**

- **How do you select projects for support?**
  - **Would you describe the accountability measures which are involved in those projects?**
  - **How do you measure the effectiveness of those projects?**
- 

- **How do you select projects for support?**

**The Australia-Africa Food Security Initiative** aims to contribute to African efforts to build the continent's food security. The initiative is structured around three Pillars:

- 1. Lifting agricultural productivity** - through increased investments in international agricultural research and development.
- 2. Market Development** - improving rural livelihoods by facilitating solutions to market failures in rural areas.
- 3. Social protection** – building the resilience of rural communities through targeted social safety net programs that increase the capacity of the poor to access food.

This concept was formulated through a coordinated process of commissioned research, Whole of Government consultation and stakeholder engagement;

- The body of analysis that underpins the concept is based on an AusAID commissioned background paper by Professor Dr Hans Binswanger-Mkhize in July 2008. (Professor Binswanger-Mkhize is one of the world's leading agricultural economists and was formerly the Head of the World Bank's Africa Rural Development Division, with strong connections across the African continent.)
- Whole-of-Government objectives were articulated through a series of Interdepartmental Committee meetings comprising DFAT, PM&C, DAFF, CSIRO and ACIAR.
- Specific opportunities for Australian support were identified through engagement with key stakeholders in African food security. This comprised in-depth desk research and telephone interviews, a three week scoping mission to Africa from 23 February to 14 June 2009 and a two week follow-up mission from 1 to 12 May 2009. The mission teams consulted widely including with senior African Government officials, African research institutions, and other donors.

Proposals for Australian investment in food security noted the need to:

- maximise development impacts by working within African strategies and institutions
- ensure broad geographic coverage through engagement in regional or multi-country programs
- ensure high profile within Africa in niche areas where Australia is recognised as a world leader.

The initiative closely aligns with the African Union's Comprehensive Africa Agricultural Development Programme (CAADP), which is working to: better manage the continent's land and water, improve market access for small farmers and to strengthen African efforts in agricultural research.

AusAID is currently working through its key implementing partners, the Australian Centre for International Agricultural Research (ACIAR) and the Australian Commonwealth Scientific and Research Organization (CSIRO), to develop new partnerships with well-respected African regional organisations.

- In West and Central Africa CSIRO is working with CORAF/WECARD<sup>1</sup> to support research in member countries to increase crop and livestock productivity;
  - In Eastern and Central Africa CSIRO is working with BecA<sup>2</sup> to build African capacity in biotechnology to address Africa's agricultural, health and environmental problems
  - In market development, AusAID is building a partnership with the new body established by the Common Market for Eastern and Southern Africa (COMESA), the Alliance for Commodity Trade in Eastern and Southern Africa (ACTESA), to support trade, regional market integration and private sector participation in food production in East and Southern Africa.
- **Would you describe the accountability measures, which are involved in those projects?**

AusAID works with trusted Australian partners, ACIAR and CSIRO who have appropriate international standards for monitoring, accounting and auditing. As Australian statutory authorities, ACIAR and CSIRO are also required to report to the relevant Australian Government minister (Minister for Foreign Affairs and the Minister for Innovation, Industry, Science and Research respectively).

As mentioned above, key Australian implementing partners, ACIAR and CSIRO, are also responsible for managing partnerships with the well-respected, established African regional organisations listed above.

Australia monitors the use of its aid funds through regular financial and performance reports, field visits, contractual obligations, and independent reviews.

AusAID also participates in annual general meetings of African regional partners, where Australia can raise issues related to the partner's operations and discuss strategic priorities.

AusAID also works closely with USAID as an implementing partner with ACTESA. USAID submits periodic reports and oversees ACTESA Secretariat quarterly financial reporting to AusAID.

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<sup>1</sup> Conseil Ouest et Centre Africain pour la Recherche et le Développement Agricoles/West and Central African Council for Agricultural Research and Development (CORAF/WECARD)

<sup>2</sup> Biosciences East and Central Africa (BecA)

- **How do you measure the effectiveness of those projects?**

AusAID measures the results of its aid to Africa through annual activity-level quality reporting and annual program performance reporting that aggregates results across the program. Objectives and indicators of success are defined at the activity level and measured through the implementing partner's systems, with additional monitoring and evaluation by AusAID as required.

We are developing the performance framework for all of the Food Security Initiative activities in close collaboration with AusAID's Office for Development Effectiveness. We are also drawing on the tools developed through the CAADP framework to inform our framework for measuring effectiveness

We are also establishing a Technical Advisory Group (TAG) to enhance the quality of activities under the Initiative by providing independent high quality technical advice to AusAID and its partners. This will enable AusAID to assess and better report on the performance of each component and the overall Initiative.

Activities under Pillar 1 are most advanced in implementation. The primary goal of our partnerships in agricultural research (delivered through both CSIRO and ACIAR) will be to support quality agriculture research in Africa, which translates into increased food productivity for farmers in Africa. Whilst the time frame for this goal is well beyond the 4 years of the initiative, and a number of contingencies will impact on the likelihood of achieving this goal (drought, displacement owing to conflict, etc) we can still ensure our agriculture research support to regional organisations is:

- as relevant as possible to the problems facing farmers in their efforts to increase productivity
- is linked to key tools for effective dissemination of research outcomes (extension services, community outreach, etc) – robustness of outreach between the research organisation and the farmers).

We will develop the performance framework for ACTESA in the months ahead.



**Q15. Sub. 47 notes (p. 14) that Australia is also exploring ways to align our work in water and sanitation with the efforts of the African Minister's Council on Water enabling the delivery of programs that meet the priorities of the African governments.**

- **Would you provide further information on the options which are being explored for aligning Australia's assistance?**
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Water and sanitation is a key priority for the Australian Government's increased engagement in Africa. AusAID's support is consistent with African priorities, as set out in strategic documents such as the *African Water Vision 2025* and critical declarations such as the *Sharm El-Sheikh Commitments for Acceleration of the Achievement of Water and Sanitation Goals in Africa*. This is achieved in AusAID's program in a number of ways, including:

- By assisting to strengthen governance, for example through institutional capacity building and management decentralisation as part of our bilateral investment in Mozambique. AusAID is also meeting urgent water needs through new water supply systems and rehabilitation of old infrastructure.
- Meeting priorities of African governments, for example by supporting partner government investment plans, which are developed, owned and implemented by government.
- Addressing low levels of basic sanitation through AusAID's Civil Society Water, Sanitation and Hygiene Fund.
- Ensuring that projects are sustainable, for example through effective cost recovery and use of appropriate technology, so that authorities have adequate resources to maintain and service infrastructure over the longer term.

The African Ministers' Council on Water (AMCOW) was formed in 2002, primarily to promote cooperation, security, social and economic development and poverty eradication among member states through the management of water resources and provision of water supply services. Its membership presently consists of all the African Ministers from the African States who are responsible for water resources.

Having agreed to explore new financing mechanisms for the African water sector, in 2004 AMCOW established the African Water Facility (AWF). AusAID recently commenced a partnership with the AWF.

The main objectives of the AWF are to mobilise resources to finance water resource development activities in Africa, as well as to attract and make effective use of increased and appropriate investments needed to achieve national and regional water sector targets. This is achieved through two broad areas of support:

- by improving the enabling environment to attract more investments
- through direct capital investments for the purpose of triggering larger investments for sustainable development.

Importantly, AWF activities assist Regional Member Countries (i.e. the 53 Regional Member Countries in Africa of the African Development Bank) in the full implementation of the *African Water Vision 2025*, focusing its operational support at national and regional level in four specific intervention areas:

- strengthening water governance
- investments to meet water needs
- strengthening the financial base
- improving water knowledge.

The *African Water Vision 2025* was adopted in 2000 and is an integral part of a worldwide initiative, recognising the crucial role of water in accomplishing socioeconomic development goals. The *Africa Water Vision 2025* is designed to lead to a future where the full potential in Africa's water resources can be readily unleashed to stimulate and sustain growth in the region's economic development and social well being.

AMCOW continues to provide political leadership and policy direction to the African water sector, including through implementation of the *African Water Vision 2025* and *Sharm El-Sheikh Commitments*. AusAID will continue to monitor the initiatives and progress of AMCOW, and explore ways in addition to AusAID's partnership with the AWF to support and align programs and activities with the priorities of AMCOW and African governments.

**Q16. Sub. 47 notes (p. 15) that in Ethiopia, Australia has been a major contributor to the work of the Addis Ababa Hamlin Fistula Hospital, for the treatment of obstetric fistula and midwifery training, since 1984.**

- **What is happening in other countries as regards the treatment of obstetric fistulas?**
  - **Is Australia able to leverage its expertise in aid provision in this area to promote similar work in other countries?**
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The Australian Government is committed to supporting accelerated progress by developing countries towards MDGs 4 and 5 – *reduce child mortality* and *improve maternal health*. As part of our support for maternal health, the Australian Government has supported **global** efforts on the prevention and treatment of the debilitating reproductive health condition of obstetric fistula. This support has been provided through AusAID's partnership with UNFPA (\$42.5 million over the period 2008-12).

UNFPA is leading the global **Campaign to End Fistula** to support prevention, treatment and rehabilitation programs aimed at eliminating this condition. This program is working in more than 47 countries in Africa, Asia and the Arab states to prevent and treat fistula, and to help rehabilitate and empower women after treatment. The goal is to make obstetric fistula as rare in developing countries as it is in the industrialised world. The target date for fistula elimination is 2015, in line with the MDG target to improve maternal health.

The Australian Government's support for the treatment and prevention of obstetric fistula at a bilateral level has focused to date on **Ethiopia** and the work of the **Hamlin Addis Ababa Fistula Hospital**. The Hamlin Hospital is also performing an important capacity-building function beyond Ethiopia as it also provides training in fistula treatment for medical personnel in other countries in Africa, and from other developing countries.

Since 1984, Australia has been a major contributor to the work of the Hamlin Fistula Hospital including approximately \$7.3m since 2000. This includes:

- Provision of co-funding of \$2.5 million (over 3 years - 2009-11) for the Hospital's Midwifery College, including the placement of a volunteer (through Australian Volunteers International) at the Hospital to teach, mentor and support midwifery students and teaching assistants; further Australian volunteer placements at the Hospital are planned.
- Provision of \$4.8 million (since 2000-01) to the Swiss-based Hamlin Fistula International Foundation to provide an income stream for the Hospital, including support for the establishment of the Mekelle Hamlin Fistula Centre (one of five regional centres established to improve access for women in rural areas). Australia's funding is also supporting the construction of the first six of 25 rural antenatal centres.

The Hamlin Fistula Hospital is now treating more than 2,500 of the approximately 8,000 - 9,000 new cases of obstetric fistula in Ethiopia every year, and provides care for 35 long-term patients. Since its establishment, the Hospital has cured more than 30,000 women of fistula. The Hospital complements the public health system in



Ethiopia by providing services (free of charge) and medical staff training in a very specialised and neglected area that affects poor women who have little or no access to medical services.

In addition to running a full hospital in Addis Ababa, the Hamlin Hospital has established fistula centres within government-run hospitals in five regions in Ethiopia, in an attempt to improve access for women in remote areas. The first cohort of midwifery graduates from the Hospital's Midwifery College will graduate in mid-2010 and take up positions in the five regional clinics in October 2010 to carry out midwifery work with a fistula specialisation. Doctors attached to these centres have been trained to undertake surgery and related treatment. The Hospital also trains all doctors undertaking their postgraduate training in obstetrics and gynaecology from Addis Ababa University.

**Q17. DFAT's submission (p.39) introduces the Australia-Africa Partnerships Facility which aims to provide short-term technical assistance in priority areas in response to requests of assistance from African countries.**

**AusAID's submission (p.18) provides details of 5 projects completed or underway.**

- **How are requests for assistance from African countries evaluated?**
  - **What opportunities are there for lower levels of government in Africa to access the scheme?**
  - **What opportunities are there for Australian and African NGOs to participate?**
  - **How are the outcomes of the projects assessed?**
- 

- **How are requests for assistance from African countries evaluated?**

The Australia-Africa Partnerships Facility prioritises sectors where Australia has experience and expertise that can make a difference: for instance, in the areas of governance for mining and natural resources; agriculture and food security; and public policy (especially economic governance, trade policy and negotiations, and public sector management and reform).

Selection is based on the extent to which the proposal:

- (i) is in-line with the African government national development plan or identified national priorities
- (ii) is consistent with the objectives of the Facility, namely in the areas of:
  - a. public policy (especially economic governance, trade policy and negotiations, and public sector reform)
  - b. mining, minerals and natural resource management
  - c. food security and agriculture
- (iii) is able to build on existing Australian engagement and relationships (i.e. AusAID is only now expanding our presence, knowledge and understanding in Africa and it is more difficult to establish 'greenfields')
- (iv) can demonstrate it is likely to have a tangible development impact; and
- (v) demonstrates partner government commitment and involvement.

Guidelines, including an application form, have been developed for the Facility. These have been shared with Australian missions in Africa, Australian Government Departments and Agencies, and non-government entities.

A tender process is currently underway for the selection of a managing contractor for the Facility, to be based in Africa. It is anticipated the managing contractor will be in place in October 2010. Once a managing contractor is in place, the Facility will become fully operational. Updated facility guidelines and an application form will then again be circulated to African counterparts and to Australian organisations that are interested in providing capacity building assistance and have existing linkages with African organisations. In the interim, AusAID Canberra and Pretoria Post has received and processed activity proposals.

Proposals funded to date by the facility have generally fallen into the following broad categories:

(i) Priority proposals already identified by African Governments in dialogue with the Minister for Foreign Affairs or Australian Heads of Mission in Africa.

- For example, Botswana requested assistance following devastating fires in 2008. Through the Facility, existing collaboration with NSW Rural Fire Service was expanded to enable 630 fire fighters to be trained in basic fire management.

(ii) Increasing access to Australian Government programs which are able to address particular needs identified by partner governments in dialogue with the Minister for Foreign Affairs or Australian Heads of Mission in Africa.

- For example, the DFAT Trade Policy course for African participants (10 per year) and diplomatic training (5 per year) met the needs of African governments for training in trade policy and diplomacy.

(iii) The expansion of existing activities by Australian organisations with demonstrated links and interests in Africa, which are able to address particular needs identified by partner governments.

- For example, the University of Ballarat, under an existing classroom connections program, organised a regional workshop to train education policy makers from 10 countries with the aim of promoting inclusive learning, including enhancing the retention rates of girls in primary schools in Sub-Saharan Africa.

- **What opportunities are there for lower levels of government in Africa to access the scheme?**

The Australia-Africa Partnerships Facility aims to address priority areas identified as such by national governments. With this in mind, one of the selection criteria reviews the extent to which any proposal is in-line with the relevant African government national development plan or identified national priorities.

That said, it is up to national governments in consultation with relevant other levels of government to formulate national priorities. It may be that there are specific national priorities that might best be addressed through regional or local government.

- **What opportunities are there for Australian and African NGOs to participate?**

There a number of existing programs through which the Australian aid program supports the activities of Australian and African NGOs in Africa including the African Regional Small Activities Scheme, Direct Aid Program, Australian NGO Cooperation Program, Australia Africa Community Engagement Scheme and targeted sectoral programs such as the Civil Society Water, Sanitation and Hygiene Fund.

Whilst the primary focus of the Facility is to provide capacity development support to African Governments activity proposals for support under the Facility can be made by

a range of organisations including African organisations or institutions involved in development work of priority to partner countries; and Australian agencies or organisations involved in development work of priority to partner countries (in which case the request should be endorsed by the potential beneficiary agency or organisation in Africa and the relevant government agency responsible for coordinating development assistance).

- **How are the outcomes of the projects assessed?**

The managing contractor will be responsible for ongoing monitoring and evaluation of the performance of activities funded through the Facility, based on a monitoring and evaluation plan agreed in advance by AusAID.

A Senior Reference Group, chaired by the Assistant Director General of AusAID's Africa and Humanitarian Branch and comprising Counsellor AusAID (Africa), and representatives from DFAT, AUSTRADE and DIAC will set the strategic direction for the Facility for each year and review performance of the Facility.

The Facility will be required to undergo an annual independent program and financial performance audit.

AusAID monitors the use of its aid funds through regular financial and performance reports, fraud control measures, field visits, contractual obligations, and independent reviews. AusAID also measures the results of its aid (including to Africa) through annual activity-level quality reporting and annual program performance reporting that aggregates results across the program. (Please refer to response to Q14).



**Q18. ACFID's submission draws attention (Sub.37, p.16) to an ANAO report which raised the question as to whether technical assistance is effective at capacity building. ACFID recommended that Australia does 'not overly [invest] in technical assistance programs in Africa.'**

- **Is technical assistance effective at capacity building?**
  - **Would you respond to ACFID's recommendation?**
- 

- **Is technical assistance effective at capacity building?**

Technical assistance is about the transfer of knowledge and skills. It applies to training and advice and includes the use of experts, advice from public servants, volunteers and Australia Awards (scholarships).

Historically, a large part of Australia's aid program has been delivered through technical assistance activities. This reflects the fact that Australia's aid program is concentrated in fragile and conflict-affected countries where government systems and capacities are weak and relevant expertise is not available locally. Well-targeted technical assistance can play an important role in improving the capacity of partner governments to deliver basic services.

Decisions about technical assistance are made jointly with partner governments. For example, the use of expatriate advisers is driven by the demands of partner governments and there are far more requests made than are met by the Australian aid program.

AusAID is currently conducting a review of the use of advisers, to be conducted jointly with partner governments. The review will inform the development of a policy on the use of advisers as part of the aid program's broader approach to technical assistance.

- **Would you respond to ACFID's recommendation?**

Australia, in collaboration with key partners, (multilateral, regional, Australian non-government organisations among others) has a focus on service delivery outcomes in Africa, such as access to clean water and effective sanitation, improved access to obstetric and newborn care, and the transfer of agricultural research to increase smallholder agricultural productivity. Technical assistance in building capacity is one element in a suite of activities designed to achieve these outcomes. For instance, there might be a place for technical assistance to enable improved midwifery training courses, or to assist national governments to develop effective water use policies. Technical assistance does not comprise a large component of the aid program's investments in Africa in the areas of agriculture and food security, maternal and child health or water and sanitation.

The Australia Africa Partnerships Facility provides a mechanism to meet specific short-term national priorities. The Facility may utilise technical advisers, however the majority of responses will involve other forms of assistance, such as, partnerships and exchanges between Australian and African organisations; short-term professional development programs; workshops and training; grant funding for capacity building

activities implemented by other organisations; joint research and the short-term placement of advisers or Australian volunteers to mentor African counterparts.

The Australian Awards (scholarships) in Africa Program provides a direct means to contribute to the longer-term capacity of African countries to influence their social and economic development outcomes. There is a growing number of high profile and influential African Awards alumni who are providing impetus to their country's development in senior positions in partner governments, the commercial sector and within regional organisations.

**Q19. ACFID's submission comments (Sub.37, pp.16-17) that directing the majority of AusAID funds through multilateral and bilateral organisations is doubtful at building a distinct Australian identity, and that funding bilateral donors such as DFID be reduced because DFID itself holds significant resource.**

- **Would you respond to ACFID's criticism?**
  - **How can a "Brand Australia" be promoted in the delivery of Australia's aid?**
- 

- **Would you respond to ACFID's criticism?**

Despite the increase in development assistance to Africa, in comparative terms, Australia remains a relatively minor donor to the African continent, representing less than 1 percent of total ODA flows to Africa.

Partners are important in delivering our expanded aid program to Africa. Australia recognises that aid can be most effective where efforts are aligned with African institutions, multilateral partners and other donors. This is a key principle of the Paris Declaration. Working through multilateral and regional partners spreads the reach and impact of Australia's aid program and provides Australia with a 'seat at the table' in policy dialogue.

We have longstanding strong and effective partnerships with key multilateral organisations in areas such as health, HIV and water and sanitation, and in responding to humanitarian emergencies and protracted relief efforts. These partners will continue to be important delivery mechanisms.

We are also developing partnerships with established and effective African regional organisations, which advance collective African interests, for example, the African Development Bank, regional economic organisations such as Economic Community for East and Southern Africa (COMESA), and African agricultural research institutions such as CORAF/WECARD which advance collective African interests.

We continue to develop effective partnerships with other like-minded bilateral donors where it makes sense to do so. In Zimbabwe we have close working relations with the United Kingdom Department for International Development (DFID), a lead donor in aid volume and coordination. Australia has contributed funding to the Protracted Relief Programme initiated by DFID to support livelihoods and food security. The Programme was evaluated as highly effective in reaching vulnerable people. The Programme is implemented by a number of national and international NGOs including Action Aid International in Zimbabwe, CARE, Catholic Relief Services Zimbabwe and World Vision. Australian contributions enabled the Programme to scale-up, rather than establishing a separate standalone Australian program that imposed additional administrative burdens on fragile Zimbabwean systems. This is also in accordance with Paris Principles and the Accra Agenda. The Programme highlights Australian contributions and offers 'branding' opportunities for all donors.



- **How can a “Brand Australia” be promoted in the delivery of Australia’s aid?**

Australian Government partnerships with multilateral, regional or bilateral agencies include agreement to undertake efforts to achieve public recognition of the relevant partnership, and Australia's contribution to any outcomes.

The Australian Government works with partners to identify appropriate opportunities to raise awareness and achieve recognition of Australia's partnership and contribution to outcomes. This could include through messages/information, case studies and/or logos in: promotional materials, media releases and speeches, websites and other online media, and signage at project sites and events. Heads of Mission are also active in participating in the opening of activities.

In some cases it may not be appropriate to overtly identify a project or organisation, for example if the security of beneficiaries or aid workers could be jeopardised, and therefore the achievement of recognition may be limited.

**Q20. Sub.47 advises (p.21) that Australia is currently expanding its volunteer programs across Africa as part of the strategy of enhanced engagement.**

- **Would you provide further information on the volunteer programs?**
  - **How do you promote the volunteer program in Australia?**
  - **Would you discuss the outcomes of the program?**
- 

- **Would you provide further information on the volunteer programs?**

Australia is scaling up the number of volunteers in Africa as part of its strategy of re-engagement on the continent. As a first step, AusAID aims to increase the number of its volunteers in Africa with 50 new placements in nine countries. AusAID expects that by the end of 2010, 75 volunteers will be working in Africa.

Volunteer placements are made with public and private sector, educational institutions, non-government and civil society organisations. Volunteer placements will increasingly be aligned, where possible, with Australia's areas of sectoral priority in Africa, including in water and sanitation, maternal and child health, and food security.

There are now two AusAID volunteer programs operating in Africa, Australian Volunteers International (AVI) and Australian Youth Ambassadors for Development (AYAD). Volunteer assignments vary between 6 months and 3 years in duration.

Australian volunteers are highly appreciated, contribute to development in Africa in tangible ways, and often are the face of Australia on the ground. By sharing skills and knowledge, volunteers assist in building the capacity of individuals, organisations and communities in partner countries. Volunteers foster people-to-people links and partnerships, and raise public awareness of development issues and the aid program in the Australian community.

- **How do you promote the volunteer program in Australia?**

Volunteers and Volunteer Service Providers play an important awareness raising and advocacy role for the Australian aid program and development issues. Volunteers are often called upon to discuss their volunteer experience with community groups and in the media in both Africa and Australia.

Currently, the two Australian volunteer agencies operating in Africa (Austraining who run the AYAD program and AVI) develop their own communication plans, which generally involve targeted networking events, media and advertising of volunteer opportunities and the benefits of volunteering.

- **Would you discuss the outcomes of the program?**

In 2008, AusAID commissioned an external independent review to determine the volunteer program's effectiveness and inform the development of a new program. The review covered the period July 2005 to June 2008. The review found strong evidence that the Volunteer program placements have had positive impacts on both

host organisation and volunteers in building mutual capacities, fostering cultural exchange and increasing personal and professional linkages. The report made recommendations for both short term and longer term strategic engagement including design of a new program.

The new program is expected to be ready for implementation in the second half of 2010. Following a public call for expressions of interest in 2009, AusAID selected Australian Volunteers International, the Australian Red Cross and a consortium led by Austraining International as Core Partners. The new program is being designed and implemented in collaboration with Core Partners, informed by the report and through public consultations.

Volunteers in the field through existing programs in Africa (Australian Volunteers International and Australian Youth Ambassadors for Development) will continue to be supported throughout the transition to the new program.

Examples of the achievements of Australian volunteers in Africa include:

- In Ethiopia, a volunteer placed at the Addis Ababa Hamlin Fistula Hospital has taught, mentored and provided support to midwifery students and teaching assistants.
- In Malawi, volunteers have provided their expertise working as field veterinary officers in a Livestock Improvement Program, pharmacists, and a nurse trainer.
- In Swaziland, a volunteer has worked at the Swaziland Breast Cancer Network providing advice on monitoring and evaluation.
- In Lesotho, a volunteer has worked as a legal protection officer focusing on orphans and vulnerable children.

**Q21. World Vision Australia has advised (Transcript, 5 May, p.62) that it is in discussion with AusAID regarding support for midwife training in Africa.**

- **Would you provide information on the outcome of these discussions?**
- 

World Vision Australia met with AusAID Africa section in August 2009 and February 2010 to discuss maternal, newborn and child health outcomes in Africa, World Vision's proposals for work in this area, the potential for engagement with Australian NGOs in AusAID's proposed new health assistance in Africa, and World Vision's submission to the JSCFADT Inquiry.

At these meetings, AusAID has provided World Vision with an overview of the broad parameters of the Australian Government's maternal and child health program in Africa, which places an emphasis on training midwives, improving basic obstetric and newborn care particularly in East Africa (including the Horn of Africa).

In February 2010 World Vision provided AusAID with a proposal – 'Improved Maternal, Newborn and Child Health Outcomes: How Australia Can Assist' – outlining approaches to addressing better maternal, newborn and child health outcomes in Africa. AusAID has subsequently advised that while the parameters of the program were still being developed, the NGO partnerships program would provide a way for NGOs to engage with AusAID to improve development outcomes in Africa.

On 21 May 2010, AusAID via ACFID called for submissions from Australian NGOs (including World Vision) for the new Australian NGO partnerships program in Africa, the Australia Africa Community Engagement Scheme (AACES). AACES aims to contribute to measurable outcomes for people in three priority sectors: water and sanitation, women and children's health, and food security. A covering letter to Australian NGOs, concept paper and request for submissions were included in this package of information to ACFID and were advertised on AusAID's website. A briefing for interested NGOs was held 4 June 2010; a representative of World Vision attended.



**Q22. The lack of trades people has been raised as an impediment to Africa's development.**

- **What opportunities are there to provide training for tradespeople in African countries?**
  - **Has AusAID been approached to provide such training?**
- 

- **What opportunities are there to provide training for tradespeople in African countries?**

The Australian aid program to Africa does not have a focus on training for tradespeople or vocational training. Currently, Australia's human resource capacity building focus in Africa is directed towards scaling up the number of Australia Awards for further higher education.

There is limited scope, depending on the national priorities identified, to assist with input into devising national Technical and Vocational Education and Training (TVET) systems, based on the Australian TVET model. For instance, for South Africa, a middle-income country, Australia has provided fellowships in Technical and Vocational Education and Training (TVET) in conjunction with South Africa's Department of Education and the Deputy President's Office. The focus was on gaining an understanding of Australia's TVET system and lessons learned, as part of developing South Africa's own system.

If identified by other African countries as national priorities, input into the policy side of African national TVET systems might be an area for further exploration under the Australia Africa Partnerships Facility.

- **Has AusAID been approached to provide such training?**

Training for tradespeople has not been raised as common theme by African countries. A small number of countries have discussed interest in building the capacity of technical and vocational education and training systems and we are exploring how we might assist such as with the South African example described above.



**Supplementary Question as Follow up to AusAID's Appearance before the JSCFADT Tuesday 20 April 2010**

- **What additional staff resources has AusAID put in place to support the expansion of the aid program to Africa.**

To support the expansion of the aid program, AusAID continues to build its presence in Africa through both increased staff numbers and locations.

In 2008, AusAID had only 10 staff in Africa (3 Australia based and 7 locally engaged) in two locations (Pretoria and Harare). By July 2010, that number will have increased to a total of 20 staff in five locations: namely 10 staff in Pretoria (3 Australia based and 7 locally engaged), 4 staff in Harare (2 Australia based and 2 locally engaged), 4 staff in Nairobi (1 Australia based and 3 locally engaged), 1 locally engaged staff in Accra and 1 Australia based officer in Addis Ababa.

By end 2010 there will be 28 staff (10 Australia-based and 18 locally engaged) in five locations across Africa, an increase of 18 people in comparison to 2008.

Late 2008, the Africa program was supported by 5 Canberra based staff in one section. At end June 2010, there are two Africa sections with a total of 16 staff.





## **AusAID NGO Accreditation Criteria Table – Full, February 2008**

### **Advisory Note – new global programs indicators**

For the purposes of Accreditation, a fully accredited agency may undertake a mixture of directly managed programs and “global programs”. Global programs are defined as: *programs that are implemented through a shared management arrangement with other international partners, alliances or affiliates, as opposed to a direct relationship between the agency and an implementing partner.*

The general indicators in the following Criteria Table apply to an NGO’s overall organisational systems and/or the processes that it applies to directly managed programs. Effective from December 2007, alternative indicators have now been inserted under several accreditation criteria that apply specifically to global programs. In these cases, global programs do not have to address the same indicators as the agency’s directly managed programs. The indicators applying to global programs are intended to test whether the Australian NGO can demonstrate confidence that global programs it funds are managed to an equivalent professional standard as its directly managed programs. At a minimum, the Australian NGO must be able to demonstrate understanding of, and influence over, the global program activities that it funds.

For example, XYZ Australia is part of the XYZ International network. XYZ International has an Africa Regional Office that implements programs funded through a number of donors, including XYZ Australia, based on standards agreed by the XYZ International Board. It is not possible to separate specific XYZ Australia funded projects for management and reporting purposes, and XYZ Australia does not directly monitor Africa Regional Office activities. This is a “global program”. XYZ Australia could demonstrate the necessary influence over the programming of the Africa Regional Office through some or all of the follow means:

- a) Participating in oversight of the Africa Regional Office through membership of the XYZ International Board
- b) Participating in working groups that develop standards for program design, M&E etc for XYZ regional offices
- c) Appraising the Africa Regional Office program(s) prior to funding being sent from Australia
- d) Receiving monitoring reports and other information from the Africa Regional Office
- e) Communicating with the Africa Regional Office program staff
- f) Being able to call for and/or participate in reviews, evaluations or audits of the Africa Regional Office and its programs

Based on the material provided at accreditation, the Review Team will judge whether the Australian NGO has sufficient information about the global programs to be confident of their ‘equivalence’ in standard to directly managed programs. Some flexibility will be given when judging ‘equivalence’, i.e. the standards do not have to be identical to Australian accreditation requirements, but must demonstrate a considered response to the relevant criteria.

Some programs implemented through international partners, alliances and affiliates may have a level of involvement by the Australian NGO that meets the general accreditation requirements, in which case the agency does not need to identify these as “global programs”. In other cases, the international activity may not be able to meet even the global programs criteria, in which case the program(s) can generally be excluded from accreditation and RDE (a line in the RDE worksheet is provided for this purpose). In either case, the decision lies with the individual agency as to whether to include global programs under the general accreditation requirements, or to exclude them from accreditation and RDE.

CRITERION	EXAMPLES OF INDICATORS	POSSIBLE VERIFIERS
<b>A AGENCY IDENTITY AND STRUCTURE</b>		
<p><b>A1</b></p> <p><b>Agency is voluntary, not-for-profit and non-government.</b></p> <p><i>This criterion seeks to establish that the Agency's Governing Body and membership do not profit from the Agency's assets, that members are not remunerated for their services on the Governing Body, and that the Agency's Governing Body is independent of government. These operating principles are ideally documented in the Agency's governing documents.</i></p>	<p><b>VOLUNTARY:</b> Governing Body is drawn from the organisation's constituency and members are not remunerated for their services on the Governing Body.</p> <p><b>NOT-FOR-PROFIT:</b> Funds should be applied solely to the achievement of the Objects. Surplus funds cannot be distributed to members/shareholders.</p> <p><b>NON-GOVERNMENT:</b> Not formally part of any Government funded institution or department. Its governance is independent from any Government institution with which it is affiliated. No Government institution or department can appoint the majority of the Board.</p>	<p>Constitution, Memorandum Articles of Association or Trust Deed.</p> <p>Clause in Constitution, or Memorandum and Articles which specifically indicates that surplus funds cannot be distributed to members/shareholders.</p> <p>Clause on winding up of organisation.</p> <p>Policy on election/appointment of members to the Governing Body.</p>

CRITERION	EXAMPLES OF INDICATORS	POSSIBLE VERIFIERS
<p><b>A2</b></p> <p><b>Agency is a legal entity, with identified office holders, with a documented structure of responsibilities and appropriate systems to ensure accountability, including to its supporters.</b></p> <p>NB. No specific number of members is required to meet this criterion.</p> <p><i>This criterion seeks to understand the legal structure of the Agency and the functions and accountability of its Governing Body. The process by which the Governing Body is elected/appointed should be transparent, and the Agency should be governed in an accountable fashion. These operating imperatives are ideally documented in the Agency's governing instrument. Where an Agency is part of an international network, this criterion seeks to establish the level of the Australian Agency's independence, and accountability to its Australian membership.</i></p>	<p><b>NB. INDICATORS ARE APPLIED COMMENSURATE WITH THE SIZE OF THE RISK TO AUSAID</b></p> <p>Company Limited by guarantee, and without shareholders; or Company Limited by shares; or operates under a Trust Deed from a legally recognised entity; or constituted under an Act of Parliament or incorporated associations.</p> <p>Responsibilities of the Governing Body and its members are outlined in its Constitution or Articles of Association. The Objectives outlined in the Constitution, Articles, Trust Deed or Strategic Plan approved by the Governing Body specifically includes development/aid activities in developing countries.</p> <p>Sufficient evidence of accountability checks and balances. Agency has procedures to reply to specific requests regarding decisions of the Governing Body, consistent with the ACFID Code of Conduct.</p> <p>Transparent policies to identify and address any conflict of interest.</p> <p>A clear separation of duties between Board, management and staff functions.</p> <p>Mechanisms for members to raise issues at governing body level and evidence that Agency has made those mechanisms known.</p>	<p>Certificate of Incorporation, Constitution, Memorandum and Articles of Association, Trust Deed or Appropriate Act of Parliament, CAN, ABRN, or IA number.</p> <p>List of Governing Body members and office holders with names, occupations, and length of service.</p> <p>Clauses in Constitution dealing with responsibilities of office holders.</p> <p>Clauses in Constitution dealing with election/appointment of office holders.</p> <p>Minutes of Governing Body meetings demonstrating member involvement.</p> <p>Minutes of AGM, copy of audited financial statements, Annual Report.</p> <p>Clause in Constitution or specific policy to deal with conflict of interest. Evidence that appropriate procedures have been followed if conflict of interest has arisen (eg. Board minutes).</p> <p>Adherence/Signatory to the ACFID Code of Conduct.</p>

CRITERION	EXAMPLES OF INDICATORS	POSSIBLE VERIFIERS
<p><b>A3</b></p> <p><b>Agency has formally adopted and is compliant with the ACFID Code of Conduct for Non-Government Development Organisations.</b></p> <p><i>This criterion seeks to establish that the Agency is committed to and is operating within current, good practice, sector guidelines.</i></p>	<p>Ratification of the Code by the Board.</p> <p>Accepted by ACFID as a signatory to the Code.</p> <p>Evidence of any non-compliance to the ACFID Code of Conduct.</p>	<p>Date of formal adoption/ ratification by the Board.</p> <p>Minutes of Governing Body.</p> <p>ACFID advice that agency is registered and compliant.</p>

<b>B DEVELOPMENT PHILOSOPHIES AND MANAGEMENT PRACTICES</b>		
<b>CRITERION</b>	<b>EXAMPLES OF INDICATORS</b>	<b>POSSIBLE VERIFIERS</b>
<p><b>B1</b>  <b>Agency has a demonstrated record of undertaking aid projects/programs consistent with the objectives of the Australian Aid Program of poverty alleviation and sustainable development.</b></p> <p><i>This criterion seeks to establish that the Agency has implemented projects or programs over at least the last two years which have achieved demonstrable development outcomes. The Agency must demonstrate that it understands the objectives of the Australian Aid Program, in particular poverty alleviation and sustainable development, and demonstrate similar objectives in their projects/program. The Agency should demonstrate their consideration of geographic and sectoral focus in planning.</i></p>	<p><b>NB. INDICATORS ARE APPLIED COMMENSURATE WITH THE SIZE OF THE RISK TO AUSAID</b></p> <p>Demonstrated track record over two years of successfully managing a program or series of projects, which have achieved demonstrable development outputs. This may include experience in managing own funding or AusAID funds.</p> <p>Aims/Goal of poverty alleviation and sustainable development should be reflected at all levels of the organisation (from the mission statement through to project objectives).</p> <p>Evidence of a strategic approach to programming with consideration of geographic or sectoral focus appropriate to Agency's resources.</p> <p>Agreed country/program strategies or proposals including proposed outputs and outcomes clearly specified and in line with Strategic Plan.</p> <p><sup>1</sup><u>Program</u> (NGOPI definition) 'Complex development assistance schemes which encompass a number of individual activities with a key sectoral or defined geographic focus in a multi-year timeframe, and which contribute to a common goal. This goal is linked to the agency's strategic plan'.</p> <p><sup>2</sup><u>Project</u> (NGOPI definition): 'Defined sets of activities which have identifiable objectives, a timeframe and an implementation plan'.</p>	<p>Documented record of development activities undertaken by the Agency.</p> <p>Project/Program proposal/design and budget, including any amendments.</p> <p>Analysis of project files.</p> <p>Strategic Plan which establishes a clear rationale for the Agency's program or projects and may include a sector or geographic focus and if applicable global programs.</p> <p>Mission Statement and project objectives.</p> <p>Activities undertaken are in line with objectives outlined in Agency's Strategic Plan.</p>
<p><u>For Global Programs:</u>  <i>For programs that are implemented through a shared management arrangement with other international partners, alliances or affiliates ('global programs'), as opposed to a direct relationship between the agency and an implementing partner, the agency has approved the strategic framework and assessed the proposed use of funds within this</i></p>	<p><u>For Global Programs:</u>                      Australian Agency has documented the proposed use of funds through an agreed strategic framework of programs.</p> <p>Evidence of the agreed strategic framework for global programs and evidence that it has been developed through a documented program planning process.</p>	<p><u>For Global Programs:</u>                      Documented record of global programs supported by the Agency and documented arrangements (e.g. MOU, contract or formal partnership agreement) with international partners, alliances or affiliates relating to these programs.</p> <p>Minutes of meetings with international</p>

<p><i>framework as being consistent with its own strategic plan.</i></p>		<p>partners, alliances or affiliates.</p> <p>The Australian Agency has documented its participation in the development of the strategic framework for global programs.</p>
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CRITERION	EXAMPLES OF INDICATORS	POSSIBLE VERIFIERS
<p><b>B2</b></p> <p><b>Agency has development philosophies not inconsistent with the objectives of the Australian Aid Program, and is able to differentiate between objectives of:</b></p> <p><b>a) Development and Welfare</b>  <b>b) Development and Evangelism</b>  <b>c) Development and Partisan Politics.</b></p> <p><i>This criterion seeks to understand the Agency's development philosophies and practices. It seeks to establish that the Agency understands AusAID's development principles and gives due consideration to cross-cutting issues such as gender, environment and human rights. It seeks to confirm that designated development funds (i.e. all funds included in RDE calculation) are used specifically for development outcomes and not for evangelical, welfare or partisan political purposes.</i></p>	<p><b>NB. INDICATORS ARE APPLIED COMMENSURATE WITH THE SIZE OF THE RISK TO AUSAID</b></p> <p>Agency can demonstrate it understands the objectives of the Australian Aid Program.</p> <p>Agency's development philosophies are reflective of current good practice.</p> <p>Agency policies show an understanding of development principles and include cross cutting issues including gender, environment, human rights, child protection etc.</p> <p>Agency has a policy or guidelines, approved by the Governing Body, and documented practice, that indicates how evangelistic and developmental objectives are differentiated; how welfare and developmental objectives are differentiated; and how partisan political and developmental objectives are differentiated.</p>	<p>Objectives of projects. Strategic plan. Organisation Profile.</p> <p>Application of crosscutting policies in project documentation/publications.</p> <p>Documented policies approved by the Board or Governing Body. Minutes approving relevant policies.</p> <p>Examples of communications to the Australian NGO's donors that clearly explain the Agency's various areas of activity - evangelistic/ welfare/ political and developmental.</p> <p>Donation forms that enable donors to direct a donation to either a tax deductible relief or development activity or to other programs such as partisan political/ evangelistic/welfare activities.</p> <p>Examples of communications to implementing organisations that make clear the purpose of funds transferred from Australia, eg agreements with partners include Agency's policies on evangelism, welfare and development.</p> <p>Acknowledgement or report from the implementing organisation indicating that this is understood and accepted.</p>
	<p><u>For Global Programs:</u>                      Evidence that global programs comply with the Australian Agency's requirements on issues such as welfare, evangelism, partisan politics and counter terrorism.</p>	<p><u>For Global Programs:</u>                      Documented arrangements with international partners, alliances or affiliates, e.g. MOU, contract or formal partnership agreement.</p>



CRITERION	EXAMPLES OF INDICATORS	POSSIBLE VERIFIERS
<p><b>B3</b></p> <p><b>The Australian Agency has the capacity to deliver its project/program objectives in a way that meets its contractual obligations to AusAID.</b></p> <p>A key element of this capacity is management systems that address all aspects of the project cycle.</p> <p><i>Risk management:</i> Agency must manage risk throughout the project cycle. This includes (i) project/ program appraisal for all Commonwealth supported activities and (ii) compliance with AusAID guidelines on terrorism and child protection and environment.</p> <p><i>Decision making processes:</i> Agency must have decision-making power in project/ program management and have ongoing input to and influence on project/program, where appropriate.</p> <p><b>NB: THE FINANCIAL MANAGEMENT ASPECTS OF THIS CRITERION ARE COVERED IN CRITERION E.</b></p>	<p><b>NB. INDICATORS ARE APPLIED COMMENSURATE WITH THE SIZE OF THE RISK TO AUSAID</b></p> <p>Evidence that Agency has the capacity and adds value to the development program/process.</p> <p>Evidence that the agreed programs have been developed according to a clear strategic methodology and in keeping with the principles and policies that guide the Australian Agency's development approach.</p> <p>Mechanisms for ensuring continuity of institutional knowledge.</p> <p>Appropriate management of, and staffing level for Agency's development program.</p> <p>Agency can appraise projects/program against AusAID requirements, the Agency's strategic plan and good development standards.</p> <p>Agency can influence/intervene at any stage of the project cycle.</p> <p>Documented risk management strategy for overseas operations including staff health and safety in areas of political and economic instability/insecurity.</p> <p>Documented risk management strategies for potential negative impacts of project activities on beneficiaries.</p> <p>Procedures to prevent funds going directly or indirectly to individuals or organisations associated with terrorism; and to ensure that no support is given to any individual with any conviction under the Crimes (Child Sex Tourism) Amendment Act.</p>	<p>Documented partnership agreements/ arrangements reflective of Agency's contractual obligations to AusAID.</p> <p>Agreed programming procedures, standards or guidelines for the Australian Agency outlining its development approach and approach to project management, including financial management.</p> <p>Agreements/MOUs outlining the provisions for Australian Agency involvement, governance and intervention.</p> <p>Examples of Agency intervening if need has arisen.</p> <p>Evidence of regular information flow between implementing partner and Australian Agency. Project files demonstrating ongoing communication between the field and Australian Agency and the involvement of all partners.</p> <p>Evidence of qualitative judgement on monitoring reports.</p> <p>Agency policies on risk management. Minutes of meeting where decisions on project management are made.</p> <p>Evidence that the strategies identified in the Counter Terrorism Policy are being followed, and specifically incorporated in a risk management strategy.</p>

<p><i>This criterion seeks to understand the role played by the Australian Agency throughout the project cycle, and to establish that it exercises appropriate influence and control to add value to the development process and manage risk. The Australian Agency must be able to demonstrate that it undertakes project appraisal for all Commonwealth supported activities and complies with AusAID guidelines on terrorism and child protection. The Australian Agency must have ongoing input to and influence on the project/program, and exercise decision-making power for project/program management where appropriate.</i></p>		<p>Evidence that the DFAT and Attorney-General's National Security websites are checked and considered regularly.</p> <p>Written agreements with implementing partners covering counter-terrorism and child sex tourism obligations, including immediate notification if required.</p> <p>Evidence of appropriate checks in relation to employment/contracting of individuals.</p> <p>Evidence of application of AusAID's Guiding Principles for the environment.</p>
<p><u><i>For Global Programs:</i></u>  <i>The Australian Agency can demonstrate its involvement in the program management cycle as part of the agreed framework for global programs.</i></p> <p><i>The Australian Agency, while not needing to be an active participant at all points of the cycle, can demonstrate the capacity to intervene where its interests dictate, and can provide examples of where it has participated in the management of global programs.</i></p>	<p><u><i>For Global Programs:</i></u>  The Australian Agency can demonstrate engagement in some or all of: setting the strategic direction of the programs, participating in program design, corresponding with the implementing bodies, reviewing and approving annual budgets/reports, receiving monitoring and evaluation reports and participating in overall program reviews.</p> <p>The Australian Agency can demonstrate its role in the decision to annually approve global programs and their budget, at least as it relates to its own participation in the programs.</p> <p>The Australian Agency can demonstrate access and power in the decisions that set the context for the programs (e.g. strategy, methodology, policies, frameworks) at governance and management levels.</p> <p>The Australian Agency's ability to influence global programs that it supports is outlined and documented in the agreements with international partners, alliances or affiliates.</p>	<p><u><i>For Global Programs:</i></u>  Minutes of meetings demonstrating engagement with international partners, alliances or affiliates.</p> <p>Program strategies or proposals including budgets, including evidence of annual approval of these proposals.</p> <p>Evidence of information flow from international partners, alliances or affiliates about the global program activities.</p> <p>Global management documentation, which could include program strategic frameworks, policies, monitoring and evaluation plans, reporting requirements, processes and procedures.</p>

CRITERION	EXAMPLES OF INDICATORS	POSSIBLE VERIFIERS
<p><b>B4</b></p> <p><b>Agency can monitor, report and rate effectiveness of activities.</b></p> <p><i>This criterion seeks to understand the monitoring, reporting and evaluation systems used by the Australian Agency and its partners, and their capacity to assess the outcomes and impact of development activities.</i></p>	<p><b>NB. INDICATORS ARE APPLIED COMMENSURATE WITH THE SIZE OF THE RISK TO AUSAID</b></p> <p>A transparent and verifiable <i>system</i> is used by the Australian NGO to assess the impact of the Agency's development activities.</p> <p>Evidence of qualitative judgement in monitoring reports</p> <p>Common understanding in Australian Agency and partners of the Quality Rating System (grades 1-5).</p> <p>Ability to distinguish between monitoring, review and evaluation.</p>	<p>Quality of reporting (refer to AusAID data check sheet)</p> <p>Evidence in project documentation of application of <i>system</i> (eg trip reports, monitoring reports etc).</p> <p>Evidence of project monitoring and evaluation reports for the assessment of activities, including global programs.</p> <p>Evidence of dialogue/communication with implementing partner about shared system for quality rating.</p> <p>Documented evidence of other forms of monitoring.</p> <p>Evidence of sufficient dialogue, communication or involvement in project, to effectively monitor and evaluate. eg minutes of meetings</p> <p>Policy, guidelines or documented practice which demonstrates a clear distinction between monitoring and evaluation.</p> <p>Analysis of programs includes evaluation of outcomes and impacts, as well as activities and outputs.</p>
	<p><u>For Global Programs:</u> The Australian Agency can demonstrate that it has contact, discussion and influence with the implementing bodies that have been charged collectively with the monitoring of global programs.</p>	<p><u>For Global Programs:</u> Documented arrangements for monitoring, reporting and evaluating in the form of MOUs, contracts or partnership agreements.</p>

	<p>Where the Australian Agency does not directly monitor program/project implementation, the delegation of this responsibility is clearly articulated in agreements between the Australian Agency and its international partners, alliances or affiliates. The Australian Agency must demonstrate that it has sufficient information to enable it to make informed decisions about the allocation and appropriate use of funds by the implementing bodies of global programs that it supports.</p>	<p>Global management documentation – could include strategic program frameworks, policies, monitoring and evaluation criteria, reporting standards, processes and procedures.</p>
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CRITERION	EXAMPLES OF INDICATORS	POSSIBLE VERIFIERS
<p><b>B5</b>  <b>Agency has systems for continuous improvement of its management and operations.</b></p> <p><i>This criterion seeks to understand the Agency's commitment to continuous improvement and its capacity to reflect on its management and operations and incorporate lessons learned.</i></p>	<p><b>NB. INDICATORS ARE APPLIED COMMENSURATE WITH THE SIZE OF THE RISK TO AUSAID</b></p> <p>Existence of strategic plan or planning process, its application and its regular review.</p> <p>Existence of a system to review and apply lessons learned including in staff development and training, project management, partnerships, fundraising, HR etc.</p> <p>Agency conducts evaluations of project/program, operations and management systems.</p> <p>Agency has responded to recommendations in last Accreditation Review.</p> <p>Articulation of how Agency identifies and records development outcomes.</p> <p>Evidence of incremental changes over the five years since last Accreditation.</p>	<p>Strategic plan, action plans, review meeting minutes.</p> <p>Evidence of discussions at all levels of Agency.</p> <p>Documented communication with partners regarding evaluations and incorporation of lessons learned.</p> <p>Outline of staff training activities over previous years.</p> <p>Evaluation reports and evidence that findings/recommendations have been addressed.</p>

CRITERION	EXAMPLES OF INDICATORS	POSSIBLE VERIFIERS
<b>C. APPROACHES TO PARTNERSHIP AND DEVELOPMENT COLLABORATION</b>		
<p><b>C1</b></p> <p><b>Agency has documented partnerships with organisations in countries where it works.</b>                      NB: Affiliation with international agencies alone does not fulfill this criterion. Australian Agency must be able to undertake its own monitoring, receive reports direct from the field and be able to influence project outcomes, if necessary.</p> <p>Partnerships with Government departments or international organisations are not necessarily excluded.</p> <p><i>This criterion focuses on the documented, contractual framework in place to manage partnerships and projects/programs. It seeks to establish that the Agency has formal arrangements with partners which cover all aspects of the Head Agreement with AusAID and that these arrangements are understood and accepted by partners.</i></p>	<p><b>NB. INDICATORS ARE APPLIED COMMENSURATE WITH THE SIZE OF THE RISK TO AUSAID</b></p> <p>For AusAID funded activities the Agency must have documented arrangements with delivery organisations covering all aspects of the Head Agreement with AusAID.</p> <p>Agency must demonstrate that it maintains contact with local or national <i>in-country</i> organisations.</p> <p>Agreements have specific clauses detailing program funding budgets and proposed use of funds.</p> <p>Agreements have specific clauses stating that all funding offices contributing to program activities have access to detailed budgets and the proposed use of funds.</p> <p>Documented roles and responsibilities of country offices and international partners, alliances or affiliates.</p>	<p>Documented arrangements eg. MOUs, contract or formal partnership agreement with partners, international partners, alliances or affiliates, which include proposed budget and use of funds.</p> <p>Evidence of partners' understanding and acceptance of documented arrangements, ie. communication about content and application of agreement.</p> <p>Evidence on file acknowledging and addressing the strengths and weaknesses of each partner and setting out key roles and responsibilities and evidence that these roles and responsibilities have been fulfilled.</p> <p>Detailed program funding agreement proforma and/or guidelines.</p> <p>Procedural arrangements for maintaining the relationship.</p> <p>Record of discussions with delivery organisations, exchanges of letters or formal contracts.</p> <p>Minutes of meetings with international partners, alliances or affiliates.</p>

CRITERION	EXAMPLES OF INDICATORS	POSSIBLE VERIFIERS
<p><b>C2</b></p> <p><b>Agency has assessed its own capacity and the capacity of its partner organisation to deliver and develop projects/programs appropriate for that capacity.</b></p> <p>NB: this criterion does not require agencies to limit their partnerships to agencies of any specified capacity.</p> <p><i>This criterion seeks to establish that the Agency takes a systematic approach to assessing its own capacity and the capacity of its partners and that projects/programs are designed and implemented relative to this capacity, or that capacity is strengthened if needed.</i></p>	<p><b>NB. INDICATORS ARE APPLIED COMMENSURATE WITH THE SIZE OF THE RISK TO AUSAID</b></p> <p>The Agency has system/systems for evaluating the capacity of its partners.</p> <p>Agency has system/systems to assess its own capacity on an ongoing basis.</p> <p>Agency can demonstrate that it bases its design/ implementation on its own and its partner's capacity.</p>	<p>Guidelines/list of characteristics that Agency seeks in a partner.</p> <p>Completed checklist identifying capacity of Delivery Organisation for management and financial control.</p> <p>Policies or documented practice relating to partnership development.</p> <p>Evidence of an internal assessment such as annual review of own capacity, or minutes of own strategic planning.</p> <p>Evidence of occasion where decision was made <i>not</i> to pursue a particular activity with a particular partner as partner judged to have insufficient capacity (minutes, correspondence to and from field, appraisal reports, etc).</p> <p>Evidence of occasion where decision was made to fund a particular partner and provide additional capacity building to address areas of partner weakness. Details of institutional strengthening activities undertaken with partners.</p> <p>Development of an agreement which reflects results of assessments and allocates roles and responsibilities of Agency and their partner according to capabilities.</p>

CRITERION	EXAMPLES OF INDICATORS	POSSIBLE VERIFIERS
<p><b>C3</b></p> <p><b>Agency's partnerships with organisations in countries where it works, and its partners' relationships with beneficiaries, are effective and consistent with good development practice.</b></p> <p><i>This criterion seeks to understand the nature and tone of partnerships and relationships between the Australian Agency and partners and between partners and beneficiaries. It seeks evidence, that partnerships reflect good development practice ie. equality, mutual respect and learning, self reliance, transparency, etc.</i></p>	<p><b>NB. INDICATORS ARE APPLIED COMMENSURATE WITH THE SIZE OF THE RISK TO AUSAID</b></p> <p>Evidence of a relationship which reflects equality, mutual respect, mutual learning and capacity building, honesty, transparency, self reliance.</p> <p>Evidence that similar principles are reflected in the relationship between the partners and beneficiaries.</p> <p>Opportunities for mutual influence on programs.</p>	<p>Documentation showing the quality of the partnership between the Australian Agency and its in-country partner.</p> <p>Documented examples of communications between Agency and partner, eg. emails, letters reflecting the nature of the relationship and role played by the Agency.</p> <p>Documented evidence of the relationship between the partner and beneficiaries, or partners' policies on this, eg policy/guidelines, promotional material, copy of communication between partner and beneficiaries, copies of monitoring reports.</p> <p>Evidence of exchange of views and information regarding the project and other activities, which reflect the partnership, eg. exchange visits of key personnel, joint advocacy campaigns, volunteer placement, etc.</p> <p>International network policies describing the role/nature of involvement of National Offices, where Agency is part of an international network, alliance or affiliate.</p>



CRITERION	EXAMPLES OF INDICATORS	POSSIBLE VERIFIERS
<b>LINKAGES WITH THE AUSTRALIAN COMMUNITY</b>		
<p><b>D1</b></p> <p><b>Agency is clearly identifiable as Australian and can demonstrate responsive interaction with an Australian community base.</b></p> <p><i>This criterion seeks to understand: how the Agency approaches the issue of Australian identity in projects/programs and promotions; how the Agency recognises/acknowledges the source of contributions to the projects it supports; the nature and level of the Agency's community support; and how the Agency involves, and responds to, its Australian constituency.</i></p>	<p><b>NB. INDICATORS ARE APPLIED COMMENSURATE WITH THE SIZE OF THE RISK TO AUSAID</b></p> <p>Agency has procedures in place to achieve Australian identity in its activities.</p> <p>Delivery organisation, in-country staff and recipients are aware of the Australian source of funding.</p> <p>Australian identity sought in documented arrangements.</p> <p>Agency has procedures and practice which enable any supporter, upon request, to have free access to, and to make copies of, decisions of the Governing Body or any office holder of the Agency (subject to any legal constraints).</p> <p>Agency has mechanisms for the community base to raise issues and evidence that those mechanisms are known.</p> <p>Agency actively involves its constituency in its various activities.</p> <p>Agency is able to clearly communicate the respective roles and achievements of the Australian Agency and those of its international partners, alliances or affiliates in its communication material, such as publications and information published electronically.</p> <p>Agency has agreed guidelines with its international partners, alliances or affiliates as to appropriate reporting in organisational promotional materials, i.e. attribution.</p>	<p>'Australia' in title of organisation.</p> <p>Copies of communications with in-country staff and partners acknowledging Australian identity.</p> <p>Photos of promotion of Australian identity in the field, eg. signage.</p> <p>Evidence of access to copies of Board minutes, AGM minutes by supporters. (policy for gaining access; copies of requests from supporters)</p> <p>Evidence of Agency response to requests for information from supporters.</p> <p>Evidence that Agency encourages new supporters.</p> <p>Evidence of publications or electronic information that clearly communicates the respective roles and achievements of the Australia Agency and international partners, alliances or affiliates.</p> <p>Program approval documentation, either with bilateral partners or international partners, alliances or affiliates.</p>



CRITERION	EXAMPLES OF INDICATORS	POSSIBLE VERIFIERS
<p><b>D2</b>  <b>Agency and its partners provide accurate information about the organisation, its objectives and activities in its public presentations, in a manner that respects the dignity of recipient communities.</b></p> <p>NB: Promotional material clearly differentiates between activities of Australian Agency and that of overseas partners.</p> <p><i>This criterion seeks to ensure that promotional material respects the dignity, values, history, religion and culture of people, consistent with principles of basic human rights and ACFID Code of Conduct. It also seeks to find consistency between project activity and promotional material, and a clear differentiation between the Australian Agency and its overseas partner.</i></p>	<p><b>NB. INDICATORS ARE APPLIED COMMENSURATE WITH THE SIZE OF THE RISK TO AUSAID</b></p> <p>Consistency between project activity and promotional material.</p> <p>Publicity material of both the Australian Agency and its partners shows due respect to the dignity, values, history, religion and culture of the people with whom it works, consistent with principles of basic human rights and ACFID Code of Conduct.</p> <p>Agreed guidelines with international partners, alliances or affiliates as to appropriate reporting in organisational promotional materials, i.e. attribution.</p>	<p>Annual Report.</p> <p>Comparison of project reports and promotional material.</p> <p>Examples of promotional and educational documentation of both the Australian Agency and its partners.</p> <p>Monitoring reports which comment on partners' development philosophy and practices.</p> <p>Program approval documentation, either with bilateral partners or international partners, alliances or affiliates.</p>

CRITERION	EXAMPLES OF INDICATORS	POSSIBLE VERIFIERS
<p><b>D3</b>  <b>Agency deploys and maintains Australian community support for its development projects/programs, through financial support and in-kind and/or voluntary contributions.</b></p> <p><i>This criterion seeks to understand how the Agency utilises resources for development projects/programs and how it maintains its community support (funds, in-kind and volunteer) for development activities.</i></p>	<p><b>NB. INDICATORS ARE APPLIED COMMENSURATE WITH THE SIZE OF THE RISK TO AUSAID</b></p> <p>Staff/volunteer time and other resources spent on development activities.</p> <p>Fundraising and promotional initiatives.</p> <p>Strategic or planning process which includes ongoing fundraising and promotional initiatives.</p>	<p>Staff/volunteers engaged in and/or responsible for development activities. Agency Strategic Plan or other evidence of strategic thinking and its application.</p> <p>Examples of successful and planned fundraising initiatives.</p> <p>Promotional staff and/or use of consultants for fundraising.</p> <p>Promotional materials and media policies.</p>

	<p>Staff and/or volunteer time devoted to promotional, fundraising and development education activities.</p> <p>Policy covering utilisation of Volunteers.</p>	<p>Evidence of discussions at Board/staff meetings regarding ideas for promotional activities.</p> <p>Evidence of work-in-progress on promotional activities.</p> <p>Staff or volunteer diaries/logbooks relating to promotional, fundraising and development education activities.</p> <p>Documented record of volunteer involvement.</p>
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CRITERION	EXAMPLES OF INDICATORS	POSSIBLE VERIFIERS
<p><b>D4</b>  <b>Agency has a plan to increase constituency awareness of, and involvement in, contemporary development and/or relief issues.</b></p> <p><i>This criterion seeks evidence of the Agency's plan and efforts to promote community awareness of development issues, in addition to the Agency's own promotion. It also seeks to understand the nature of the Agency's engagement with its constituency about development issues.</i></p>	<p><b>NB. INDICATORS ARE APPLIED COMMENSURATE WITH THE SIZE OF THE RISK TO AUSAID</b></p> <p>Evidence of promotion of constituency involvement, eg. organisational arrangements which provide opportunities for supporters to contribute to Agency discussion.</p> <p>Agency efforts to promote community awareness of development issues in addition to the Agency's own promotion.</p> <p>Evidence of awareness-raising initiatives and engagement with constituency on issues.</p>	<p>Formal documented strategy reviewed and approved by Governing Body.</p> <p>Copies of newsletters and brochures which include information on development issues and are focussed on awareness-raising.</p> <p>Evidence of involvement in multi-agency programs, eg. Children at War.</p> <p>Study tours; campaigns; public seminars; school visits; talks to church groups; use of media, eg. radio interview.</p> <p>Evidence of advice provided to supporters/donors through publications/correspondence/campaign materials, etc on taking further action on issues of concern, eg. letter writing campaigns.</p>

CRITERION	EXAMPLES OF INDICATORS	POSSIBLE VERIFIERS
<b>E FINANCIAL SYSTEMS &amp; RISK MANAGEMENT</b>		
<p><b>E1</b></p> <p><b>Agency has effective management, administration and financial systems for accounting for funding.</b></p> <p><i>This criterion seeks evidence of satisfactory application of policies, systems and processes for accounting for funding.</i></p>	<p><b>NB. INDICATORS ARE APPLIED COMMENSURATE WITH THE SIZE OF THE RISK TO AUSAID</b></p> <p>Documented policies, systems and processes for accounting for funding including for:</p> <ul style="list-style-type: none"> <li>• establishment of budgets, their basis and authorisation</li> <li>• project ledgers of accounting</li> <li>• procurement of goods and services</li> <li>• cash management and allocation of interest income</li> <li>• progress reporting</li> <li>• exchange rate gain and loss</li> <li>• acquittal consolidation and reporting</li> <li>• handling unspent funds</li> <li>• activity management</li> <li>• asset management</li> <li>• authorisation by agency and confirmation from partner for overseas transfers of funds</li> </ul> <p>Audited financial statements complying with the various accounting standards, Urgent Issues committee's pronouncements and ACFID requirements.</p> <p>Financial systems controlling general ledger and project ledgers:</p> <ul style="list-style-type: none"> <li>• audit trails in place</li> <li>• supporting documentation referenced</li> <li>• project status reports</li> </ul>	<p>Files showing evidence of satisfactory application of policies, systems and processes for accounting for funding.</p> <p>Contracts with partners.</p> <p>Balance sheet (assets, liabilities and equity) and profit and loss (revenue, expenditure and surplus) statements.</p> <p>Filing systems.</p> <p>Table of contents of Operations Manual and inspection of specific extracts.</p> <p>Examination of project files and discrete ledger accounts.</p> <p>Audit management letters and responses.</p>

CRITERION	EXAMPLES OF INDICATORS	POSSIBLE VERIFIERS
<p><b>E2</b>  <b>Agency and its overseas partners and its international affiliates have a capacity and commitment to undertake activities in a professionally competent manner, especially with regard to financial operations.</b></p> <p><i>This criterion seeks to understand how the Agency regularly assesses, monitors and strengthens the financial systems and capacity of itself, its partners and affiliates. It also wants to see what documented agreements are in place with delivery organisations and International Affiliates for the management and accountability of funds.</i></p>	<p><b>NB. INDICATORS ARE APPLIED COMMENSURATE WITH THE SIZE OF THE RISK TO AUSAID</b></p> <p>Documented agreements with delivery organisations for the management and accountability of funds.</p> <p>Evidence of regular assessment of financial systems and overall financial capacity of overseas partner agencies and international affiliates.</p> <p>Evidence of partners' and international affiliates' policies and procedures for accounting for funding.</p> <p>Receives audited financial statements from delivery organisations.</p> <p>Receives audited project acquittals from delivery organisations.</p> <p>Receives copies of independent audits by international partners, alliances or affiliates.</p>	<p>Documented arrangements such as contracts, MOUs, formal partnership agreements or other relevant documentation identifying capacities and roles of each overseas partner agency in financial operations.</p> <p>Documentation on assessment of the financial management capacity of the partners/implementing bodies for global programs.</p> <p>Correspondence regarding program implementation and risk issues</p> <p>Example of finance-related institutional strengthening of delivery organisation.</p> <p>Demonstrated compliance with financial procedures of international network, if appropriate.</p> <p>Method for calculating exchange rate variations and interest earned.</p> <p>Examination of a sample of audit reports, if available, from international partners, alliances or affiliates.</p> <p>Evidence that audit reports, financial statements, program reports and evaluations are passed to international partners, alliances or affiliates, if applicable.</p> <p>At least one full-time or 2 part-time equivalent staff member/s dedicated to development outcomes.</p>

	<p><u>For Global Programs:</u> Evidence that the Australian Agency receives regular financial statements, program reports and evaluations, and is able to make 'course corrections' in consultation with its international partners, alliances or affiliates, as necessary.</p> <p>Evidence that the Australian Agency can request an independent audit of the implementing bodies for global programs, in association with its international partners, alliances or affiliates, and has the right to withhold funds from the global programs or parts of programs if warranted.</p>	<p><u>For Global Programs:</u> Documentation on assessment of the financial management capacity of the partners/implementing bodies for global programs.</p> <p>Evidence that audit reports, financial statements, program reports and evaluations are passed to international partners, alliances or affiliates, if applicable.</p>
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CRITERION	EXAMPLES OF INDICATORS	POSSIBLE VERIFIERS
<p><b>E3</b></p> <p><b>Agency utilises systems to assess and manage financial risk which is appropriate to the level of expenditure.</b></p> <p>NB: This includes risk related to expenditure through partner organisations.</p> <p><i>This criterion seeks evidence of application of a financial risk management strategy and/or financial risk management practices of Agency and partner.</i></p>	<p><b>NB. INDICATORS ARE APPLIED COMMENSURATE WITH THE SIZE OF THE RISK TO AUSAID</b></p> <p>Documented financial risk management strategy and practices.</p> <p>Documented financial monitoring of project expenditure by partner.</p> <p>Frequency of financial systems assessments.</p> <p>Evidence that Agency has implemented recommendations arising from audit reports.</p> <p>Evidence of financial systems improvement by Agency.</p> <p>Authorisation levels for senior personnel including cheque signatory.</p> <p>Foreign currency exchange policy for limiting rate movement exposure.</p> <p>Insurance policies, eg. public liability.</p>	<p>Evidence of application of financial risk management strategy and practices.</p> <p>Evidence of partner reporting requirements, and evidence of receipt of financial statements, reports and evaluations.</p> <p>Financial monitoring checklists prepared and completed by Agency.</p> <p>Agency status reports tracking key financial data and reporting schedules.</p> <p>Independently audited financial statements.</p> <p>Computer system access controls.</p> <p>Monitoring system to detect any fraudulent use of funds.</p> <p>Documented responsibility of officers and delegations.</p>

	<p><u>For Global Programs:</u> The Australian Agency receives reports on its global programs, and has access to financial statements, audit reports, evaluations and performance data.</p> <p>The Australian Agency has access and influence within the agreed management structures that control these programs.</p>	<p><u>For Global Programs:</u> Evidence of partner reporting requirements, and evidence of receipt of financial statements, reports and evaluations.</p> <p>Documented responsibility of officers and delegations.</p>
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CRITERION	EXAMPLES OF INDICATORS	POSSIBLE VERIFIERS
<p><b>E4</b></p> <p><b>Agency can raise contributions (a minimum \$75,000 RDE averaged over three years) from the Australian community in support of development activities.</b></p> <p>NB: RDE benchmarks relate to the previous financial year.</p> <p><i>This criterion seeks to verify that the Agency: can raise its own funds from the community for development activities; differentiates funds for development, religious, welfare and partisan political activities in RDE calculations; and is not dependent on AusAID for staff salaries. One full time equivalent salary of a person (or two half time persons) fully engaged on overseas aid work should be paid for from the Agency's own funds.</i></p>	<p><b>NB. INDICATORS ARE APPLIED COMMENSURATE WITH THE SIZE OF THE RISK TO AUSAID</b></p> <p>Comparison of dollars raised from Australian community for overseas development activities, with dollars deployed for overseas development activities (including those for development education, but distinct from those raised for non-development activities and for welfare, evangelistic and partisan political activities).</p> <p>Value of services and goods in-kind donations, recorded within the Agency's financial statements.</p> <p>Amount of time donated by volunteers either in Australia or overseas, recorded in the Agency's financial statements.</p> <p>Compliance with the ACFID Code of Conduct Summary Financial Report template.</p>	<p>Examination of RDE calculations and audited financial statements to demonstrate application of appropriate differentiation between development activities and welfare, evangelism and partisan politics.</p> <p>Working papers for calculation of RDE, compliance with RDE worksheet and RDE returns over the last three years.</p> <p>Financial records of income and disbursement against specific projects/programs, and reconciliations with the general ledger.</p> <p>Method for documenting and recording value of services and in-kind donations, and volunteer time.</p> <p>Maintenance of timesheet records.</p> <p>Expenditure allocated as per ACFID definitions.</p> <p>Administration expenditure records.</p>

CRITERION	EXAMPLES OF INDICATORS	POSSIBLE VERIFIERS
<p><b>E5</b></p> <p><b>Agency complies with Australian legislation pertaining to fundraising and tax deductibility.</b></p> <p><i>This criterion seeks to establish if the Agency is registered for fundraising purposes as a charitable/benevolent institution and has tax deductibility status if claimed publicly.</i></p>	<p><b>NB. INDICATORS ARE APPLIED COMMENSURATE WITH THE SIZE OF THE RISK TO AUSAID</b></p> <p>It is registered for fund raising purposes as a charitable/benevolent institution, except where a legal exemption can be shown.</p> <p>Agency has tax deductibility status, if it claims it publicly, for an international project fund.</p>	<p>Letter with date of registration as charity/public benevolent institution.</p> <p>Letter or other legal document showing exemption.</p> <p>Letter or gazette notice from Taxation Department and/or AusAID list.</p> <p>Agency promotional material claiming tax deductibility.</p> <p>ABN database search.</p>



For NGOs who intend to use Government funds in Family Planning/Reproductive Health activities		
ADDITIONAL CRITERIA	EXAMPLES OF INDICATORS	POSSIBLE VERIFIERS
<p><b>F1</b></p> <p>Agency has a documented policy that demonstrates an understanding of Government policies related to Family Planning/Reproductive Health issues.</p>	<p>Relevant written policies and procedures</p>	<p>Staff with relevant experience in Family Planning projects (eg CVs of staff involved).</p>
<p><b>F2</b></p> <p>Agency can demonstrate it has the capacity to apply the Guiding Principles, which form the basis of the Government's policy for family planning activities in the overseas aid program, in all stages of the project cycle.</p>	<p>Documented evidence of application of relevant policies and procedures throughout the project cycle where applicable.</p>	<p>Successful completion of FP interim accreditation process ie through the successful completion of a short report to AusAID detailing how Family Planning Guiding Principles are applied in project design and implementation.</p>
	<p><u>For Global Programs:</u> Agreed guidelines with international partners, alliances or affiliates consistent with Australian Government policy on Family Planning/Reproductive Health Issues.</p>	<p><u>For Global Programs:</u> Documented guidelines on Family Planning/Reproductive Health Issues.</p>
<p><b>F3</b></p> <p>Relevant AusAID proposals and reporting documents show that Agency meets Government Family Planning requirements.</p>	<p>Documented evidence that relevant issues have been addressed in the planning and implementation of family planning related activities. Interim reporting if needed (for problems experienced etc).</p>	<p>Documentation showing that relevant issues have been discussed with AusAID.</p>



**HEAD AGREEMENT**

**BETWEEN**

**COMMONWEALTH OF AUSTRALIA**

represented by the Australian Agency for International Development

**ABN 62 921 558 838**

**AND**

**(Organisation name)**

**ABN xxx**

**IN RELATION TO**

**NGO PERIODIC FUNDING**

**AUSAID AGREEMENT NO. xxxx**

THIS HEAD AGREEMENT is made on ..... 2009

**BETWEEN**

**COMMONWEALTH OF AUSTRALIA** represented by the Australian Agency for International Development (“**AusAID**”) of the Department of Foreign Affairs and Trade **ABN 62 921 558 838**

**AND**

(**Organisation name**), **ABN xxxxxxxx** of (address) (the “**Organisation**”).

**RECITALS:**

- A. The Australian Government recognises that professional Non-Government Development Organisations play a valuable role in delivering Australia’s overseas Aid Program. To this end AusAID wishes to enter into a Head Agreement under which it may provide funding to Australian accredited Non-Government Organisations.
- B. The Organisation wishes to enter into such an arrangement.
- C. The details of each specific funding agreement will be provided through separate Funding Orders that will establish a contract for the periodic funding of NGOs and provision of the Services, at the request and discretion of AusAID.

**OPERATIVE:**

AusAID and the Organisation promise to carry out and complete their respective obligations in accordance with the terms and conditions below, all Funding Orders, and the NGOPI, as amended from time to time.

Executed as a Deed

**SIGNED** for and on behalf of )  
**COMMONWEALTH OF AUSTRALIA** )  
represented by the Australian Agency for ) .....  
International Development in the presence of: )

Signature of

.....

.....

Name of witness

Signature of witness

**SIGNED** for and on behalf of (**organisation name**) by:

.....

.....

Signature of director

Signature of director/secretary

.....

.....

Name of director

Name of director/secretary

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## HEAD AGREEMENT CONDITIONS

### 1. INTERPRETATION

#### 1.1 Definitions

In this Agreement, including the recitals, and in each Funding Order unless the context otherwise requires:

“**ABN**” has the same meaning as it has in section 40 of the *A New Tax System (Australian Business) Act 1999* (Cth);

“**Accreditation**” means the assessment process implemented, by AusAID on behalf of the Committee for Development Cooperation (CDC) that evaluates Australian NGOs against a set of criteria to determine whether an organisation is eligible for AusAID funding;

“**Agreement**” means this Head Agreement that establishes an arrangement with the Organisation;

“**Agreement Material**” means all material created as part of or for the purposes of implementing and accounting for the Initiatives. Agreement Material includes but is not limited to documents, reports, tables, equipment, information or Data stored by any means;

“**ANCP**” means the AusAID NGO Cooperation Program (ANCP), an annual funding program for Australian NGOs that have been accredited with AusAID. ANCP information and standards are outlined in the NGOPI;

“**Assets**” means non-consumable items valued at \$2,000 or more purchased using the Funds provided under a Funding Orders issued under this Agreement;

“**AusAID Confidential Information**” means information that:

- (a) is designated by AusAID as confidential; or
- (b) is personal information under the *Privacy Act 1988*,

but does not include this Agreement or information which:

- (c) is or becomes public knowledge other than by breach of this Agreement or any other confidentiality obligation; or
- (d) has been independently developed or acquired by the Organisation, as established by written evidence.

“**Commonwealth**” means the Commonwealth of Australia or AusAID as appropriate;

“**Committee for Development Cooperation (CDC)**” means the joint AusAID/NGO advisory and consultative body;

“**Cooperation Agreement**” means a contract entered into by way of a Funding Order, between AusAID and the Organisation to engage on policy and programming issues of relevance to an AusAID country or regional strategy. Cooperation Agreement policies, performance and procedures are outlined in the NGOPI;

“**Data**” includes any information provided to the Organisation under this Agreement from any source, or collected or created by the Organisation in connection with the Services, whether in magnetic, electronic, hardcopy or any other form;

“**Delivery Organisation**” means the Organisation's partner(s) responsible to the Organisation for implementation of all or part of the Initiatives;

“**Financial Limitation**” means the total amount of money set out in any Funding Order;

“**Financial Records**” means records consistent with obligations under accounting standards as that expression is used in the Corporations Act 2001;

“**Financial Year**” means 1 July to 30 June;

“**Force Majeure Event**” means any act, event or cause outside the reasonable control of a party which materially impairs that party’s ability to perform its obligations under this Agreement, to the extent that the act, event or cause could not have reasonably been anticipated by the party affected or, in the case of reasonably anticipatable acts, events or causes, could not have been prevented or avoided or mitigated by the exercise of reasonable precautions.

“**Funding Order**” means each funding agreement formed by a signed Funding Order from AusAID and a signed letter of acceptance by the Organisation, containing the details of a particular Initiative, the Initiative Proposal, the Funds to be paid in respect of that Initiative and any specific variations to clauses in this Agreement for the purpose of the Initiative funded under that Funding Order;

“**Funds**” means the money paid by AusAID to the Organisation under a Funding Order;

“**GST**” means the Goods and Services Tax imposed by *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

“**Initiative**” or “**Initiatives**” means the Projects/Programs approved for funding by AusAID and implemented by the Organisation, and any amendment to the Initiative agreed in writing by AusAID;

“**Initiative Proposal**” means a proposal by the Organisation to AusAID for funding of an Initiative, including a detailed budget;

“**Intellectual Property**” means business names, copyrights, patents, trade marks, Service marks, trade names, designs, and similar industrial, commercial and intellectual property;

“**Interest**” means actual or estimated interest earned or accrued on the Funds;

“**Loss**” or “**Losses**” means any loss, damage, liability, cost or expense including legal expenses on a solicitor and own client basis;

“**NAA**” means National Archives of Australia;

“**NGO**” means an AusAID accredited Non-Government Organisation;

“**NGOPI**” means the AusAID NGO Package of Information contained as part of the AusAID Internet site at [www.aisaid.gov.au](http://www.aisaid.gov.au) as may be amended from time to time;

“**Partner Country**” means the country (other than Australia) in which the Services are to be delivered in whole or in part.

“**Party**” means AusAID or the Organisation;

“**Periodic Funding Agreement**” means an arrangement that is similar to a Cooperation Agreement in relation to policies and practices but utilised where there is no country or regional relationship.

“**Personal Information**” means information or an opinion (including information or an opinion forming part of a database), whether true or not and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion, as set out in section 6 of the *Privacy Act 1988* (Cth);

“**Privacy Commissioner**” means the person so named in Section 19 of the *Privacy Act 1988* (Cth);

“**Program**” means complex development assistance schemes which include a number of individual Initiatives having common development goals or which promote development generally in a particular community or country;

“**Project**” means a defined set of aid delivery actions which have identifiable objectives, outputs, time frames and implementation plans detailed in an Initiative Proposal prepared in accordance with the NGOPI.

“**Services**” means the services described in the Funding Order together with any supplies or materials incidental to the services;

“**Supplies**” means goods provided by the Organisation during the course of the Initiatives as required by the Funding Order.

## 1.2 General

In this Agreement, including the recitals, unless the context otherwise requires

- (a) The contractual obligations of the Parties must be interpreted and performed in accordance with the Agreement as a whole;
- (b) Clause headings are for convenient reference only and shall not be taken into consideration in the interpretation or construction of the Agreement;
- (c) A reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any statutory instrument issued under, that legislation or legislative provision;
- (d) A word denoting the singular number includes the plural number and vice versa;
- (e) A word denoting an individual or person includes a corporation, firm, authority, body politic, government or government authority and vice versa;
- (f) Words denoting a gender include all genders;
- (g) A reference to a recital, clause, schedule or annexure is to a recital, clause, schedule or annexure of or to this Agreement;
- (h) Where used in the Agreement the words 'including' or 'includes' will be read as 'including, without limitation' or 'includes, without limitation' (as the case may be);
- (i) A reference to any Agreement or document is to that Agreement or document (and, where applicable, any of its provisions) as amended, novated, supplemented or replaced from time to time;
- (j) 'shall' or 'must' denote an equivalent positive obligation;
- (k) a reference to any Party in this Agreement, or any other document or arrangement, includes that Party's executors, administrators, substitutes; successors and permitted assigns; and
- (l) a reference to 'dollars' or '\$' is to an amount in Australian currency.

## 2. TERM OF THE AGREEMENT

- 2.1 This Agreement commences on 1 July 2009 and continues in operation, unless terminated in accordance with the Head Agreement Conditions.
- 2.2 In accordance with **clause 18.3(c)** of this Agreement, this Agreement will be terminated if the Organisation's Accreditation is cancelled. Should Accreditation be cancelled while the Organisation has active one or more current Funding Order(s) for a Cooperation Agreement/Periodic Funding Agreement, the Funding Order(s) may be terminated or

maintained depending on AusAID's assessment of each Initiative relevant to that Funding Order. Each assessment shall *inter alia* consider the performance of the Organisation, the priority of the Initiative and any other factors deemed relevant by AusAID.

- 2.3 If this Agreement is terminated under **clause 18.3 (c)** and AusAID agrees to maintain an Organisation's Funding Order under **clause 2.2**, the Organisation will continue to be bound by the terms and conditions of the Funding Order, which on the date of termination, shall be amended to incorporate the terms and conditions of this Agreement (as applicable) until completion of the Initiative.
- 2.4 AusAID support for each Initiative funded under this Agreement will be deemed to commence on the date on which the Organisation signs a letter of acceptance after receipt of a signed Funding Order received from AusAID, or as otherwise stated in the Funding Order, and will conclude on the date specified in the Funding Order.
- 2.5 Should the Organisation's level of accreditation change such that it would effect a Funding Order for a Cooperation Agreement/Periodic Funding Agreement, the same provision as outlined in **clause 2.2** will apply.

### 3. **FORMATION OF FUNDING AGREEMENTS**

- 3.1 At any time during the term of the Agreement AusAID may issue a Funding Order, offering to fund an Initiative on the terms and conditions specified in the Funding Order.
- 3.2 The issue of a Funding Order by AusAID and acceptance by the Organisation shall immediately bring into existence a Funding Agreement for the provision of the Services or the undertaking of an Initiative.
- 3.3 The Funding Agreement formed by the issue of a Funding Order incorporates the terms and conditions described in this Agreement and any additional terms and conditions described in the Funding Order.
- 3.4 The Funding Order must contain at a minimum the following information:
  - (a) a description of the Initiative and Services to be provided;
  - (b) the date of commencement of the Initiative;
  - (c) if relevant, the term of the Funding Order, being the period in which the Initiative must be undertaken;
  - (d) if applicable, details of any reimbursable costs due and payable to the Organisation;
  - (e) the total amount of Funds payable, including if applicable, any Fees and any reimbursable costs;
  - (f) any particular performance standards applicable to the Funding Order in addition to those prescribed in the terms and conditions of this Agreement; and



(g) any reports to be provided.

#### **4. VARIATIONS TO THE AGREEMENT**

4.1 Variations of this Agreement or any associated Funding Orders must be made in writing and signed for and on behalf of the parties to this Agreement. Any such variations must be formalised before the limitations specified in a Funding Order are exceeded.

#### **5. AUSAID'S OBLIGATIONS**

5.1 AusAID shall make payments to the Organisation in the amount set out or provided for in the relevant Funding Orders, subject to:

- (a) the appropriation for each financial year of sufficient funds by the Commonwealth Parliament as part of Australia's Overseas Aid Program; and
- (b) the terms and conditions of this Agreement.

5.2 AusAID will notify the Organisation of acceptance of reports and acquittals within 28 days of receipt. The Organisation may request reasons for non-acceptance.

5.3 AusAID will normally give the Organisation reasonable notice when Commonwealth officers visit the Initiative or Delivery Organisation.

5.4 AusAID will act in good faith and follow due process when dealing with the Organisation.

#### **6. OBLIGATIONS OF THE ORGANISATION**

6.1 The Organisation must undertake the Initiatives upon the terms and conditions and in the manner provided by this Agreement and by the Funding Order.

6.2 The Organisation is responsible to AusAID for all Initiative accounting, reporting including performance reporting, management, monitoring and effective delivery in respect of the Initiatives within the agreed budget.

6.3 The Organisation is responsible to AusAID for the Funds even though the Initiatives may be implemented in whole or in part by a Delivery Organisation. The Organisation must have documented arrangements with all Delivery Organisations for the management and accountability for the Funds. If Funds cannot be acquitted to the satisfaction of AusAID, the Organisation must refund to AusAID an amount equal to the Funds remaining unaquitted.

6.4 The Organisation must use its best endeavours to ensure that the Delivery Organisations for the approved Initiative have the appropriate capacity to undertake the task and are in no way linked, directly or indirectly, to organisations and individuals associated with terrorism.

6.5 The Organisation must comply with all requirements of the Code of Conduct of the Australian Council for International Development.

- 6.6 In undertaking the Initiatives the Organisation must not act in ways which are contrary to the interests of the Commonwealth.
- 6.7 The Organisation will use its best endeavours to ensure that in its performance of an Initiative that all personnel and dependents while in the recipient country respect the laws and regulations in force in the recipient country.
- 6.8 The Organisation must notify AusAID in writing before making or agreeing to make any significant material change in the legal or organisational status of the Organisation, or the financial position of the Organisation, which might affect the ability of the Organisation to comply with its obligations under this Agreement
- 6.9 The Organisation must advise the AusAID Child Protection Officer promptly in writing if any of the Organisation's personnel is alleged to have committed, or been arrested for, or convicted of, criminal offences relating to child abuse or child pornography.

## 7. ORGANISATION STATUS

- 7.1 The Organisation must:
- (a) not represent itself as being an employee, partner or agent of the Commonwealth; and
  - (b) ensure that its Delivery Organisations and the volunteers, employees, agents and subcontractors of the Organisation and of the Delivery Organisations participating in the Initiatives do not represent themselves as being employees or agents of the Commonwealth.
- 7.2 The Organisation and its Delivery Organisations will not by virtue of this Agreement be an employee, partner or agent of the Commonwealth.

## 8. PUBLICITY

- 8.1 Subject to the terms of this **clause 8**, the Organisation shall acknowledge AusAID support for the Initiatives in:
- (a) public statements made by the Organisation to the media or otherwise; and
  - (b) documents published by the Organisation.

in relation to any Initiatives funded by AusAID pursuant to this Agreement.

- 8.2 The Organisation agrees to promote Australian identity and report on the recognition of Australian identity for each of its Australian Government funded NGO Initiatives.
- 8.3 The Organisation shall implement the promotion of Australian identity and the reporting on the recognition of Australian identity in accordance with the requirements detailed in the NGOPI.

- 8.4 The Organisation agrees that formal statements prepared by the Organisation for the media or articles relating to each Initiative, to be released or published in any way and which expressly or impliedly comment adversely on AusAID's role in the Initiative will be strictly subject to the prior written consent of AusAID.
- 8.5 The Organisation agrees that it:
- (a) shall not associate the Commonwealth or AusAID in any way with any adverse comment it may make about governments in recipient countries; and
  - (b) shall ensure that its Delivery Organisations are aware that they must not associate the Commonwealth or AusAID in any way with any adverse comment they may make about governments in recipient countries in relation to the Initiatives.
- 8.6 The Organisation must only use the Australian Government/AusAID logo (in-line version) to denote association with Australia, the Australian Government or AusAID in any publicity or other related materials.
- 8.7 As far as practical the Organisation will keep AusAID and the relevant Australian diplomatic mission advised of matters relating to public and media relations associated with the Initiatives.
9. **FINANCIAL MATTERS**
- 9.1 The Organisation must undertake all financial matters in accordance with the requirements detailed in the NGOPI and the relevant Funding Orders.
- 9.2 Subject to **clause 9.3**, AusAID will pay Funds to the Organisation at the times specified in the Funding Orders and in accordance with the requirements detailed in the NGOPI.
- 9.3 AusAID may at its discretion withhold funds from the Organisation if the Organisation is not in compliance with all the conditions of this Agreement or Funding Orders and the requirements detailed in the NGOPI.
- 9.4 The Organisation must use the Funds, any Interest and any exchange rate gains for the sole purpose of the Initiatives defined in the Funding Orders.
- 9.5 The Organisation must advise AusAID of any significant proposed changes to an Initiative and seek AusAID's written agreement to such changes prior to their implementation.
- 9.6 The Organisation must submit Initiative reports against the agreed Initiative objectives and budget, including Interest and exchange rate gains, annually or at the times specified in any Funding Orders or as articulated in the NGOPI.
- 9.7 AusAID shall not be liable for any expenditure in excess of the Financial Limitation set out in any Funding Orders or for any expenditure on Initiatives not approved in writing by AusAID before the expenditure is incurred.

- 9.8 Declarations of expenditure must be signed by an appropriate authorised officer as true and correct statements of expenditure.
- 9.9 Unless otherwise agreed by AusAID in writing the Organisation must refund to AusAID any Funds, Interest or exchange rate gains remaining unspent together with any outstanding reports.
- 9.10 Where Interest has to be estimated, the Organisation must state the method of estimation.
- 9.11 The Organisation and each Delivery Organisation must maintain sound financial and Initiative management systems and internal controls able to substantiate all declarations of expenditure, and must keep proper and detailed Financial Records.
- 9.12 The Organisation must preserve the Financial Records for a period of seven (7) years from the date of expiry or termination of the Funding Order.
10. **TAXES, DUTIES AND GOVERNMENT CHARGES**
- 10.1 Subject to this clause, all taxes, duties and government charges imposed or levied in Australia or overseas in connection with this Agreement must be borne by the Organisation.
- 10.2 The provisions of this clause in respect of GST apply if the Organisation is registered or is required to be registered for GST.
- 10.3 AusAID is registered in accordance with the GST Act and will notify the Organisation of any change in AusAID's GST registration status.
- 10.4 The Funds paid by AusAID under this Agreement include GST for supplies provided by the Organisation to AusAID in accordance with this Agreement and which are Taxable Supplies within the meaning of the GST Act.
- 10.5 The Organisation must give AusAID a tax invoice in accordance with the GST Act in relation to any Taxable Supply by the Organisation to AusAID in connection with this Agreement prior to payment of Funds by AusAID.
- 10.6 The Funds payable by AusAID to the Organisation under this Agreement must not include any amount which represents GST paid by the Organisation on the Organisation's own inputs and for which an input tax credit is available to the Organisation.
- 10.7 If a payment to satisfy a claim or a right to claim under or in connection with this Agreement (for example, a claim for damages for breach of the Agreement) gives rise to a liability to pay GST, the payer must also pay the amount of that GST (except any GST for which the payee is entitled to an input tax credit).
- 10.8 If a Party has a claim under or in connection with this Agreement for a cost on which that Party must pay GST, the claim is for the cost plus all GST on that cost (except any GST for which that Party is entitled to an input tax credit).

- 10.9 Any refund under **clause 18.5 (c)** must be inclusive of GST and must be accompanied by an Adjustment Note under the GST Act relating to Taxable Supplies for which the Organisation previously issued to AusAID a tax invoice.
- 10.10 The Organisation should be aware that, generally:
- (a) Funding received by the Organisation is included in the Organisation's assessable income if it is received in relation to the carrying on of a business, unless the Organisation is specifically exempt from income tax;
  - (b) any capital gain on disposal of an Asset is included in the Organisation's assessable income, unless the Organisation is specifically exempt from income tax;
  - (c) The Organisation may be required, in respect to an employee, to pay fringe benefits tax and make superannuation contributions to a complying superannuation fund or pay the superannuation guarantee charge to the Australian Taxation Office.

## 11. **AUDIT**

- 11.1 The Organisation shall provide to AusAID a copy of the audited Annual Report and Financial Statements of the Organisation within five months of the end of the Organisation's financial year or earlier if stipulated in the NGOPI.
- 11.2 The Organisation must, if requested by AusAID, provide an independently audited financial statement which certifies that the Funds provided by AusAID for an Initiative have been expended in accordance with the Funding Order and that acquittals provided by the Organisation are true and correct. The statement is to be lodged with AusAID within 60 days of the request. The statement must be provided at no cost to AusAID unless otherwise agreed.
- 11.3 AusAID may audit or spotcheck the Initiatives at any time at its own expense, both in Australia and overseas. AusAID would normally give the Organisation at least five working days notice of its intentions prior to commencing an audit or spotcheck. The Organisation must cooperate fully and request Delivery Organisation staff to cooperate fully with any request for assistance as part of any such audit or spotcheck. The Organisation and Delivery Organisation must afford adequate facilities for audit and inspection of the Financial Records and systems by AusAID and its authorised representative's at all reasonable times and must allow copies and extracts to be taken.
- 11.4 At its discretion, AusAID may audit the Organisation's compliance with AusAID's Child Protection Policy and child protection compliance standards (Attachment 1 to the policy), including sighting information regarding the performance of criminal record checks conducted for the purposes of complying with the child protection compliance standards.

## 12. **MONITORING, REVIEW AND EVALUATION**

- 12.1 At its discretion, AusAID may monitor, review and evaluate the Initiatives. AusAID must give the Organisation at least four weeks written notice of its intentions prior to commencing a review or evaluation of an Initiative, unless otherwise agreed between the parties. The

Organisation must cooperate fully and request Delivery Organisation staff to cooperate fully with any request for assistance as part of any such study.

### 13. **PROCUREMENT SERVICES**

13.1 In procuring all Supplies, the Organisation must:

- (a) implement procedures so that procurement is undertaken in a manner that is consistent with the Commonwealth Procurement Guidelines, in particular, observing the Core Principle of achieving value for money and the supporting principles;
- (b) maintain complete and accurate records documenting the procedures followed in procuring, and the particulars of Supplies; and
- (c) use its best endeavours to ensure Supplies are maintained including taking appropriate steps to ensure that manufacturers' warranties of Supplies are secured and warranty conditions followed.

13.1 The Organisation shall bear the loss or damage in respect of Supplies until handover of Supplies to the ultimate beneficiary of the Supplies.

13.2 The Organisation must use its best endeavours to ensure all Supplies are free from defects in design, material, manufacture or workmanship. The Organisation must replace defective Supplies under warranty provisions or at its own cost.

13.3 The Organisation shall establish and maintain a Register of Assets which shall record any non-consumable Supplies valued at \$2,000 or more, which at a minimum contains the following information: reference identification number (which may be for example, a serial number, engine number or chassis number); description of the asset; date of procurement; cost; location; current status; and disposal or handover details.

13.4 The Register of Assets and associated documentation such as import documents, invoices and warranties shall be subject to audit by or on behalf of AusAID at any time and from time to time.

13.5 The Organisation must use the Supplies for purposes permitted under this Agreement only and must ensure that the Supplies at all times remain free from any encumbrance.

### 14. **AGREEMENT MATERIAL**

14.1 The Organisation will own throughout the world:

- (a) the title to all Agreement Material; and
- (b) all Intellectual Property (including future copyright) in and derived from Agreement Material.

### 15. **CONFIDENTIALITY**

15.1 Subject to this clause, the Organisation must not, without the prior written approval of AusAID, make public or disclose to any person any AusAID Confidential Information. In giving written approval, AusAID may impose such terms and conditions as in AusAID's opinion are appropriate.

15.2 The Organisation must ensure that any of the Organisation's personnel who will have access to AusAID Confidential Information complete a written undertaking in the form as provided by AusAID, relating to the non-disclosure of that information.

15.3 This clause shall survive expiration or termination of this Agreement.

## 16. **PRIVACY**

16.1 This clause applies only where the Organisation deals with Personal Information when, and for the purpose of, providing the Services.

16.2 In this clause, the terms 'agency', 'Information Privacy Principles' (IPPs), and 'National Privacy Principles' (NPPs) have the same meaning as they have in section 6 of the *Privacy Act 1988*.

16.3 The Organisation acknowledges that it is a 'contracted service provider' within the meaning of section 6 of the *Privacy Act 1988* (the Privacy Act), and agrees in respect of the provision of the Services:

- (a) to use or disclose Personal Information obtained during the course of providing the Services, only for the purposes of this Agreement;
- (b) not to do any act or engage in any practice that would breach an IPP contained in section 14 of the Privacy Act, which if done or engaged in by an agency, would be a breach of that IPP;
- (c) to carry out and discharge the obligations contained in the IPPs as if it were an agency under that Act;
- (d) to notify individuals whose Personal Information the Organisation holds, that complaints about acts or practices of the Organisation may be investigated by the Privacy Commissioner who has power to award compensation against the Organisation in appropriate circumstances;
- (e) not to use or disclose Personal Information or engage in an act or practice that would breach section 16F of the Privacy Act (direct marketing), a NPP (particularly NPPs 7 to 10) where that section or NPP is applicable to the Organisation, unless:
  - (i) in the case of section 16F – the use or disclosure is necessary, directly or indirectly, to discharge an obligation under this Agreement; or
  - (ii) in the case of a NPP – where the Initiative or practice is engaged in for the purpose of discharging, directly or indirectly, an obligation under this Agreement, and the Initiative or practice which is authorized by this Agreement is inconsistent with the NPP;
- (f) to disclose in writing to any person who asks, the content of the provisions of this Agreement (if any) that are inconsistent with a NPP binding a party to this Agreement;

- (g) to immediately notify AusAID if the Organisation becomes aware of a breach or possible breach of any of the obligations contained in, or referred to in, this clause, whether by the Organisation or any subcontractor;
  - (h) not to transfer such information outside Australia, except to the Partner Country, or to allow parties outside Australia or the Partner Country to have access to it, without the prior approval of AusAID; and
  - (i) to ensure that any employee of the Organisation who is required to deal with Personal Information for the purposes of this Agreement is made aware of the obligations of the Organisation set out in this clause.
- 16.4 The Organisation agrees to ensure that any subcontract entered into for the purpose of fulfilling its obligations under this Agreement contains provisions to ensure that the subcontractor has the same awareness and obligations as the Organisation has under this clause, including the requirement in relation to subcontracts.
- 16.5 The Organisation agrees to indemnify AusAID in respect of any loss, liability or expense suffered or incurred by AusAID which arises directly or indirectly from a breach of any of the obligations of the Organisation under this clause, or a subcontractor under the subcontract provisions referred to in **clause 16.4 above**.
- 16.6 This clause shall survive expiration or termination of this Agreement.
17. **MAJOR CHANGES**
- 17.1 Where major changes occur to an Initiative prior to its completion (eg. the Delivery Organisation has major shortcomings or ceases to exist, the Initiative target group no longer exists, or the need or issue to be addressed is rectified), AusAID may terminate funding of the Initiative in accordance with **clause 18.1(a)**.
- 17.2 Where any failure or delay by a party in the performance of this Agreement is caused, directly or indirectly, by a Force Majeure Event, the party:
- (a) is not liable for that failure or delay; and
  - (b) its obligations under this Agreement are suspended, to the extent to which they are affected by the relevant Force Majeure Event, for the duration of the Force Majeure Event.
- 17.3 **Clause 17.2** does not apply to a Force Majeure Event affecting a party to the extent that:
- (a) the failure or delay was caused by a breach of this Agreement by that party; or
  - (b) the obligation concerned is a payment obligation



18. **TERMINATION**

18.1 Either party may terminate this Agreement:

- (a) or any Funding Order by giving to the other a Notice of Intention to Terminate in writing stating the reasons for termination; or
- (b) by giving 30 days notice in writing to the other party if a Force Majeure Event continues for more than 30 consecutive days.

18.2 If the Organisation fails to fulfill, or is in significant breach of any of the Organisation's obligations under this Agreement, and does not rectify the omission or breach after receiving 30 business days in writing from AusAID to do so then, AusAID may immediately terminate this Agreement by giving notice to the Organisation of the termination. The Organisation must comply with any requirements in AusAID's notice of termination.

18.3 AusAID may terminate this Agreement immediately by notice in writing to the Organisation if:

- (a) The Organisation comes under one of the forms of external administration referred to in Chapter 5 of the Corporations Act 2001 (Cth), or an order has been made for the purpose of placing the Organisation under external administration;
- (b) AusAID is satisfied that any statement made in the Organisation's application for Funding is incorrect, incomplete, false or misleading in a way which would have affected the original decision to approve the Funding; or
- (c) The Organisation's Accreditation with AusAID is terminated or cancelled.

The Organisation must comply with any requirements in AusAID's notice of termination.

18.4 Except where AusAID has agreed under **clause 2.2**, to the maintenance of a Cooperation Agreement/Periodic Funding Agreement, no later than 28 days after receipt of a notice of termination, the Parties must meet to fully cooperate in a joint determination of the following:

- (a) the appropriate method and manner for effecting the necessary winding-up or completion of the Initiatives;
- (b) the reporting and final acquittal for all Funds provided under Funding Orders;
- (c) a reconciliation of the Assets and Funds including any Interest as at the date of termination;
- (d) the extent of AusAID's financial responsibilities, if any, within the amount of the Funds provided up to the time of termination;
- (e) any issues arising from the termination of concern to AusAID with regard to its relationship with any recipient government; and

(f) other matters which arise as a consequence of the termination.

18.5 In the event that a Notice of Termination is given by either Party the Organisation must:

- (a) Do everything possible to prevent or limit all losses, costs and expenses arising;
- (b) Terminate its role in the Initiatives in a prompt and orderly manner; and
- (c) Refund any uncommitted part of any Funds already paid by AusAID, together with any uncommitted Interest, within 28 days of the date of the joint determination or within 28 days of any reconciliation completed as a result of **clause 18.4(b)**.

18.6 AusAID will:

- (a) if determined by any reconciliation completed as a result of **clause 18.4(b)**, provide such monies as may be agreed with the Organisation to meet existing financial commitments and obligations; but
- (b) not be liable to pay compensation in an amount which, in addition to any amounts paid or due or becoming due to the Organisation under the relevant Funding Order(s) together would exceed the Financial Limitation.

## 19. INDEMNITY

19.1 The Organisation must at all times indemnify AusAID, its officers, employees, agents and contractors (except the Organisation) (“those indemnified”) from and against any Loss or liability whatsoever suffered by those indemnified or arising from any claim, suit, demand, action or proceeding by any person against any of those indemnified where such Loss or liability was caused or contributed to in any way by any wilfully wrongful, unlawful or negligent act or omission of the Organisation, or any Organisation personnel in connection with this Agreement.

19.2 The Organisation agrees that AusAID may enforce the indemnity in favour of the persons specified in **clause 19.1 above** for the benefit of each of such persons in the name of AusAID or of such persons.

19.3 The indemnity in this clause is reduced to the extent that the Loss or liability is directly caused by AusAID, its employees or contractors (except the Organisation), as substantiated by the Organisation.

19.4 This indemnity shall survive termination or expiration of this Agreement.

## 20. INSURANCE

20.1 The Organisation must arrange and maintain for the duration of the Agreement unless otherwise specified:

- (a) public liability insurance with a limit of at least \$5 million for each and every claim which covers:
  - (i) loss of, or damage to, or loss of use of any real or personal property; or
  - (ii) personal injury to, illness (including mental illness) or death of any person arising from the performance of the Services;
- 20.2 The Organisation may take out and maintain insurance against claims by third parties resulting from acts performed in carrying out the Initiatives.
- 20.3 AusAID undertakes no responsibility in respect of any life, accident, travel or any other insurance coverage which may be necessary or desirable for the personnel or subcontractors of the Organisation or the Delivery Organisation, or for the dependants of any such persons as may travel for the purposes of the Initiatives.
- 21. **CONFLICT OF INTEREST**
- 21.1 The Organisation warrants that, at the date of signing this Agreement, no conflict of interest exists or is likely to arise in the performance of the Services.
- 21.2 The Organisation must use best endeavours to ensure that a situation does not arise which may result in a conflict of interest. The Organisation must not engage in any activity, subject to **clause 21.3 below**, that may result in a conflict of interest arising or continuing.
- 21.3 Where a conflict of interest arises in the performance of the Organisation obligations under this Agreement, the Organisation must notify AusAID immediately and may request permission from AusAID to undertake the work despite that conflict of interest.
- 22. **FRAUD**
- 22.1 For the purpose of this clause, 'fraudulent activity' or 'fraud' means: Dishonestly obtaining a benefit by deception or other means.
- 22.2 The Organisation, its Delivery Organisations and its subcontractors must not engage in any fraudulent activity. The Organisation is responsible for preventing and detecting fraud.
- 22.3 The Organisation must report in writing within 5 working days to AusAID any detected, suspected, or attempted fraudulent activity involving the Services.
- 22.4 In the event of detected, suspected or attempted fraud and in consultation with AusAID, the Organisation must develop and implement a strategy to investigate, based on the principles set out in the *Australian Government Investigations Standards*. The Organisation must undertake the investigation at the Organisation's cost.
- 22.5 Following the conclusion of an investigation, where the investigation finds the Organisation, an employee or a subcontractor of the Organisation, the Delivery Organisation, an employee or

a subcontractor of the Delivery Organisation has acted in a fraudulent manner, the Organisation shall:

- (a) where money has been misappropriated, pay to AusAID or the project the full value of the AusAID funds that have been misappropriated; or
- (b) where an item of property has been misappropriated, either return the item to AusAID or the project or if the item cannot be recovered or has been damaged so that it is no longer usable, replace the item with one of equal quality.

22.6 Following the conclusion of an investigation, where the investigation finds that a party other than the Organisation, an employee or subcontractor of the Organisation, the Delivery Organisation, an employee or a subcontractor of the Delivery Organisation, have acted in a fraudulent manner, the Contractor shall, at the Organisation's cost:

- (a) make every effort to recover any AusAID funds or funded property acquired or distributed through fraudulent activity, including without limitation, one or both of the following:
  - (i) taking recovery action in accordance with recovery procedures, including civil litigation, available in the Partner Country;
  - (ii) referring the matter to the relevant Partner Country police or other authorities responsible for prosecution of fraudulent activity; and
- (b) keep AusAID informed, in writing, on a monthly basis, of the progress of the recovery action.

22.7 If the Organisation considers that after all reasonable action has been taken to recover the funds or funded property and full recovery has not been achieved or recovery has only been achieved in part, the Organisation may seek approval from AusAID that no further recovery action be taken. The Organisation must provide to AusAID all information, records and documents required by AusAID to enable the AusAID delegate to make a decision on whether to approve non-recovery of funds or funded property.

## 23. COMPLIANCE WITH LAWS AND POLICIES

23.1 The Organisation must when providing any Services and procuring the Supplies have regard to and comply with, and use their best endeavours to ensure that all Delivery Organisations comply with, relevant and applicable laws, regulations and policies, both in Australia and in the Partner Country, including:

- (a) those in relation to occupational health and safety;
- (b) the Equal Opportunity for Women in the Workplace Act 1999 (Cth). In particular the Organisation must not enter into any sub-contracts, under this Agreement, with an employer named by the Director of the Equal Opportunity for Women Agency as currently not complying with the Act;

- (c) the Archives Act 1983 (“the Act”). In particular, the Organisation must:
  - (i) not arrange for, nor effect, a transfer of custody or ownership of any Data or Commonwealth record within the meaning of the Act without the prior written approval of AusAID and the NAA; and
  - (ii) comply with any reasonable direction given by AusAID for the purpose of transferring AusAID records to the NAA or providing the NAA with full and free access to those records at AusAID’s cost.
- (d) the Privacy Act 1988;
- (e) Part 111A of the Crimes Act 1914; and
- (f) those in relation to corrupt practices, including the Commonwealth Criminal Code provisions:
  - (iii) Division 70 relating to the bribery of foreign public officials; and
  - (iv) section 141.1 relating to the bribery of Commonwealth public officials; and
- (g) those in relation to organisations and individuals associated with terrorism, including 'terrorist organisations' as defined in Division 102 of the Commonwealth Criminal Code Act 1995 and listed in regulations made under that Act and regulations made under the Charter of the UN Act (Cth) 1945.

The Organisation must use their best endeavours to ensure that funds provided under this Agreement, do not provide direct or indirect support or resources to organisations and individuals associated with terrorism. If, during the course of this Agreement, the Organisation discovers any link whatsoever with any organisation or individual associated with terrorism it must inform AusAID immediately.

Further information about listed persons and entities is available from DFAT at: [www.dfat.gov.au/icat/persons\\_entities/explanatory\\_note.html](http://www.dfat.gov.au/icat/persons_entities/explanatory_note.html).

A full list of listed persons and entities is available from DFAT at: [www.dfat.gov.au/icat/freezing\\_terrorist\\_assets.html](http://www.dfat.gov.au/icat/freezing_terrorist_assets.html).

A list of listed 'terrorist organisations' for the purposes of the Commonwealth Criminal Code is available from National Security Australia at: [www.nationalsecurity.gov.au](http://www.nationalsecurity.gov.au).

- 23.2 The Organisation must when providing any Services and procuring the Supplies have regard to and operate in accordance with Australian policies on developmental aid to foreign countries including:
- (a) Gender and Development;
  - (b) Child Protection, in particular the child protection compliance standards at Attachment 1 to AusAID’s *Child Protection Policy*;

- (c) AusAID's family planning guidelines;
- (d) Environment. AusAID is bound by the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999*, which applies to all aid activities. The Organisation must:
  - (i) ensure that environmental requirements specified in the Funding Orders are implemented, monitored and reported;
  - (ii) comply with AusAID's Environmental Management System outlined in the *Environmental Management Guide for Australia's Aid Program*, including:
    - (A) assess and manage all actual or potential environmental impacts, both direct and indirect, to avoid or mitigate negative impacts and promote positive impacts;
    - (B) report regularly on any such impacts as required by the Funding Orders and NGOPI; and
  - (iii) comply with all relevant environmental laws and regulations of the Partner Country.

The *Environmental Management Guide for Australia's Aid Program* can be found at: <http://www.aid.gov.au/keyaid/envt.cfm>.

## 24. RESOLUTION OF DISPUTES

- 24.1 The Parties undertake to use all reasonable efforts in good faith to resolve any disputes which arise between them in connection with this Agreement and unless otherwise agreed by the Parties, the Parties shall at all times during the dispute proceed to fulfil their obligations under this Agreement.

## 25. ARBITRATION

- 25.1 Any dispute or difference arising between the Organisation and AusAID which cannot be settled by executive negotiation or mediation between the parties must be arbitrated in accordance with the laws for the time being in force in the Australian Capital Territory.

## 26. NOTICE

- 26.1 For the purpose of this Agreement, the address of a Party is the address set out below or another address which that Party may from time to time give notice in writing to each other Party. A notice required or permitted to be given by one Party to another under this Agreement must be in writing and is treated as having been duly given and received:

- (a) when delivered (if left at that Party's address);
- (b) on the third Business Day after posting (if sent by pre-paid mail); or

- (c) on the Business Day of transmission (if given by facsimile and sent to the facsimile receiver number of that Party and no intimation having been received that the notice had not been received, whether that intimation comes from that Party or from the operation of facsimile machinery or otherwise).

**AusAID**

To: (Delegate name) (Position)

Postal Address: Australian Agency for International Development  
GPO Box 887  
CANBERRA ACT 2601

Street Address: 255 London Circuit  
CANBERRA ACT 2601

Facsimile: 02 6206 xxxx

For all correspondence relating to a particular Funding Order, contact the Initiative Manager responsible for arranging the Funding Order.

**Organisation:**

To: (organisation)

Attention: (name)

(position)

Postal Address:

Street Address:

Facsimile:

**27. DISCLOSURE OF INFORMATION**

27.1 AusAID may disclose matters relating to the Agreement, including the Agreement, except where such information may breach the *Privacy Act 1988*, to Commonwealth governmental departments and agencies, Commonwealth Ministers and Parliamentary Secretaries, and to the Commonwealth Parliament, including responding to requests for information from Parliamentary committees or inquiries.

27.2 This clause shall survive termination or expiration of the Agreement.

28. **MISCELLANEOUS**

28.1 **Waiver**

The failure, delay, relaxation or indulgence on the part of any Party in exercising any power or right conferred upon that Party by this Agreement does not operate as a waiver of that power or right, nor does any single exercise of any power or right preclude any other or further exercise of it or the exercise of any other power or right under this Agreement.

28.2 **Liability of Party**

If any Party to this Agreement consists of more than one person then the liability of those persons in all respects under this Agreement is a joint liability of all those persons and a separate liability of each of those persons.

28.3 **Entire agreement**

This Agreement constitutes the sole and entire arrangement between the Parties and a warranty, representation, guarantee or other term or condition of any nature not contained or recorded in this Agreement is of no force or effect.

28.4 **Severance**

If any provision of this Agreement is invalid and not enforceable in accordance with its terms, other provisions that are self-sustaining and capable of separate enforcement with regard to the invalid provision, are and continue to be valid and enforceable in accordance with their terms.

28.5 **Assignment**

No Party may assign or transfer any of its rights or obligations under this Agreement without the prior consent in writing of the other Party.

28.6 **Governing Law and Jurisdiction**

This Agreement is governed by, and is to be construed in accordance with, the law of the Australian Capital Territory and the Parties submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory and any court hearing appeals from those courts.

28.7 **Contra Proferentum**

No rule of construction shall apply in the interpretation of this Agreement to the disadvantage of one Party on the basis that such Party put forward or drafted this Agreement or drafted any provision of this Agreement.



**28.8 False and Misleading Information**

The Organisation acknowledges that it is aware that, in relation to section 137.1 of the *Commonwealth Criminal Code*, giving false or misleading information is a serious offence.

**28.9 Anti-Corruption**

The Organisation warrants that the Organisation shall not make or cause to be made, nor shall the Organisation receive or seek to receive any offer, gift or payment, consideration or benefit of any kind, which would or could be construed as an illegal or corrupt practice, either directly or indirectly to any party, as an inducement or reward in relation to the execution of this Agreement. In addition, the Organisation shall not bribe foreign public officials and use their best endeavours to ensure that all parties comply with this provision. Any such practice shall be grounds for immediate termination of this Agreement under **clause 18** by notice from AusAID.

## SCHEDULE 1 - DEED OF CONFIDENTIALITY

**THIS DEED POLL** is made on the \_\_\_\_\_ day of \_\_\_\_\_ [ ] in favour of **COMMONWEALTH OF AUSTRALIA** represented by the Australian Agency for International Development (“**AusAID**”) which is part of the Department of Foreign Affairs and Trade. **BY** (the “**Recipient**”).

### RECITALS

- A. (the “Organisation”) have entered into Head Agreement No. **xxxx**
- B. In undertaking work pursuant to the Head Agreement, the Recipient will have access to AusAID confidential information.

### THE RECIPIENT DECLARES AS FOLLOWS:

#### 1. INTERPRETATION

In this Deed:

“**AusAID Confidential Information**” means information that

- (a) is designated by AusAID as confidential; or
  - (b) is personal information under the *Privacy Act 1988*,
- but does not include this Agreement or information which:
- (c) is or becomes public knowledge other than by breach of this Agreement or any other confidentiality obligation; or
  - (d) has been independently developed or acquired by the Organisation, as established by written evidence.

#### 2. NON DISCLOSURE

- 2.1 The Recipient must not copy, reproduce or disclose any of the AusAID Confidential Information without the prior written consent of AusAID, which consent AusAID may grant or withhold in its absolute discretion.

#### 3. RESTRICTION ON USE

- 3.1 The Recipient must use the AusAID Confidential Information only for the purpose of the services pursuant to the Head Agreement.

4. **DELIVERY OF DOCUMENTS**

4.1 AusAID may, at any time and without notice, demand, either orally or in writing, the delivery to AusAID of all documents in the possession or control of the Recipient which contain the AusAID Confidential Information.

5. **SURVIVAL OF OBLIGATIONS**

5.1 The obligations in this Deed are perpetual.

6. **INDEMNITY**

6.1 The Recipient indemnifies AusAID against any claim, loss, liability or expense incurred by AusAID which is caused or contributed to by the Recipient's failure to comply with this Deed.

**EXECUTED** as a deed poll.

**SIGNED, SEALED and DELIVERED** ) .....  
by the Recipient in the presence of: ) Signature of ***PRINT NAME HERE***

.....  
Signature of witness

.....  
Name of witness

**HEAD AGREEMENT**

**BETWEEN**

**COMMONWEALTH OF AUSTRALIA**

represented by the Australian Agency for International Development

**ABN 62 921 558 838**

**AND**

**(Organisation name)**

**ABN xxx**

**IN RELATION TO**

**NGO PERIODIC FUNDING**

**AUSAID AGREEMENT NO. xxxx**

**THIS HEAD AGREEMENT** is made on ..... 2009

**BETWEEN**

**COMMONWEALTH OF AUSTRALIA** represented by the Australian Agency for International Development (“**AusAID**”) of the Department of Foreign Affairs and Trade **ABN 62 921 558 838**

**AND**

(**Organisation name**), ABN xxxxxxxx of (address) (the “**Organisation**”).

**RECITALS:**

- A. The Australian Government recognises that professional Non-Government Development Organisations play a valuable role in delivering Australia’s overseas Aid Program. To this end AusAID wishes to enter into a Head Agreement under which it may provide funding to Australian accredited Non-Government Organisations.
- B. The Organisation wishes to enter into such an arrangement.
- C. The details of each specific funding agreement will be provided through separate Funding Orders that will establish a contract for the periodic funding of NGOs and provision of the Services, at the request and discretion of AusAID.

**OPERATIVE:**

AusAID and the Organisation promise to carry out and complete their respective obligations in accordance with the terms and conditions below, all Funding Orders, and the NGOPI, as amended from time to time.

Executed as a Deed

**SIGNED** for and on behalf of )  
**COMMONWEALTH OF AUSTRALIA** )  
represented by the Australian Agency for ) .....  
International Development in the presence of: )  
Signature of

.....

Name of witness Signature of witness

**SIGNED** for and on behalf of (**organisation name**) by:

.....

Signature of director Signature of director/secretary

.....

Name of director Name of director/secretary

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## HEAD AGREEMENT CONDITIONS

### 1. INTERPRETATION

#### 1.1 Definitions

In this Agreement, including the recitals, and in each Funding Order unless the context otherwise requires:

“**ABN**” has the same meaning as it has in section 40 of the *A New Tax System (Australian Business) Act 1999* (Cth);

“**Accreditation**” means the assessment process implemented, by AusAID on behalf of the Committee for Development Cooperation (CDC) that evaluates Australian NGOs against a set of criteria to determine whether an organisation is eligible for AusAID funding;

“**Agreement**” means this Head Agreement that establishes an arrangement with the Organisation;

“**Agreement Material**” means all material created as part of or for the purposes of implementing and accounting for the Initiatives. Agreement Material includes but is not limited to documents, reports, tables, equipment, information or Data stored by any means;

“**ANCP**” means the AusAID NGO Cooperation Program (ANCP), an annual funding program for Australian NGOs that have been accredited with AusAID. ANCP information and standards are outlined in the NGOPI;

“**Assets**” means non-consumable items valued at \$2,000 or more purchased using the Funds provided under a Funding Orders issued under this Agreement;

“**AusAID Confidential Information**” means information that:

- (a) is designated by AusAID as confidential; or
- (b) is personal information under the *Privacy Act 1988*,

but does not include this Agreement or information which:

- (c) is or becomes public knowledge other than by breach of this Agreement or any other confidentiality obligation; or
- (d) has been independently developed or acquired by the Organisation, as established by written evidence.

“**Commonwealth**” means the Commonwealth of Australia or AusAID as appropriate;

**“Committee for Development Cooperation (CDC)”** means the joint AusAID/NGO advisory and consultative body;

**“Cooperation Agreement”** means a contract entered into by way of a Funding Order, between AusAID and the Organisation to engage on policy and programming issues of relevance to an AusAID country or regional strategy. Cooperation Agreement policies, performance and procedures are outlined in the NGOPI;

**“Data”** includes any information provided to the Organisation under this Agreement from any source, or collected or created by the Organisation in connection with the Services, whether in magnetic, electronic, hardcopy or any other form;

**“Delivery Organisation”** means the Organisation's partner(s) responsible to the Organisation for implementation of all or part of the Initiatives;

**“Financial Limitation”** means the total amount of money set out in any Funding Order;

**“Financial Records”** means records consistent with obligations under accounting standards as that expression is used in the Corporations Act 2001;

**“Financial Year”** means 1 July to 30 June;

**“Force Majeure Event”** means any act, event or cause outside the reasonable control of a party which materially impairs that party's ability to perform its obligations under this Agreement, to the extent that the act, event or cause could not have reasonably been anticipated by the party affected or, in the case of reasonably anticipatable acts, events or causes, could not have been prevented or avoided or mitigated by the exercise of reasonable precautions.

**“Funding Order”** means each funding agreement formed by a signed Funding Order from AusAID and a signed letter of acceptance by the Organisation, containing the details of a particular Initiative, the Initiative Proposal, the Funds to be paid in respect of that Initiative and any specific variations to clauses in this Agreement for the purpose of the Initiative funded under that Funding Order;

**“Funds”** means the money paid by AusAID to the Organisation under a Funding Order;

**“GST”** means the Goods and Services Tax imposed by *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

**“Initiative”** or **“Initiatives”** means the Projects/Programs approved for funding by AusAID and implemented by the Organisation, and any amendment to the Initiative agreed in writing by AusAID;

**“Initiative Proposal”** means a proposal by the Organisation to AusAID for funding of an Initiative, including a detailed budget;



“**Intellectual Property**” means business names, copyrights, patents, trade marks, Service marks, trade names, designs, and similar industrial, commercial and intellectual property;

“**Interest**” means actual or estimated interest earned or accrued on the Funds;

“**Loss**” or “**Losses**” means any loss, damage, liability, cost or expense including legal expenses on a solicitor and own client basis;

“**NAA**” means National Archives of Australia;

“**NGO**” means an AusAID accredited Non-Government Organisation;

“**NGOPI**” means the AusAID NGO Package of Information contained as part of the AusAID Internet site at [www.ausaid.gov.au](http://www.ausaid.gov.au) as may be amended from time to time;

“**Partner Country**” means the country (other than Australia) in which the Services are to be delivered in whole or in part.

“**Party**” means AusAID or the Organisation;

“**Periodic Funding Agreement**” means an arrangement that is similar to a Cooperation Agreement in relation to policies and practices but utilised where there is no country or regional relationship.

“**Personal Information**” means information or an opinion (including information or an opinion forming part of a database), whether true or not and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion, as set out in section 6 of the *Privacy Act 1988* (Cth);

“**Privacy Commissioner**” means the person so named in Section 19 of the *Privacy Act 1988* (Cth);

“**Program**” means complex development assistance schemes which include a number of individual Initiatives having common development goals or which promote development generally in a particular community or country;

“**Project**” means a defined set of aid delivery actions which have identifiable objectives, outputs, time frames and implementation plans detailed in an Initiative Proposal prepared in accordance with the NGOPI.

“**Services**” means the services described in the Funding Order together with any supplies or materials incidental to the services;

“**Supplies**” means goods provided by the Organisation during the course of the Initiatives as required by the Funding Order.

## 1.2 General

In this Agreement, including the recitals, unless the context otherwise requires

- (a) The contractual obligations of the Parties must be interpreted and performed in accordance with the Agreement as a whole;
- (b) Clause headings are for convenient reference only and shall not be taken into consideration in the interpretation or construction of the Agreement;
- (c) A reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any statutory instrument issued under, that legislation or legislative provision;
- (d) A word denoting the singular number includes the plural number and vice versa;
- (e) A word denoting an individual or person includes a corporation, firm, authority, body politic, government or government authority and vice versa;
- (f) Words denoting a gender include all genders;
- (g) A reference to a recital, clause, schedule or annexure is to a recital, clause, schedule or annexure of or to this Agreement;
- (h) Where used in the Agreement the words 'including' or 'includes' will be read as 'including, without limitation' or 'includes, without limitation' (as the case may be);
- (i) A reference to any Agreement or document is to that Agreement or document (and, where applicable, any of its provisions) as amended, novated, supplemented or replaced from time to time;
- (j) 'shall' or 'must' denote an equivalent positive obligation;
- (k) a reference to any Party in this Agreement, or any other document or arrangement, includes that Party's executors, administrators, substitutes; successors and permitted assigns; and
- (l) a reference to 'dollars' or '\$' is to an amount in Australian currency.

## 2. TERM OF THE AGREEMENT

- 2.1 This Agreement commences on 1 July 2009 and continues in operation, unless terminated in accordance with the Head Agreement Conditions.
- 2.2 In accordance with **clause 18.3(c)** of this Agreement, this Agreement will be terminated if the Organisation's Accreditation is cancelled. Should Accreditation be cancelled while the Organisation has active one or more current Funding Order(s) for a Cooperation Agreement/Periodic Funding Agreement, the Funding Order(s) may be terminated or

maintained depending on AusAID's assessment of each Initiative relevant to that Funding Order. Each assessment shall *inter alia* consider the performance of the Organisation, the priority of the Initiative and any other factors deemed relevant by AusAID.

- 2.3 If this Agreement is terminated under **clause 18.3 (c)** and AusAID agrees to maintain an Organisation's Funding Order under **clause 2.2**, the Organisation will continue to be bound by the terms and conditions of the Funding Order, which on the date of termination, shall be amended to incorporate the terms and conditions of this Agreement (as applicable) until completion of the Initiative.
- 2.4 AusAID support for each Initiative funded under this Agreement will be deemed to commence on the date on which the Organisation signs a letter of acceptance after receipt of a signed Funding Order received from AusAID, or as otherwise stated in the Funding Order, and will conclude on the date specified in the Funding Order.
- 2.5 Should the Organisation's level of accreditation change such that it would effect a Funding Order for a Cooperation Agreement/Periodic Funding Agreement, the same provision as outlined in **clause 2.2** will apply.

### 3. **FORMATION OF FUNDING AGREEMENTS**

- 3.1 At any time during the term of the Agreement AusAID may issue a Funding Order, offering to fund an Initiative on the terms and conditions specified in the Funding Order.
- 3.2 The issue of a Funding Order by AusAID and acceptance by the Organisation shall immediately bring into existence a Funding Agreement for the provision of the Services or the undertaking of an Initiative.
- 3.3 The Funding Agreement formed by the issue of a Funding Order incorporates the terms and conditions described in this Agreement and any additional terms and conditions described in the Funding Order.
- 3.4 The Funding Order must contain at a minimum the following information:
  - (a) a description of the Initiative and Services to be provided;
  - (b) the date of commencement of the Initiative;
  - (c) if relevant, the term of the Funding Order, being the period in which the Initiative must be undertaken;
  - (d) if applicable, details of any reimbursable costs due and payable to the Organisation;
  - (e) the total amount of Funds payable, including if applicable, any Fees and any reimbursable costs;
  - (f) any particular performance standards applicable to the Funding Order in addition to those prescribed in the terms and conditions of this Agreement; and

- (g) any reports to be provided.

#### **4. VARIATIONS TO THE AGREEMENT**

- 4.1 Variations of this Agreement or any associated Funding Orders must be made in writing and signed for and on behalf of the parties to this Agreement. Any such variations must be formalised before the limitations specified in a Funding Order are exceeded.

#### **5. AUSAID'S OBLIGATIONS**

- 5.1 AusAID shall make payments to the Organisation in the amount set out or provided for in the relevant Funding Orders, subject to:
  - (a) the appropriation for each financial year of sufficient funds by the Commonwealth Parliament as part of Australia's Overseas Aid Program; and
  - (b) the terms and conditions of this Agreement.
- 5.2 AusAID will notify the Organisation of acceptance of reports and acquittals within 28 days of receipt. The Organisation may request reasons for non-acceptance.
- 5.3 AusAID will normally give the Organisation reasonable notice when Commonwealth officers visit the Initiative or Delivery Organisation.
- 5.4 AusAID will act in good faith and follow due process when dealing with the Organisation.

#### **6. OBLIGATIONS OF THE ORGANISATION**

- 6.1 The Organisation must undertake the Initiatives upon the terms and conditions and in the manner provided by this Agreement and by the Funding Order.
- 6.2 The Organisation is responsible to AusAID for all Initiative accounting, reporting including performance reporting, management, monitoring and effective delivery in respect of the Initiatives within the agreed budget.
- 6.3 The Organisation is responsible to AusAID for the Funds even though the Initiatives may be implemented in whole or in part by a Delivery Organisation. The Organisation must have documented arrangements with all Delivery Organisations for the management and accountability for the Funds. If Funds cannot be acquitted to the satisfaction of AusAID, the Organisation must refund to AusAID an amount equal to the Funds remaining unaquitted.
- 6.4 The Organisation must use its best endeavours to ensure that the Delivery Organisations for the approved Initiative have the appropriate capacity to undertake the task and are in no way linked, directly or indirectly, to organisations and individuals associated with terrorism.
- 6.5 The Organisation must comply with all requirements of the Code of Conduct of the Australian Council for International Development.

- 6.6 In undertaking the Initiatives the Organisation must not act in ways which are contrary to the interests of the Commonwealth.
- 6.7 The Organisation will use its best endeavours to ensure that in its performance of an Initiative that all personnel and dependents while in the recipient country respect the laws and regulations in force in the recipient country.
- 6.8 The Organisation must notify AusAID in writing before making or agreeing to make any significant material change in the legal or organisational status of the Organisation, or the financial position of the Organisation, which might affect the ability of the Organisation to comply with its obligations under this Agreement
- 6.9 The Organisation must advise the AusAID Child Protection Officer promptly in writing if any of the Organisation's personnel is alleged to have committed, or been arrested for, or convicted of, criminal offences relating to child abuse or child pornography.

## 7. ORGANISATION STATUS

7.1 The Organisation must:

- (a) not represent itself as being an employee, partner or agent of the Commonwealth; and
- (b) ensure that its Delivery Organisations and the volunteers, employees, agents and subcontractors of the Organisation and of the Delivery Organisations participating in the Initiatives do not represent themselves as being employees or agents of the Commonwealth.

7.2 The Organisation and its Delivery Organisations will not by virtue of this Agreement be an employee, partner or agent of the Commonwealth.

## 8. PUBLICITY

8.1 Subject to the terms of this **clause 8**, the Organisation shall acknowledge AusAID support for the Initiatives in:

- (a) public statements made by the Organisation to the media or otherwise; and
- (b) documents published by the Organisation.

in relation to any Initiatives funded by AusAID pursuant to this Agreement.

8.2 The Organisation agrees to promote Australian identity and report on the recognition of Australian identity for each of its Australian Government funded NGO Initiatives.

8.3 The Organisation shall implement the promotion of Australian identity and the reporting on the recognition of Australian identity in accordance with the requirements detailed in the NGOPI.

- 8.4 The Organisation agrees that formal statements prepared by the Organisation for the media or articles relating to each Initiative, to be released or published in any way and which expressly or impliedly comment adversely on AusAID's role in the Initiative will be strictly subject to the prior written consent of AusAID.
- 8.5 The Organisation agrees that it:
- (a) shall not associate the Commonwealth or AusAID in any way with any adverse comment it may make about governments in recipient countries; and
  - (b) shall ensure that its Delivery Organisations are aware that they must not associate the Commonwealth or AusAID in any way with any adverse comment they may make about governments in recipient countries in relation to the Initiatives.
- 8.6 The Organisation must only use the Australian Government/AusAID logo (in-line version) to denote association with Australia, the Australian Government or AusAID in any publicity or other related materials.
- 8.7 As far as practical the Organisation will keep AusAID and the relevant Australian diplomatic mission advised of matters relating to public and media relations associated with the Initiatives.

## 9. FINANCIAL MATTERS

- 9.1 The Organisation must undertake all financial matters in accordance with the requirements detailed in the NGOPI and the relevant Funding Orders.
- 9.2 Subject to **clause 9.3**, AusAID will pay Funds to the Organisation at the times specified in the Funding Orders and in accordance with the requirements detailed in the NGOPI.
- 9.3 AusAID may at its discretion withhold funds from the Organisation if the Organisation is not in compliance with all the conditions of this Agreement or Funding Orders and the requirements detailed in the NGOPI.
- 9.4 The Organisation must use the Funds, any Interest and any exchange rate gains for the sole purpose of the Initiatives defined in the Funding Orders.
- 9.5 The Organisation must advise AusAID of any significant proposed changes to an Initiative and seek AusAID's written agreement to such changes prior to their implementation.
- 9.6 The Organisation must submit Initiative reports against the agreed Initiative objectives and budget, including Interest and exchange rate gains, annually or at the times specified in any Funding Orders or as articulated in the NGOPI.
- 9.7 AusAID shall not be liable for any expenditure in excess of the Financial Limitation set out in any Funding Orders or for any expenditure on Initiatives not approved in writing by AusAID before the expenditure is incurred.

- 9.8 Declarations of expenditure must be signed by an appropriate authorised officer as true and correct statements of expenditure.
- 9.9 Unless otherwise agreed by AusAID in writing the Organisation must refund to AusAID any Funds, Interest or exchange rate gains remaining unspent together with any outstanding reports.
- 9.10 Where Interest has to be estimated, the Organisation must state the method of estimation.
- 9.11 The Organisation and each Delivery Organisation must maintain sound financial and Initiative management systems and internal controls able to substantiate all declarations of expenditure, and must keep proper and detailed Financial Records.
- 9.12 The Organisation must preserve the Financial Records for a period of seven (7) years from the date of expiry or termination of the Funding Order.
- 10. TAXES, DUTIES AND GOVERNMENT CHARGES**
- 10.1 Subject to this clause, all taxes, duties and government charges imposed or levied in Australia or overseas in connection with this Agreement must be borne by the Organisation.
- 10.2 The provisions of this clause in respect of GST apply if the Organisation is registered or is required to be registered for GST.
- 10.3 AusAID is registered in accordance with the GST Act and will notify the Organisation of any change in AusAID's GST registration status.
- 10.4 The Funds paid by AusAID under this Agreement include GST for supplies provided by the Organisation to AusAID in accordance with this Agreement and which are Taxable Supplies within the meaning of the GST Act.
- 10.5 The Organisation must give AusAID a tax invoice in accordance with the GST Act in relation to any Taxable Supply by the Organisation to AusAID in connection with this Agreement prior to payment of Funds by AusAID.
- 10.6 The Funds payable by AusAID to the Organisation under this Agreement must not include any amount which represents GST paid by the Organisation on the Organisation's own inputs and for which an input tax credit is available to the Organisation.
- 10.7 If a payment to satisfy a claim or a right to claim under or in connection with this Agreement (for example, a claim for damages for breach of the Agreement) gives rise to a liability to pay GST, the payer must also pay the amount of that GST (except any GST for which the payee is entitled to an input tax credit).
- 10.8 If a Party has a claim under or in connection with this Agreement for a cost on which that Party must pay GST, the claim is for the cost plus all GST on that cost (except any GST for which that Party is entitled to an input tax credit).

- 10.9 Any refund under **clause 18.5 (c)** must be inclusive of GST and must be accompanied by an Adjustment Note under the GST Act relating to Taxable Supplies for which the Organisation previously issued to AusAID a tax invoice.
- 10.10 The Organisation should be aware that, generally:
- (a) Funding received by the Organisation is included in the Organisation's assessable income if it is received in relation to the carrying on of a business, unless the Organisation is specifically exempt from income tax;
  - (b) any capital gain on disposal of an Asset is included in the Organisation's assessable income, unless the Organisation is specifically exempt from income tax;
  - (c) The Organisation may be required, in respect to an employee, to pay fringe benefits tax and make superannuation contributions to a complying superannuation fund or pay the superannuation guarantee charge to the Australian Taxation Office.

## 11. **AUDIT**

- 11.1 The Organisation shall provide to AusAID a copy of the audited Annual Report and Financial Statements of the Organisation within five months of the end of the Organisation's financial year or earlier if stipulated in the NGOPI.
- 11.2 The Organisation must, if requested by AusAID, provide an independently audited financial statement which certifies that the Funds provided by AusAID for an Initiative have been expended in accordance with the Funding Order and that acquittals provided by the Organisation are true and correct. The statement is to be lodged with AusAID within 60 days of the request. The statement must be provided at no cost to AusAID unless otherwise agreed.
- 11.3 AusAID may audit or spotcheck the Initiatives at any time at its own expense, both in Australia and overseas. AusAID would normally give the Organisation at least five working days notice of its intentions prior to commencing an audit or spotcheck. The Organisation must cooperate fully and request Delivery Organisation staff to cooperate fully with any request for assistance as part of any such audit or spotcheck. The Organisation and Delivery Organisation must afford adequate facilities for audit and inspection of the Financial Records and systems by AusAID and its authorised representative's at all reasonable times and must allow copies and extracts to be taken.
- 11.4 At its discretion, AusAID may audit the Organisation's compliance with AusAID's Child Protection Policy and child protection compliance standards (Attachment 1 to the policy), including sighting information regarding the performance of criminal record checks conducted for the purposes of complying with the child protection compliance standards.

## 12. **MONITORING, REVIEW AND EVALUATION**

- 12.1 At its discretion, AusAID may monitor, review and evaluate the Initiatives. AusAID must give the Organisation at least four weeks written notice of its intentions prior to commencing a review or evaluation of an Initiative, unless otherwise agreed between the parties. The



Organisation must cooperate fully and request Delivery Organisation staff to cooperate fully with any request for assistance as part of any such study.

**13. PROCUREMENT SERVICES**

13.1 In procuring all Supplies, the Organisation must:

- (a) implement procedures so that procurement is undertaken in a manner that is consistent with the Commonwealth Procurement Guidelines, in particular, observing the Core Principle of achieving value for money and the supporting principles;
- (b) maintain complete and accurate records documenting the procedures followed in procuring, and the particulars of Supplies; and
- (c) use its best endeavours to ensure Supplies are maintained including taking appropriate steps to ensure that manufacturers' warranties of Supplies are secured and warranty conditions followed.

13.1 The Organisation shall bear the loss or damage in respect of Supplies until handover of Supplies to the ultimate beneficiary of the Supplies.

13.2 The Organisation must use its best endeavours to ensure all Supplies are free from defects in design, material, manufacture or workmanship. The Organisation must replace defective Supplies under warranty provisions or at its own cost.

13.3 The Organisation shall establish and maintain a Register of Assets which shall record any non-consumable Supplies valued at \$2,000 or more, which at a minimum contains the following information: reference identification number (which may be for example, a serial number, engine number or chassis number); description of the asset; date of procurement; cost; location; current status; and disposal or handover details.

13.4 The Register of Assets and associated documentation such as import documents, invoices and warranties shall be subject to audit by or on behalf of AusAID at any time and from time to time.

13.5 The Organisation must use the Supplies for purposes permitted under this Agreement only and must ensure that the Supplies at all times remain free from any encumbrance.

**14. AGREEMENT MATERIAL**

14.1 The Organisation will own throughout the world:

- (a) the title to all Agreement Material; and
- (b) all Intellectual Property (including future copyright) in and derived from Agreement Material.

**15. CONFIDENTIALITY**

15.1 Subject to this clause, the Organisation must not, without the prior written approval of AusAID, make public or disclose to any person any AusAID Confidential Information. In giving written approval, AusAID may impose such terms and conditions as in AusAID's opinion are appropriate.

15.2 The Organisation must ensure that any of the Organisation's personnel who will have access to AusAID Confidential Information complete a written undertaking in the form as provided by AusAID, relating to the non-disclosure of that information.

15.3 This clause shall survive expiration or termination of this Agreement.

16. **PRIVACY**

16.1 This clause applies only where the Organisation deals with Personal Information when, and for the purpose of, providing the Services.

16.2 In this clause, the terms 'agency', 'Information Privacy Principles' (IPPs), and 'National Privacy Principles' (NPPs) have the same meaning as they have in section 6 of the *Privacy Act 1988*.

16.3 The Organisation acknowledges that it is a 'contracted service provider' within the meaning of section 6 of the *Privacy Act 1988* (the Privacy Act), and agrees in respect of the provision of the Services:

- (a) to use or disclose Personal Information obtained during the course of providing the Services, only for the purposes of this Agreement;
- (b) not to do any act or engage in any practice that would breach an IPP contained in section 14 of the Privacy Act, which if done or engaged in by an agency, would be a breach of that IPP;
- (c) to carry out and discharge the obligations contained in the IPPs as if it were an agency under that Act;
- (d) to notify individuals whose Personal Information the Organisation holds, that complaints about acts or practices of the Organisation may be investigated by the Privacy Commissioner who has power to award compensation against the Organisation in appropriate circumstances;
- (e) not to use or disclose Personal Information or engage in an act or practice that would breach section 16F of the Privacy Act (direct marketing), a NPP (particularly NPPs 7 to 10) where that section or NPP is applicable to the Organisation, unless:
  - (i) in the case of section 16F – the use or disclosure is necessary, directly or indirectly, to discharge an obligation under this Agreement; or
  - (ii) in the case of a NPP – where the Initiative or practice is engaged in for the purpose of discharging, directly or indirectly, an obligation under this Agreement, and the Initiative or practice which is authorized by this Agreement is inconsistent with the NPP;
- (f) to disclose in writing to any person who asks, the content of the provisions of this Agreement (if any) that are inconsistent with a NPP binding a party to this Agreement;

- (g) to immediately notify AusAID if the Organisation becomes aware of a breach or possible breach of any of the obligations contained in, or referred to in, this clause, whether by the Organisation or any subcontractor;
  - (h) not to transfer such information outside Australia, except to the Partner Country, or to allow parties outside Australia or the Partner Country to have access to it, without the prior approval of AusAID; and
  - (i) to ensure that any employee of the Organisation who is required to deal with Personal Information for the purposes of this Agreement is made aware of the obligations of the Organisation set out in this clause.
- 16.4 The Organisation agrees to ensure that any subcontract entered into for the purpose of fulfilling its obligations under this Agreement contains provisions to ensure that the subcontractor has the same awareness and obligations as the Organisation has under this clause, including the requirement in relation to subcontracts.
- 16.5 The Organisation agrees to indemnify AusAID in respect of any loss, liability or expense suffered or incurred by AusAID which arises directly or indirectly from a breach of any of the obligations of the Organisation under this clause, or a subcontractor under the subcontract provisions referred to in **clause 16.4 above**.
- 16.6 This clause shall survive expiration or termination of this Agreement.
17. **MAJOR CHANGES**
- 17.1 Where major changes occur to an Initiative prior to its completion (eg. the Delivery Organisation has major shortcomings or ceases to exist, the Initiative target group no longer exists, or the need or issue to be addressed is rectified), AusAID may terminate funding of the Initiative in accordance with **clause 18.1(a)**.
- 17.2 Where any failure or delay by a party in the performance of this Agreement is caused, directly or indirectly, by a Force Majeure Event, the party:
- (a) is not liable for that failure or delay; and
  - (b) its obligations under this Agreement are suspended, to the extent to which they are affected by the relevant Force Majeure Event, for the duration of the Force Majeure Event.
- 17.3 **Clause 17.2** does not apply to a Force Majeure Event affecting a party to the extent that:
- (a) the failure or delay was caused by a breach of this Agreement by that party; or
  - (b) the obligation concerned is a payment obligation

18. **TERMINATION**

18.1 Either party may terminate this Agreement:

- (a) or any Funding Order by giving to the other a Notice of Intention to Terminate in writing stating the reasons for termination; or
- (b) by giving 30 days notice in writing to the other party if a Force Majeure Event continues for more than 30 consecutive days.

18.2 If the Organisation fails to fulfill, or is in significant breach of any of the Organisation's obligations under this Agreement, and does not rectify the omission or breach after receiving 30 business days in writing from AusAID to do so then, AusAID may immediately terminate this Agreement by giving notice to the Organisation of the termination. The Organisation must comply with any requirements in AusAID's notice of termination.

18.3 AusAID may terminate this Agreement immediately by notice in writing to the Organisation if:

- (a) The Organisation comes under one of the forms of external administration referred to in Chapter 5 of the Corporations Act 2001 (Cth), or an order has been made for the purpose of placing the Organisation under external administration;
- (b) AusAID is satisfied that any statement made in the Organisation's application for Funding is incorrect, incomplete, false or misleading in a way which would have affected the original decision to approve the Funding; or
- (c) The Organisation's Accreditation with AusAID is terminated or cancelled.

The Organisation must comply with any requirements in AusAID's notice of termination.

18.4 Except where AusAID has agreed under **clause 2.2**, to the maintenance of a Cooperation Agreement/Periodic Funding Agreement, no later than 28 days after receipt of a notice of termination, the Parties must meet to fully cooperate in a joint determination of the following:

- (a) the appropriate method and manner for effecting the necessary winding-up or completion of the Initiatives;
- (b) the reporting and final acquittal for all Funds provided under Funding Orders;
- (c) a reconciliation of the Assets and Funds including any Interest as at the date of termination;
- (d) the extent of AusAID's financial responsibilities, if any, within the amount of the Funds provided up to the time of termination;
- (e) any issues arising from the termination of concern to AusAID with regard to its relationship with any recipient government; and

(f) other matters which arise as a consequence of the termination.

18.5 In the event that a Notice of Termination is given by either Party the Organisation must:

- (a) Do everything possible to prevent or limit all losses, costs and expenses arising;
- (b) Terminate its role in the Initiatives in a prompt and orderly manner; and
- (c) Refund any uncommitted part of any Funds already paid by AusAID, together with any uncommitted Interest, within 28 days of the date of the joint determination or within 28 days of any reconciliation completed as a result of **clause 18.4(b)**.

18.6 AusAID will:

- (a) if determined by any reconciliation completed as a result of **clause 18.4(b)**, provide such monies as may be agreed with the Organisation to meet existing financial commitments and obligations; but
- (b) not be liable to pay compensation in an amount which, in addition to any amounts paid or due or becoming due to the Organisation under the relevant Funding Order(s) together would exceed the Financial Limitation.

## 19. INDEMNITY

19.1 The Organisation must at all times indemnify AusAID, its officers, employees, agents and contractors (except the Organisation) (“those indemnified”) from and against any Loss or liability whatsoever suffered by those indemnified or arising from any claim, suit, demand, action or proceeding by any person against any of those indemnified where such Loss or liability was caused or contributed to in any way by any wilfully wrongful, unlawful or negligent act or omission of the Organisation, or any Organisation personnel in connection with this Agreement.

19.2 The Organisation agrees that AusAID may enforce the indemnity in favour of the persons specified in **clause 19.1 above** for the benefit of each of such persons in the name of AusAID or of such persons.

19.3 The indemnity in this clause is reduced to the extent that the Loss or liability is directly caused by AusAID, its employees or contractors (except the Organisation), as substantiated by the Organisation.

19.4 This indemnity shall survive termination or expiration of this Agreement.

## 20. INSURANCE

20.1 The Organisation must arrange and maintain for the duration of the Agreement unless otherwise specified:

- (a) public liability insurance with a limit of at least \$5 million for each and every claim which covers:
  - (i) loss of, or damage to, or loss of use of any real or personal property; or
  - (ii) personal injury to, illness (including mental illness) or death of any person arising from the performance of the Services;
- 20.2 The Organisation may take out and maintain insurance against claims by third parties resulting from acts performed in carrying out the Initiatives.
- 20.3 AusAID undertakes no responsibility in respect of any life, accident, travel or any other insurance coverage which may be necessary or desirable for the personnel or subcontractors of the Organisation or the Delivery Organisation, or for the dependants of any such persons as may travel for the purposes of the Initiatives.
- 21. **CONFLICT OF INTEREST**
- 21.1 The Organisation warrants that, at the date of signing this Agreement, no conflict of interest exists or is likely to arise in the performance of the Services.
- 21.2 The Organisation must use best endeavours to ensure that a situation does not arise which may result in a conflict of interest. The Organisation must not engage in any activity, subject to **clause 21.3 below**, that may result in a conflict of interest arising or continuing.
- 21.3 Where a conflict of interest arises in the performance of the Organisation obligations under this Agreement, the Organisation must notify AusAID immediately and may request permission from AusAID to undertake the work despite that conflict of interest.
- 22. **FRAUD**
- 22.1 For the purpose of this clause, 'fraudulent activity' or 'fraud' means: Dishonestly obtaining a benefit by deception or other means.
- 22.2 The Organisation, its Delivery Organisations and its subcontractors must not engage in any fraudulent activity. The Organisation is responsible for preventing and detecting fraud.
- 22.3 The Organisation must report in writing within 5 working days to AusAID any detected, suspected, or attempted fraudulent activity involving the Services.
- 22.4 In the event of detected, suspected or attempted fraud and in consultation with AusAID, the Organisation must develop and implement a strategy to investigate, based on the principles set out in the *Australian Government Investigations Standards*. The Organisation must undertake the investigation at the Organisation's cost.
- 22.5 Following the conclusion of an investigation, where the investigation finds the Organisation, an employee or a subcontractor of the Organisation, the Delivery Organisation, an employee or

a subcontractor of the Delivery Organisation has acted in a fraudulent manner, the Organisation shall:

- (a) where money has been misappropriated, pay to AusAID or the project the full value of the AusAID funds that have been misappropriated; or
- (b) where an item of property has been misappropriated, either return the item to AusAID or the project or if the item cannot be recovered or has been damaged so that it is no longer usable, replace the item with one of equal quality.

22.6 Following the conclusion of an investigation, where the investigation finds that a party other than the Organisation, an employee or subcontractor of the Organisation, the Delivery Organisation, an employee or a subcontractor of the Delivery Organisation, have acted in a fraudulent manner, the Contractor shall, at the Organisation's cost:

- (a) make every effort to recover any AusAID funds or funded property acquired or distributed through fraudulent activity, including without limitation, one or both of the following:
  - (i) taking recovery action in accordance with recovery procedures, including civil litigation, available in the Partner Country;
  - (ii) referring the matter to the relevant Partner Country police or other authorities responsible for prosecution of fraudulent activity; and
- (b) keep AusAID informed, in writing, on a monthly basis, of the progress of the recovery action.

22.7 If the Organisation considers that after all reasonable action has been taken to recover the funds or funded property and full recovery has not been achieved or recovery has only been achieved in part, the Organisation may seek approval from AusAID that no further recovery action be taken. The Organisation must provide to AusAID all information, records and documents required by AusAID to enable the AusAID delegate to make a decision on whether to approve non-recovery of funds or funded property.

## 23. COMPLIANCE WITH LAWS AND POLICIES

23.1 The Organisation must when providing any Services and procuring the Supplies have regard to and comply with, and use their best endeavours to ensure that all Delivery Organisations comply with, relevant and applicable laws, regulations and policies, both in Australia and in the Partner Country, including:

- (a) those in relation to occupational health and safety;
- (b) the Equal Opportunity for Women in the Workplace Act 1999 (Cth). In particular the Organisation must not enter into any sub-contracts, under this Agreement, with an employer named by the Director of the Equal Opportunity for Women Agency as currently not complying with the Act;

- (c) the Archives Act 1983 (“the Act”). In particular, the Organisation must:
  - (i) not arrange for, nor effect, a transfer of custody or ownership of any Data or Commonwealth record within the meaning of the Act without the prior written approval of AusAID and the NAA; and
  - (ii) comply with any reasonable direction given by AusAID for the purpose of transferring AusAID records to the NAA or providing the NAA with full and free access to those records at AusAID’s cost.
- (d) the Privacy Act 1988;
- (e) Part 111A of the Crimes Act 1914; and
- (f) those in relation to corrupt practices, including the Commonwealth Criminal Code provisions:
  - (iii) Division 70 relating to the bribery of foreign public officials; and
  - (iv) section 141.1 relating to the bribery of Commonwealth public officials; and
- (g) those in relation to organisations and individuals associated with terrorism, including 'terrorist organisations' as defined in Division 102 of the Commonwealth Criminal Code Act 1995 and listed in regulations made under that Act and regulations made under the Charter of the UN Act (Cth) 1945.

The Organisation must use their best endeavours to ensure that funds provided under this Agreement, do not provide direct or indirect support or resources to organisations and individuals associated with terrorism. If, during the course of this Agreement, the Organisation discovers any link whatsoever with any organisation or individual associated with terrorism it must inform AusAID immediately.

Further information about listed persons and entities is available from DFAT at: [www.dfat.gov.au/icat/persons\\_entities/explanatory\\_note.html](http://www.dfat.gov.au/icat/persons_entities/explanatory_note.html).

A full list of listed persons and entities is available from DFAT at: [www.dfat.gov.au/icat/freezing\\_terrorist\\_assets.html](http://www.dfat.gov.au/icat/freezing_terrorist_assets.html).

A list of listed 'terrorist organisations' for the purposes of the Commonwealth Criminal Code is available from National Security Australia at: [www.nationalsecurity.gov.au](http://www.nationalsecurity.gov.au).

- 23.2 The Organisation must when providing any Services and procuring the Supplies have regard to and operate in accordance with Australian policies on developmental aid to foreign countries including:
- (a) Gender and Development;
  - (b) Child Protection, in particular the child protection compliance standards at Attachment 1 to AusAID’s *Child Protection Policy*;



- (c) AusAID's family planning guidelines;
- (d) Environment. AusAID is bound by the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999*, which applies to all aid activities. The Organisation must:
  - (i) ensure that environmental requirements specified in the Funding Orders are implemented, monitored and reported;
  - (ii) comply with AusAID's Environmental Management System outlined in the *Environmental Management Guide for Australia's Aid Program*, including:
    - (A) assess and manage all actual or potential environmental impacts, both direct and indirect, to avoid or mitigate negative impacts and promote positive impacts;
    - (B) report regularly on any such impacts as required by the Funding Orders and NGOPI; and
  - (iii) comply with all relevant environmental laws and regulations of the Partner Country.

The *Environmental Management Guide for Australia's Aid Program* can be found at: <http://www.ausaid.gov.au/keyaid/envt.cfm>.

## 24. RESOLUTION OF DISPUTES

- 24.1 The Parties undertake to use all reasonable efforts in good faith to resolve any disputes which arise between them in connection with this Agreement and unless otherwise agreed by the Parties, the Parties shall at all times during the dispute proceed to fulfil their obligations under this Agreement.

## 25. ARBITRATION

- 25.1 Any dispute or difference arising between the Organisation and AusAID which cannot be settled by executive negotiation or mediation between the parties must be arbitrated in accordance with the laws for the time being in force in the Australian Capital Territory.

## 26. NOTICE

- 26.1 For the purpose of this Agreement, the address of a Party is the address set out below or another address which that Party may from time to time give notice in writing to each other Party. A notice required or permitted to be given by one Party to another under this Agreement must be in writing and is treated as having been duly given and received:
- (a) when delivered (if left at that Party's address);
  - (b) on the third Business Day after posting (if sent by pre-paid mail); or

- (c) on the Business Day of transmission (if given by facsimile and sent to the facsimile receiver number of that Party and no intimation having been received that the notice had not been received, whether that intimation comes from that Party or from the operation of facsimile machinery or otherwise).

**AusAID**

To: (Delegate name) (Position)

Postal Address: Australian Agency for International Development  
GPO Box 887  
CANBERRA ACT 2601

Street Address: 255 London Circuit  
CANBERRA ACT 2601

Facsimile: 02 6206 xxxx

For all correspondence relating to a particular Funding Order, contact the Initiative Manager responsible for arranging the Funding Order.

**Organisation:**

To: (organisation)  
Attention: (name)  
  
(position)

Postal Address:

Street Address:

Facsimile:

**27. DISCLOSURE OF INFORMATION**

- 27.1 AusAID may disclose matters relating to the Agreement, including the Agreement, except where such information may breach the *Privacy Act 1988*, to Commonwealth governmental departments and agencies, Commonwealth Ministers and Parliamentary Secretaries, and to the Commonwealth Parliament, including responding to requests for information from Parliamentary committees or inquiries.
- 27.2 This clause shall survive termination or expiration of the Agreement.

**28. MISCELLANEOUS**

**28.1 Waiver**

The failure, delay, relaxation or indulgence on the part of any Party in exercising any power or right conferred upon that Party by this Agreement does not operate as a waiver of that power or right, nor does any single exercise of any power or right preclude any other or further exercise of it or the exercise of any other power or right under this Agreement.

**28.2 Liability of Party**

If any Party to this Agreement consists of more than one person then the liability of those persons in all respects under this Agreement is a joint liability of all those persons and a separate liability of each of those persons.

**28.3 Entire agreement**

This Agreement constitutes the sole and entire arrangement between the Parties and a warranty, representation, guarantee or other term or condition of any nature not contained or recorded in this Agreement is of no force or effect.

**28.4 Severance**

If any provision of this Agreement is invalid and not enforceable in accordance with its terms, other provisions that are self-sustaining and capable of separate enforcement with regard to the invalid provision, are and continue to be valid and enforceable in accordance with their terms.

**28.5 Assignment**

No Party may assign or transfer any of its rights or obligations under this Agreement without the prior consent in writing of the other Party.

**28.6 Governing Law and Jurisdiction**

This Agreement is governed by, and is to be construed in accordance with, the law of the Australian Capital Territory and the Parties submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory and any court hearing appeals from those courts.

**28.7 Contra Proferentum**

No rule of construction shall apply in the interpretation of this Agreement to the disadvantage of one Party on the basis that such Party put forward or drafted this Agreement or drafted any provision of this Agreement.

**28.8 False and Misleading Information**

The Organisation acknowledges that it is aware that, in relation to section 137.1 of the *Commonwealth Criminal Code*, giving false or misleading information is a serious offence.

**28.9 Anti-Corruption**

The Organisation warrants that the Organisation shall not make or cause to be made, nor shall the Organisation receive or seek to receive any offer, gift or payment, consideration or benefit of any kind, which would or could be construed as an illegal or corrupt practice, either directly or indirectly to any party, as an inducement or reward in relation to the execution of this Agreement. In addition, the Organisation shall not bribe foreign public officials and use their best endeavours to ensure that all parties comply with this provision. Any such practice shall be grounds for immediate termination of this Agreement under **clause 18** by notice from AusAID.

## SCHEDULE 1 - DEED OF CONFIDENTIALITY

**THIS DEED POLL** is made on the \_\_\_\_\_ day of \_\_\_\_\_ [ ] in favour of **COMMONWEALTH OF AUSTRALIA** represented by the Australian Agency for International Development (“**AusAID**”) which is part of the Department of Foreign Affairs and Trade. **BY** (the “**Recipient**”).

### RECITALS

- A. (the “Organisation”) have entered into Head Agreement No. **xxxx**
- B. In undertaking work pursuant to the Head Agreement, the Recipient will have access to AusAID confidential information.

### THE RECIPIENT DECLARES AS FOLLOWS:

#### 1. INTERPRETATION

In this Deed:

“**AusAID Confidential Information**” means information that

- (a) is designated by AusAID as confidential; or
- (b) is personal information under the *Privacy Act 1988*,  
but does not include this Agreement or information which:
  - (c) is or becomes public knowledge other than by breach of this Agreement or any other confidentiality obligation; or
  - (d) has been independently developed or acquired by the Organisation, as established by written evidence.

#### 2. NON DISCLOSURE

- 2.1 The Recipient must not copy, reproduce or disclose any of the AusAID Confidential Information without the prior written consent of AusAID, which consent AusAID may grant or withhold in its absolute discretion.

#### 3. RESTRICTION ON USE

- 3.1 The Recipient must use the AusAID Confidential Information only for the purpose of the services pursuant to the Head Agreement.

**4. DELIVERY OF DOCUMENTS**

4.1 AusAID may, at any time and without notice, demand, either orally or in writing, the delivery to AusAID of all documents in the possession or control of the Recipient which contain the AusAID Confidential Information.

**5. SURVIVAL OF OBLIGATIONS**

5.1 The obligations in this Deed are perpetual.

**6. INDEMNITY**

6.1 The Recipient indemnifies AusAID against any claim, loss, liability or expense incurred by AusAID which is caused or contributed to by the Recipient's failure to comply with this Deed.

**EXECUTED** as a deed poll.

**SIGNED, SEALED and DELIVERED** ) .....  
by the Recipient in the presence of: ) Signature of ***PRINT NAME HERE***

.....  
Signature of witness

.....  
Name of witness



# GRANT AGREEMENT DEED

BETWEEN

**COMMONWEALTH OF AUSTRALIA**

represented by the Australian Agency for International Development  
(AusAID)

**ABN 62 921 558 838**

and

**ORGANISATION NAME**

**ABN xx xxx xxx xxx**

**FOR**

**Agreement Title**

**AUSAID AGREEMENT 00000**

**Comment [A1]:**  
Drafting note: Ensure  
Organisation name is in UPPER  
CASE.



DEED made                              day of                              [                      ]

**BETWEEN:**

**COMMONWEALTH OF AUSTRALIA** represented by the Australian Agency for International Development (“AusAID”) ABN 62 921 558 838 of the Department of Foreign Affairs and Trade

**AND**

ORGANISATION NAME, ABN xx xxx xxx xxx of Street Address (the “Organisation”).

**Comment [A2]:**  
Drafting note: Ensure  
Organisation name is in UPPER  
CASE.

**RECITALS:**

- A. AusAID wishes to provide the Organisation with a Grant to undertake an Activity.
- B. The Organisation wishes to accept the Grant subject to the terms and conditions in this Deed.

**OPERATIVE:**

AusAID and the Organisation promise to carry out and complete their respective obligations in accordance with this Deed including the Deed Conditions, schedules and any annexes contained herein.

IN WITNESS whereof this Deed has been executed by the Commonwealth, by an authorised officer, and has been executed by the Organisation by its authorised officer.

SIGNED for and on behalf of the  
**COMMONWEALTH OF AUSTRALIA**  
represented by the Australian Agency  
for International Development by:

in the presence of:

\_\_\_\_\_  
Signature of FMA Act s44 Delegate

\_\_\_\_\_  
Signature of witness

Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name of witness  
(Print)

Position, Section

\_\_\_\_\_  
Position, Section

**NOTE TO USERS:**

- Below are two different signature blocks (Options 1 & 2)
- Delete the signature block that does not apply
- You should confirm with the Organisation that will sign this Grant Agreement which situation/signature block applies if you are not sure
- Delete this box and all option boxes prior to finalising this Grant Agreement

**Highlight and delete this box before distribution of the Grant Agreement!**

**Option 1:**

Unless Option 2 signature block below applies (see guidance below for Option 2), insert this signature block.

**Highlight and delete this box before distribution of the Grant Agreement!**

SIGNED for and on behalf of  
**ORGANISATION NAME** by:

\_\_\_\_\_  
Name and Position  
(Print)

\_\_\_\_\_  
Signature

By executing this Deed the signatory warrants that he/she is duly authorised to execute this Grant Agreement Deed on behalf of the Organisation.

in the presence of:

\_\_\_\_\_  
Name of witness  
(Print)

\_\_\_\_\_  
Signature of witness

**Option 2:**

Insert this signature block for a company registered under the [Australian] *Corporations Act 2001* (Cth)  
[for example an Australian company]

Highlight and delete this box before distribution of the Grant Agreement!

**SIGNED** for and on behalf of

**ORGANISATION NAME** by: \_\_\_\_\_

**Comment [A3]:**  
Drafting note: Ensure  
Organisation name is in UPPER  
CASE.

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/company secretary

\_\_\_\_\_  
Name of director  
(Print)

\_\_\_\_\_  
Name of director/company secretary  
(Print)

## DEED CONDITIONS

### 1. INTERPRETATION

#### 1.1 Definitions

In this Deed, including the recitals unless the context otherwise requires:

“**Activity**” means the activity **Agreement Title** described in the Activity Proposal for which the Grant is provided.

“**Activity Proposal**” means the specific tasks and budget associated with the Activity included as **Schedule 1** to this Agreement.

“**Agreement**” means this Deed including all Parts and any schedules and annexes.

“**Agreement Material**” means all material created or required to be developed or created as part of, or for the purpose of undertaking the Activity, including documents, equipment, information data, sounds and images stored by any means.

“**Business Day**” means a day on which AusAID is open for business.

“**Commonwealth**” means Commonwealth of Australia or AusAID, as appropriate.

“**Deed**” means this Agreement comprising these Deed Conditions, schedules and any annexes.

“**Fraudulent Activity**”, “**Fraud**” or “**Fraudulent**” means dishonestly obtaining a benefit by deception or other means.

“**Grant**” means the amount of money as specified in the clause titled ‘Grants and Payment’ of this Agreement that has been approved by AusAID and paid to the Organisation subject to the conditions outlined in this Agreement for the Activity.

“**Independently Audited**” means financial records audited by a certified financial professional that is in no way linked or associated with the Activity or the Parties to this Agreement.

“**Intellectual Property**” means all copyright and all rights in relation to inventions (including patent rights), trade marks, designs and confidential information, and any other rights resulting from intellectual activity in the industrial, scientific, literary, and artistic fields recognised in domestic law anywhere in the world.

“**Partner Government**” means the Government of the Partner Country.

“**Partner Country**” means the country or countries in which the Activity is to be undertaken in whole or in part.

“**Party**” means AusAID or the Organisation.

“Personnel” means including Personnel, whether employed by the Organisation or engaged by the Organisation on a sub-contract basis or agents or volunteers of the Organisation, engaged in the provision of the Activity.

“Prior Material” means all material developed by the Organisation or a third party independently from the Activity whether before or after commencement of the Activity.

“Relevant List” means the lists of terrorist organisations made under Division 102 of the *Criminal Code Act 1995* (Cth) and the *Charter of the United Nations Act 1945* (Cth) posted at: <http://www.nationalsecurity.gov.au/agd/www/nationalsecurity.nsf/AllDocs/95FB057CA3DECF30CA256FAB001F7FBD?OpenDocument> and [http://www.dfat.gov.au/icat/UNSC\\_financial\\_sanctions.html#3](http://www.dfat.gov.au/icat/UNSC_financial_sanctions.html#3)

“Similar List” means any similar list to the World Bank List maintained by any other donor of development funding.

“World Bank List” means a list of organisations maintained by the World Bank in its “Listing of Ineligible Firms” or “Listings of Firms, Letters of Reprimand” posted at: <http://web.worldbank.org/external/default/main?theSitePK=84266&contentMDK=64069844&menuPK=116730&pagePK=64148989&piPK=64148984>

1.2 Deed prevails

If there is any inconsistency (whether expressly referred to or to be implied from this Deed or otherwise) between the provisions of the Deed Conditions and those of the schedules and any annexes, the schedules and any annexes are to be read subject to the Deed Conditions and the provisions of the Deed Conditions prevail to the extent of the inconsistency.

2. TERM OF THE AGREEMENT

2.1 The term of this Agreement commences upon execution by both parties being the date indicated at the front of this Agreement and continues until all obligations have been fulfilled under this Agreement, unless terminated earlier in accordance with this Agreement.

2.2 The Organisation must commence the Activity [choose the most appropriate no later than / on] [insert Activity Start Date] and must complete the Activity by [insert Activity Completion Date].

3. NOTICES

3.1 For the purpose of serving notices to either Party of this Agreement, a notice must be in writing and shall be treated as having been duly given and received:

- (a) when delivered (if left at that Party’s address);
- (b) on the third Business Day after posting (if sent by pre-paid mail); or
- (c) on the Business Day of transmission (if given by facsimile and sent to the facsimile receiver number of that Party and no intimation having been received that the notice had not been received, whether that intimation comes from that Party or from the operation of facsimile machinery or otherwise).

**Comment [A4]:**  
**Drafting Note:**  
The Agreement Start Date in AidWorks must be the date this Agreement is signed/dated (as per page. iii). You must ensure that the Agreement Start Date in AidWorks is the same date that this Agreement is signed by AusAID.

**Comment [A5]:**  
**Drafting Note:**  
The Agreement End Date entered into AidWorks needs to cover all reporting requirements (ie. is not before the final report/output/ under this Agreement is due (or final payment under the Agreement will be made (if applicable).

**Comment [A6]:** **Drafting Note:**  
The ‘Activity Start Date’ should not be before the Agreement start date (see Clause 2.1).

3.2 For the purposes of this Agreement, the address of a Party is the address set out below or another address of which that Party may give notice in writing to the other Party:

**AusAID:**

To: Name  
Position, Section

Postal Address: Australian Agency for International Development  
GPO Box 887  
CANBERRA ACT 2601 AUSTRALIA

Street Address: 255 London Circuit  
CANBERRA ACT 2601 AUSTRALIA

Facsimile: Fax

**Comment [A7]:**  
**Drafting Note:**  
AusAID Post's address and contact details may be substituted for AusAID's Canberra address and contact details

**Organisation**

To: Title First Name Surname  
Position

Postal Address: Postal Address

Street Address: Street Address

Facsimile: Fax

**Comment [A8]:**  
**Drafting Note:**  
You must specify both a Postal Address and a Street Address in this clause (even if these are the same).

**Comment [A9]:**  
**Drafting Note:**  
You must specify both a Postal Address and a Street Address in this clause (even if these are the same).

**4. GENERAL CONDITIONS**

- 4.1 The Organisation must carry out the Activity in accordance with the Activity Proposal and the terms and conditions of this Deed.
- 4.2 The Organisation must advise AusAID immediately of any difficulties or delays in implementation of the Activity.
- 4.3 The Organisation shall acknowledge in writing to AusAID receipt of the Grant immediately on its receipt.
- 4.4 The Grant and any interest earned or exchange rate gains must be used diligently and for the sole purpose of the Activity outlined in **Schedule 1** of this Agreement. Any interest earned or exchange rate gains made on the Grant must only be expended on the Activity.
- 4.5 The Organisation acknowledges that the Grant provided by AusAID to the Organisation for this Activity does not entitle the Organisation to any other or further grants.
- 4.6 The Organisation shall acknowledge AusAID Grant funding assistance provided under this Deed where appropriate and advise AusAID of matters relating to any publicity and media relations, prior to any publication or media release.

- 4.7 The Organisation must not represent itself and must ensure that its Personnel participating in the Activity do not represent themselves as being employees, partners or agents of the Commonwealth of Australia.
- 4.8 The Organisation will use its best endeavours to ensure that in its performance of the Activity all Personnel and their dependents, while in the Partner Country, respect the laws and regulations in force in the Partner Country.
- 4.9 The Organisation is responsible for the security of all of its Personnel and for taking-out and maintaining all appropriate insurances.
- 4.10 The Organisation must not assign its interest in this Agreement without first obtaining the consent in writing of AusAID.
- 4.11 No delay, neglect or forbearance by either Party in enforcing against the other any term or condition of this Agreement shall be deemed to be a waiver or in any way prejudice any right of that Party.
- 4.12 This Agreement is governed by, and is to be construed in accordance with, the law of the Australian Capital Territory and the Parties submit to the exclusive jurisdiction of the courts of the Australian Capital Territory and any court hearing appeals from those courts.

## 5. DEED AMENDMENTS

- 5.1 AusAID or the Organisation may propose amendments to this Agreement at any time for the purpose of improving the delivery of the Activity, the efficiency, cost-effectiveness and development impact of the Activity.
- 5.2 Changes to this Agreement (including to **Schedule 1** and any annexes) shall only be effected if agreed in writing and signed by both Parties in the form of a Deed of Amendment.

## 6. PROCUREMENT

- 6.1 The Organisation must not use the Grant to acquire any asset, apart from those detailed in the Activity Proposal without obtaining AusAID's prior written approval. Subject to the requirements of this clause, the Organisation shall own the assets acquired with the Grant unless specified otherwise in the Activity Proposal.
- 6.2 If the Grant is being used to procure goods or services, the Organisation must implement procedures so that procurement is undertaken in a manner consistent with the Australian Commonwealth Procurement Guidelines (<http://www.finance.gov.au/publications/fmg-series/procurement-guidelines/index.html>), in particular the core principle of achieving value for money and the supporting principles of:
  - (a) encouraging competition by ensuring non-discrimination in procurement and using competitive procurement methods;
  - (b) promoting use of resources in an efficient, effective and ethical manner; and
  - (c) making decisions in an accountable and transparent manner.
- 6.3 If the Grant is being used to procure goods, the Organisation must also ensure in its procurement of goods that:

- (a) the goods to be procured are of a satisfactory quality; and
- (b) the goods shall be delivered in good order and condition and in accordance with the Activity timetable.

6.4 If the Grant is being used to procure goods, the Organisation must maintain a Register of Activity Assets. The Register shall record non-consumable items funded under this Agreement or supplied by AusAID to the Activity which have a value of AUD1,000 (or equivalent) or more. In addition non-consumable items of a portable and attractive nature with a value of less than AUD1,000 (or equivalent) shall also be recorded. The Register shall show date of receipt of the asset at the Activity site, the cost, the purchase/payment document date and reference number, a description and identification number, and the location of the asset. Disposal or write-off of AusAID funded or provided assets shall be as agreed in writing by AusAID. The Register and other relevant documents such as import papers and manufacturers' warranties relating to the assets shall be available for audit as required by AusAID. The Register shall be reconciled with Activity assets at least every twelve months and the results of that reconciliation included in the Annual Reports required in clause titled 'Reports' in this agreement.

## 7. MONITORING AND EVALUATION

7.1 The Organisation must, if required by AusAID, permit AusAID to monitor and/or evaluate the Activity and/or use of the Grant. AusAID shall give the Organisation at least two (2) weeks notice of its intentions prior to commencing such a review. In that event, the Organisation must cooperate fully with any request for assistance pursuant to any such study.

## 8. INDEMNITY

8.1 The Organisation must at all times indemnify AusAID, its employees, agents and contractors (except the Organisation) ("**those indemnified**") from and against any loss or liability whatsoever suffered by those indemnified or arising from any claim, suit, demand, action or proceeding by any person against any of those indemnified where such loss or liability was caused or contributed to in any way by any wilfully wrongful, unlawful or negligent act or omission of the Organisation, or any of the Organisation's Personnel in connection with this Agreement.

8.2 The Organisation agrees that AusAID may enforce the indemnity in favour of the persons specified in **Clause 8.1** above for the benefit of each of such persons in the name of AusAID or of such persons.

8.3 The indemnity in this **Clause 8** is reduced to the extent that the loss or liability is directly caused by AusAID, its employees, agents or contractors (except the Organisation), as substantiated by the Organisation.

8.4 This indemnity shall survive termination or expiration of this Agreement.

## 9. INTELLECTUAL PROPERTY RIGHTS

9.1 The Intellectual Property in or in relation to Agreement Material shall vest in AusAID upon its creation. AusAID grants to the Organisation a revocable, non-exclusive, world-wide, royalty-free licence to use the Agreement Material.



9.2 **Clause 9.1** does not affect the ownership of Intellectual Property in any Prior Material incorporated into the Agreement Material, but the Organisation grants to AusAID a permanent, irrevocable, non-exclusive, world-wide, royalty-free licence to use, reproduce, adapt and otherwise exploit such Prior Material in conjunction with the Agreement Material. The licence granted under this **Clause 9.2** includes the right of AusAID to sub-license any of its employees, agents or contractors to use, communicate, reproduce, adapt and otherwise exploit the Prior Material incorporated into the Agreement Material for the purposes of performing functions, responsibilities, activities or services for, or on behalf of, AusAID.

10. **COMPLIANCE WITH LAWS, GUIDELINES AND POLICIES**

10.1 The Organisation and its Personnel must have regard to and comply with, relevant and applicable laws, guidelines, regulations and policies, including those in Australia and in the Partner Country. A list, as amended from time to time, of Australian laws and guidelines that may apply to the delivery of developmental aid to foreign countries can be found on the AusAID website: <http://www.ausaid.gov.au/business/contracting.cfm>. This list is not exhaustive and is provided for information only. The provision of this list does not relieve the Organisation from complying with the obligations contained in this clause headed 'Compliance with Laws, Guidelines and Policies'.

10.2 The Organisation must have regard to and comply with the Statement of International Development Practice Principles located at **Schedule 2** to this Agreement.

10.3 The Organisation and its Personnel must comply with:

- (a) AusAID's *Child protection policy* (<http://www.ausaid.gov.au/publications/pubs.cfm?Type=PubPolicyDocuments>) and particularly the child protection compliance standards at Attachment 1 to the policy. AusAID may audit the Organisation's compliance with AusAID's *Child protection policy* and child protection compliance standards. The Organisation must participate cooperatively in any reviews conducted by AusAID;
- (b) The strategy 'Development for All: Towards a Disability-Inclusive Australian Aid Program 2009-2014' ([http://www.ausaid.gov.au/publications/pdf/FINAL%20AusAID\\_Disability%20for%20All.pdf](http://www.ausaid.gov.au/publications/pdf/FINAL%20AusAID_Disability%20for%20All.pdf)), and in particular the strategy's six guiding principles; and
- (c) *Family Planning and the Aid Program: Guiding Principles* (August 2009), accessible on AusAID's website (<http://www.ausaid.gov.au/keyaid/health.cfm>).

10.4 The Organisation must use its best endeavours to ensure:

- (a) that individuals or organisations involved in implementing the Activity are in no way linked, directly or indirectly, to organisations and individuals associated with terrorism; and
- (b) that the Grant provided under this Agreement is not used in any way to provide direct or indirect support or resources to organisations and individuals associated with terrorism.

**Comment [A10]:**  
**Drafting Note:** If this Activity is 'working with children' then the Activity Proposal (refer Schedule 1) must: (i) Identify all Personnel positions to be working with children, and (ii) Ensure that the activity risk assessment includes assessment of the risks to children. Contact AusAID Child Protection Officer if further guidance is required.

- 10.5 The Organisation must have regard to the Australian Government guidance "Safeguarding your organisation against terrorism financing: a guidance for non-profit organisations," available at <http://www.nationalsecurity.gov.au/npo>.
- 10.6 If, during the course of this Agreement, the Organisation discovers any link whatsoever with any organisation or individual listed on a Relevant List it must inform AusAID immediately.
- 10.7 If, during the course of this Agreement, the Organisation is listed on a World Bank List or Similar List it must inform AusAID immediately.
- 10.8 The Organisation agrees that:
- (a) The Organisation and its employees, agents, representatives or its subcontractors must not engage in any Fraudulent Activity. The Organisation is responsible for preventing and detecting Fraud.
  - (b) The Organisation must report in writing within five (5) working days to AusAID any detected, suspected, or attempted Fraudulent Activity involving the Activity. AusAID may direct the Organisation to investigate the alleged Fraud and the Organisation must undertake an investigation at the Organisation's cost and in accordance with any directions or standards required by AusAID.
  - (c) Following the conclusion of any investigation which identifies acts of a Fraudulent nature, the Organisation shall:
    - (i) make every effort to recover any AusAID Grant, the subject of Fraudulent Activity;
    - (ii) refer the matter to the relevant police or other authorities responsible for prosecution of Fraudulent Activity; and
    - (iii) be liable for the repayment of any Grant funds misappropriated by the Organisation, its agents, representatives or subcontractors.
  - (d) The obligations of the Organisation under paragraphs 10.8(b) and 10.8(c) above shall survive the termination or expiration of this Agreement.
  - (e) The Organisation warrants that the Organisation shall not make or cause to be made, nor shall the Organisation receive or seek to receive, any offer, gift or payment, consideration or benefit of any kind, which would or could be construed as an illegal or corrupt practice, either directly or indirectly to any party, as an inducement or reward in relation to the execution of this Agreement. In addition, the Organisation shall not bribe public officials and shall ensure that its delivery organisations comply with this provision. Any breach of this clause shall be grounds for immediate termination of this Agreement by notice from AusAID.

## 11. TERMINATION

### 11.1 If the Organisation:

- (a) becomes, or AusAID considers there is a reasonable prospect of the Organisation becoming bankrupt, insolvent, deregistered or no longer able to undertake the Activity to a standard acceptable to AusAID;

- (b) makes an assignment of its estate for the benefit of creditors or enters into any arrangement or composition with its creditors;
- (c) fails to commence, or in the opinion of AusAID, fails to make satisfactory progress in carrying out the Activity and such failure has not been remedied within the time specified in a written request from AusAID to remedy the failure;
- (d) assigns its interest in this Agreement without the consent in writing of AusAID;
- (e) is, during the term of this Agreement, listed on a World Bank List, Relevant List or Similar List; or
- (f) breaches any term of this Agreement and such breach has not been remedied within the time stipulated in a written request notice from AusAID to remedy the breach;

then in every such case AusAID shall be entitled to terminate this Agreement forthwith but without prejudice to any of its other rights.

- 11.2 In addition, either Party may terminate this Agreement by giving to the other a notice to terminate in writing stating the reasons for termination.
- 11.3 AusAID may terminate this Agreement immediately by notice in writing to the Organisation if the Organisation breaches any of its obligations under **Clause 10**.
- 11.4 In the event of any termination, the Organisation must provide an Independently Audited statement of expenditure of the Grant within thirty (30) days of the date of the notice to terminate, signed by the head of the Organisation, and return any uncommitted unspent Grant funds to AusAID.
- 11.5 In the event that a notice to terminate is given by either Party the Organisation must:
- (a) immediately and forthwith do everything possible to prevent and mitigate all losses, costs and expenses arising in consequence of the termination of this Agreement and shall in a prompt and orderly manner cease expenditure of any uncommitted Grant funds for the Activity; and
  - (b) refund any uncommitted part of any tranche or Grant already paid by AusAID, together with any uncommitted or unspent interest, within thirty (30) days of the date of the notice to terminate.
- 11.6 In the event that a notice to terminate is given by either party AusAID shall not be liable to pay compensation in an amount which, in addition to any amounts paid or due or becoming due to the Organisation under this Agreement, together would exceed the amount of the total financial limitation of this Agreement, as specified in clause headed 'Grants and Payment'.

## 12. ACCOUNTS AND RECORDS

- 12.1 The bank account used by the Organisation must be in the name of the Organisation and must not be a personal bank account.
- 12.2 The Organisation must maintain a sound administrative and financial system capable of verifying all statements of acquittal. In addition, the Organisation must:

- (a) keep proper and detailed accounts, records and assets registers along with adequate Activity management records providing clear audit trails in relation to expenditure under this Agreement;
- (b) afford adequate facilities for audit and inspection of the financial records referred to in this Agreement by AusAID and its authorised representatives at all reasonable times and allow copies and extracts to be taken;
- (c) the accounts and records must be held by the Organisation for the term of this Agreement and for a period of seven (7) years from the date of expiry or termination of this Agreement;
- (d) if requested by AusAID, provide an acquittal, certified by the senior financial officer or the head of the Organisation, of Grant funds spent to date against the budget in the Activity Proposal; and
- (e) if reasonably requested by AusAID, provide an Independently Audited statement of Activity expenditure by an auditor nominated by AusAID at no cost to AusAID.

13. **AusAID USE OF AGREEMENT INFORMATION**

13.1 AusAID may disclose matters relating to this Agreement, including this Agreement, and other relevant information, except where such information may breach the *Privacy Act 1988* (Cth), to Commonwealth governmental departments and agencies, Commonwealth Ministers and Parliamentary Secretaries, and to the Commonwealth Parliament, including responding to requests for information from Parliamentary committees or inquiries. In addition, AusAID may publicly report information regarding this Agreement. This Clause shall survive termination or expiration of this Agreement.

14. **REPORTS**

**Insert the following clauses if the Activity is 12 months in duration or less:**

14.1 Within thirty (30) days of completion of the Activity the Organisation shall submit a final report which provides a brief outline of the Activity and in more detail covers key outcomes compared with objectives, development impact, sustainability and lessons learned.

14.2 Attached to this report will be a statement acquitting all Grant funds ('final Grant acquittal'). The statement must acquit the Grant against the budget referred to in the Activity Proposal and must be signed by the senior financial officer or the head of the Organisation, indicating that the Grant has been spent in accordance with the terms of this Agreement. Any unspent Grant funds or interest must be repaid to AusAID with the final report and final Grant acquittal. The Grant acquittal must include details of any interest earned on the Grant. The final Grant acquittal acquitting all Grant funds shall be subject to the internal and external auditing procedures laid down in the rules and regulations applicable to the Organisation and must also be Independently Audited and certified. **The cost of an independent external audit required by this clause may be payable from the Grant.**

14.3 The final report and attached statement acquitting all Grant funds should be sent to:

Name  
Position, Section  
**Australian Agency for International Development**

**Comment [A11]:**  
Drafting Note: Ensure that the cost of the independent external audit required by this clause is factored into the budget in the Organisation's Activity Proposal (so that this expense will not be payable by AusAID in addition to the budget and the financial limitation for this Agreement). -  
*Delete this drafting note.*

GPO Box 887  
CANBERRA ACT 2601 AUSTRALIA  
Email

**Comment [A12]:**  
**Drafting Note:**  
AusAID Post's address and contact details may be substituted for AusAID's Canberra address and contact details

in the following format:

- (a) one bound hard copy; and
- (b) one electronic version in PDF (Portable Document Format).

**Insert the following clauses if the Activity is more than 12 months in duration:**

- 14.1 The Organisation shall submit an annual report, on the anniversary of the Activity Start Date, which should not exceed five (5) pages and which has two basic parts:
- (a) A review of implementation progress to date; and
  - (b) An implementation strategy and work program for the coming period that:
    - (i) incorporates any lessons from the assessment of Activity progress;
    - (ii) outlines the expected outputs and development results of the proposed program of work; and
    - (iii) describes the inputs, work and outputs of both the Organisation and any other key stakeholders.
- 14.2 Within thirty (30) days of completion of the Activity the Organisation shall submit a final report which provides an outline of the completed Activity and in more detail covers key outcomes compared with objectives, development impact, sustainability and lessons learned.
- 14.3 Attached to the final report will be a statement acquitting all of the Grant funds ('final Grant acquittal'). The statement must acquit the Grant against the budget referred to in the Activity Proposal and must be signed by the senior financial officer or the head of the Organisation, indicating that the Grant has been spent in accordance with the terms of this Agreement. Any unspent Grant funds, interest earned or exchange rate gains must be repaid to AusAID with the final report and final Grant acquittal. The final Grant acquittal must include details of any interest earned or exchange rate gains on the Grant. The final Grant acquittal acquitting all Grant funds shall be subject to the internal and external auditing procedures laid down in the rules and regulations applicable to the Organisation and must also be Independently Audited and certified. The cost of an independent external audit required by this clause may be payable from the Grant.
- 14.4 The annual report and final report with attached statement acquitting all Grant funds should be sent to:

Name  
Position, Section  
Australian Agency for International Development  
GPO Box 887  
CANBERRA ACT 2601 AUSTRALIA  
Email

**Comment [A13]:**  
**Drafting Note:** Ensure that the cost of the independent external audit required by this clause is factored into the budget in the Organisation's Activity Proposal (so that this expense will not be payable by AusAID in addition to the budget and the financial limitation for this Agreement). -- Delete this drafting note.

**Comment [A14]:**  
**Drafting Note:**  
AusAID Post's address and contact details may be substituted for AusAID's Canberra address and contact details

in the following format:

- (a) one bound hard copy; and
- (b) one electronic version in PDF (Portable Document Format).

15. GRANTS AND PAYMENT

Insert the most appropriate Clause

15.1 Grant funds of **[Insert currency and value]**, plus GST if any up to a maximum amount of **[Insert currency and 10% of value if this is an Australian Organisation only]** shall be payable as an acquittable Grant by AusAID within thirty (30) days of the date of this Agreement and receipt of a valid invoice.

OR

15.1 Grant funds up to a maximum of **[Insert currency and value]**, plus GST if any up to a maximum amount of **[Insert currency and 10% of value if this is an Australian Organisation only]** shall be payable as an acquittable Grant by AusAID in annual tranches divided as follows:

Indicative Date	Tranche Number	Amount of Grant Funds
Refer to <b>Clause 15.2</b> of this Agreement	1	Insert currency and value
xxxx	2	Insert currency and value
xxxx	3	Insert currency and value

15.2 Tranche 1 shall be payable by AusAID within thirty (30) days of the date of this Agreement and receipt of a valid invoice. Subsequent tranches shall be payable subject to the provision of a statement of acquittal against the budget in the Activity Proposal, of **[Insert percentage]** % of the previous tranche, a valid invoice and subject to satisfactory progress as determined by AusAID. The statement of acquittal must be signed by the senior financial officer or the head of the Organisation indicating that the Grant funds being acquitted have been expended, in accordance with the terms of this Agreement.

16. CLAIMS FOR PAYMENT

16.1 Invoices must be submitted when due in accordance with this Agreement, in a form identifying this Agreement title and Agreement number **00000**. Invoices must also contain the Payment Event number(s) notified by AusAID.

16.2 All invoices must be **made to:**

Chief Finance Officer  
 Australian Agency for International Development  
 GPO Box 887  
 CANBERRA ACT 2601 AUSTRALIA

- 16.3 Invoices should be sent to the above address. Alternatively AusAID will accept electronic invoices. These can be sent to [accountsprocessing@ausaid.gov.au](mailto:accountsprocessing@ausaid.gov.au)
- 16.4 Where Australian GST applies to this Agreement all invoices must be in the form of a valid tax invoice. Invalid tax invoices will be returned to organisations. Information on what constitutes a valid tax invoice can be found at <http://www.ato.gov.au/businesses/content.asp?doc=/content/50913.htm>

**SCHEDULE 1 – ACTIVITY PROPOSAL  
TO GRANT AGREEMENT DEED NUMBER 00000**

*(Insert Activity Proposal)*



**SCHEDULE 2 –  
STATEMENT OF INTERNATIONAL DEVELOPMENT PRACTICE PRINCIPLES**

**A Basic Standard for Engagement with Not-For-Profit Organisations**

The Statement of International Development Practice Principles (Attached) has been developed in consultation with the Australian Council for International Development (ACFID). It is **founded on the good development practice and experience of accredited Australian Non-Government Organisations (NGOs)** and other international development agencies over the last three decades.

The Statement takes account of the Accra Action Agenda on Aid Effectiveness, and in particular, encourages a participatory approach to development. 'Not for profit' organisations are strongly encouraged to work in partnership with others thereby reducing the burden on communities and governments with whom they work. The Statement seeks to articulate the minimum standards and commitment that AusAID expects from all 'not-for-profit' organisations that it funds. It will form an annex to grant agreements with not-for-profit organisations that are not accredited with AusAID.

The Principles are **not aimed at accredited Australian NGOs** which have already undergone a rigorous accreditation process.

## **Statement of International Development Practice Principles**

This Statement of International Development Practice Principles (The Principles) promotes the active commitment of **all non-accredited, not-for-profit organisations funded by AusAID** to the fundamentals of good development practice, and to conducting their activities with integrity, transparency and accountability.

The Principles are founded on a premise of **'do no harm'** and drawn from good practice principles in the international development not-for-profit sector and international development community more broadly. In line with Aid Effectiveness principles, when planning interventions, not-for-profit organisations are encouraged to consider: what other agencies are doing in the chosen area of focus; where their organisation can add value; and how they can join with others to increase the impact and sustainability of their activities.

Where relevant, AusAID encourages eligible Australian organisations to work towards becoming Australian Council for International Development (ACFID) Code of Conduct signatories.

## **International Development Principles**

Lessons drawn from best practice NGO and civil society programs recognise the importance of working in partnerships, building creative and trusting relationships with people of developing countries and supporting basic program standards which:

- > give priority to the needs and interests of the people they serve and involve beneficiary groups to the maximum extent possible in the design, implementation and evaluation;
- > promote an approach that includes all people in a community and ensures the most vulnerable, including people with disability, women and children, are able to access, and benefit equally, from, international development assistance;
- > encourage self help and self-reliance among beneficiaries;
- > avoid creating dependency through the facilitation of active participation and contributions (as appropriate) by the most vulnerable;
- > respect and foster all universally agreed international human rights, including social, economic, cultural, civil and political rights;
- > are culturally appropriate and accessible;
- > seek to enhance gender equality;
- > recognise and put in place processes to mitigate against the vulnerability of not for profit organisations to potential exploitation by organised crime and terrorist organisations;
- > have appropriate mechanisms in place to actively prevent, and protect children from harm and abuse;
- > integrate environmental considerations and mitigate against adverse environmental impacts; and
- > promote collaborative approaches to development challenges including through working in partnerships and avoiding duplication of effort.

All non-accredited, not for profit organisations receiving grant funding from AusAID commit to apply these principles of good development practice, and adhere to the organisational integrity and accountability standards set out on the following page.

## **Organisational Integrity and Accountability for Development**

AusAID grant funds and resources are designated for the purposes of international aid and development (including development awareness). They can not be used to promote a particular religious adherence, missionary activity or evangelism, or to support partisan political objectives, or an individual candidate or organisation affiliated to a particular political movement. AusAID reserves the right to undertake an independent audit of an organisation's accounts, records and assets related to a funded activity, at all reasonable times.

In all of its activities and particularly in its communications to the public, AusAID expects not-for-profit organisations it works with to accord due respect to the dignity, values, history, religion, and culture of the people it supports and serves, consistent with principles of basic human rights.

### ***Not-for-profit organisations working with AusAID should:***

- > not be a willing party to wrongdoing, corruption, bribery, or other financial impropriety in any way in any of its activities;
- > take prompt and firm corrective action whenever and wherever wrongdoing is found among its Governing Body, paid staff, contractors, volunteers and partner organisations;
- > have internal control procedures which minimise the risk of misuse of grant funds and processes and systems that ensure grant funds are used effectively to maximise development results;
- > establish reporting mechanisms that facilitate accountability to members, donors and the public;
- > have adequate procedures for the review and monitoring of income and expenditure and for assessing and reporting on the effectiveness of their aid;
- > have a policy to enable staff confidentially to bring to the attention of the Governing Body evidence of misconduct on the part of anyone associated with the Organisation, including misconduct related to the harm and abuse of children;
- > be aware of terrorism-related issues and use their best endeavours to ensure that grant funds do not provide direct or indirect support or resources to organisations and individuals associated with terrorism and/or organised crime; and
- > ensure that individuals or organisations involved in implementing activities on behalf of the Organisation are in no way linked, directly or indirectly, to organisations and individuals associated with terrorism and/or organised crime.

## **AusAID Grant Agreement Requirements**

Each AusAID grant agreement also comes with obligations for both AusAID and the Organisation being funded. These are spelt out in detail in the grant agreement. The Principles will not affect or diminish the obligations or liabilities of the Organisation under the grant agreement as outlined in the grant agreement conditions.

Broadly speaking, any Organisation funded by the Australian Government, through AusAID, is required to comply with relevant and applicable laws, regulations and policies, including those in Australia and in the country/ countries in which they are operating. In particular, the Organisation needs to observe the contractual requirements regarding Child Protection and Counter Terrorism.

## **Additional Information and Related Links**

**Further information on AusAID's Child Protection Policy, Counter Terrorism and other applicable laws and policies can be found on AusAID's website at:**

[http://www.ausaid.gov.au/business/pdf/Lists\\_of\\_Laws\\_and\\_Guidelines\\_for\\_Contractors.pdf](http://www.ausaid.gov.au/business/pdf/Lists_of_Laws_and_Guidelines_for_Contractors.pdf)  
[http://www.ausaid.gov.au/publications/pdf/child\\_protection.pdf](http://www.ausaid.gov.au/publications/pdf/child_protection.pdf)

**Further information on terrorist organisations listed under Division 102 of the Criminal Code Act 1995 (Cth) and the DFAT Consolidated List of persons and entities subject to UN sanctions regimes maintained in accordance with the Charter of the United Nations Act 1945 (Cth) can be found at:**

[http://www.dfat.gov.au/icat/UNSC\\_financial\\_sanctions.html#3](http://www.dfat.gov.au/icat/UNSC_financial_sanctions.html#3)  
<http://www.nationalsecurity.gov.au/agd/www/nationalsecurity.nsf/AllDocs/95FB057CA3DECF30CA256FAB001F7FBD?OpenDocument>

**Further information on AusAID Accreditation and the ACFID Code of Conduct can also be found at:**

<http://www.ausaid.gov.au/ngos/accreditation.cfm>  
<http://www.acfid.asn.au/code-of-conduct>

**Further information on Aid Effectiveness can be found at:**

[http://www.oecd.org/department/0,3355,en\\_2649\\_3236398\\_1\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/department/0,3355,en_2649_3236398_1_1_1_1_1,00.html)  
[http://www.oecd.org/document/18/0,3343,en\\_2649\\_3236398\\_35401554\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/18/0,3343,en_2649_3236398_35401554_1_1_1_1,00.html)





**integrity • values •  
accountability**

**Australian Council for International Development**

*incorporated in the Australian Capital Territory*

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*Amended 30 October 2009*

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# ACFID CODE OF CONDUCT

## For Non Government Development Organisations



This Code of Conduct sets out standards and requirements to which signatories to the Code are bound and against which **complaints and compliance is assessed**.

### 1. Preamble

- 1.1 This Code of Conduct defines standards of governance, management, financial control and reporting with which non government development organisations (NGDOs) should comply. It identifies mechanisms to ensure accountability in NGDO use of public monies. The Code aims to maintain and enhance standards throughout the NGDO community, ensuring public confidence in: the integrity of individuals and Organisations comprising the NGDO community; and quality and effectiveness of NGDO programs.
- 1.2 Organisations which are signatories to this Code aim to build creative and trusting relationships with people of developing countries and to meet program standards which:
  - give priority to the needs and interests of the people they serve;
  - encourage self help and self-reliance among beneficiaries and thus avoid creating dependency;
  - involve beneficiary groups to the maximum extent possible in the design, implementation and evaluation of projects and programs;
  - respect and foster internationally recognised human rights, both socio-economic and civil-political;
  - seek to enhance gender equity; and
  - are based on an understanding of the history and culture of the people served.
- 1.3 NGDOs are required to meet a range of state and federal legal obligations which are presumed in this Code. These obligations may include corporations laws, rules of incorporation of associations, fundraising and charitable institutions legislation, privacy legislation, equal employment opportunity principles, occupational health and safety standards, anti discrimination legislation, intellectual property and copyright legislation and other codes of ethics.



## 2. Organisational Integrity

- 2.1 In all of its activities and particularly its communications to the public, the Organisation will accord due respect to the dignity, values, history, religion, and culture of the people with whom it works consistent with principles of basic human rights.
- 2.2 The Organisation will be formed voluntarily and be not-for-profit.
- 2.3 The Organisation will oppose and not be a willing party to wrongdoing, corruption, bribery, or other financial impropriety in any of its activities. It shall take prompt and firm corrective action whenever and wherever wrongdoing is found among its Governing Body, paid staff, contractors, volunteers and partner Organisations.
- 2.4 The Organisation will have a policy to enable staff confidentially to bring to the attention of the Governing Body evidence of misconduct on the part of anyone associated with the Organisation. All reports must be channelled through the Chief Executive Officer unless it is an issue concerning the Chief Executive Officer which should be taken directly to a member of the Governing Body.
- 2.5 The Organisation will conduct itself in ways that do not denigrate other agencies, or make misleading or false public statements regarding other agencies.
- 2.6 The Organisation will have policies and procedures to promote the safety and well being of all children accessing their services and programs, particularly to minimise the risk of abuse of children.
- 2.7 Funds and other resources designated for the purposes of **aid and development** will be used only for those purposes and will not be used to promote a particular religious adherence or to support a political party, or to promote a candidate or organisation affiliated to a political party.
- 2.8 An Organisation (being an Australian NGDO) should only disburse donated funds or resources to a third party (including to an international affiliate or an overseas partner organisation) for use in relation to an aid and development program if it is satisfied that:
  - a. the particular aid and development program is aligned with or consistent with the Organisation's strategy for achieving its objects and purpose;
  - b. the third party to whom funds or resources are to be disbursed has the capacity to utilise the funds or resources in accordance with the specific instructions of the Organisation, in accordance with relevant provisions of the Code of Conduct and in a manner consistent with the Organisation's donor promise, express or implied;
  - c. the funds and resources will be disbursed in accordance with relevant laws including counter terrorism financing and anti-money laundering legislation; and
  - d. appropriate control and risk management mechanisms (such as contractual arrangements specifying funding conditions and relevant reporting and monitoring obligations) are in place to mitigate the risk of misappropriation or improper use of the funds or resources once disbursed.

### **3. Governance**

- 3.1 An Organisation's governing instrument (constitution, articles of association, rules, by-laws or similar documents) will be consistent with legislative requirements and set forth the Organisation's basic goals and purposes, define membership, governance structure of the Organisation including the frequency of meetings (at least two a year) and the size of a quorum.
- 3.2 Each Organisation will have a governing body elected/appointed by members from within the membership/supporters. The Governing Body will approve the annual budget and may delegate authority to staff or others but must accept ultimate responsibility for governance over all aspects of the Organisation. There should be clearly defined lines of authority between the Governing Body and management.
- 3.3 There will be written policies covering appointment, termination and, where applicable, remuneration of members of the Governing Body. The Organisation will have policies restricting the number of paid staff who are voting members of the Governing Body.
- 3.4 Members of the Governing Body, paid staff, and volunteers will make known to the Governing Body any conflict of interest or any affiliation they might have with an actual or potential supplier of goods and services, recipient of grant funds or Organisation with competing or conflicting objectives. Members of the Governing Body and paid staff will absent themselves from discussion and abstain from voting or otherwise participating in the decision on any issue in which there is a conflict of interest. Large or otherwise inappropriate gifts to members of the Governing Body or staff for personal use shall be forbidden.
- 3.5 The Governing Body will commit the Organisation to open and accurate disclosure of information concerning its goals, programs, finances and governance. Due regard will be given to the human rights and personal safety of staff, partners and aid recipients, legal requirements regarding privacy and confidentiality, proprietary information and personnel matters.
- 3.6 The Organisation will hold an annual general meeting of its members as defined in its governing instrument and which meets the requirements of the legislation under which the Organisation is incorporated. The AGM will receive the annual audited financial statements and appoint an independent auditor for the subsequent year(s).

### **4. Communication with the Public**

- 4.1 An Annual Report is to be produced and made available to the organisations own members, supporters and members of the public upon request.
- 4.2 Fundraising solicitations will be truthful, will accurately describe the Organisation's identity, purpose, programs, and needs and will only make claims which the Organisation can fulfil. There will be no material omissions or exaggerations of fact, no use of misleading photographs, nor any other communication which would tend to create a false impression or misunderstanding.
- 4.3 In all fundraising activities initiated or authorised by it, the Organisation will have policies (consistent with the Privacy Act 1988) set up to protect donors' rights to:
  - have their names deleted from mailing lists;
  - have their names deleted from mailing lists the Organisation may intend to share;
  - be informed whether those seeking donations are volunteers, paid staff or agents of the Organisation;

- be informed about the causes for which funds are being raised;
- get information on the application of their donation; and
- be able to identify collectors and have documentation confirming the bona fides of the Organisation.

4.4 The Organisation will be responsible for all fundraising activities outsourced to a third party and will put all such contracts and agreements in writing.

## **5. Finances**

5.1 The Organisation will have internal control procedures which minimise the risk of misuse of funds. Reporting mechanisms which facilitate accountability to members, donors and the general public will be used. The Organisation will have adequate procedures for the review and monitoring of income and expenditure. Loans to and transactions with Governing Body members or related parties shall be publicly disclosed. Loans to staff shall be disclosed to the Governing Body.

5.2 Notwithstanding any other legal requirements, the Organisation must publish in their Annual Report, financial statements prepared in accordance with the Code of Conduct Summary Financial Report Format found in the Guidance Document to the ACFID Code of Conduct. Additionally, organisations may choose to publish their Full Financial Statements within their Annual Report.

5.3 Code of Conduct Summary Financial Reports and Full Financial Reports must be audited by at least a qualified accountant who is a member of CPA Australia, the Institute of Chartered Accountants in Australia, the National Institute of Accountants or by a Registered Company Auditor. The Auditor's statement of the summary reports presented must accompany the financial report in the Annual Report.

5.4 Where an organisation chooses to publish only their Code of Conduct Summary Financial Reports in their Annual Report and not the organisation's Full Financial Report, the Annual Report must make reference to the fact that the Full Financial Report is available on request. Any other organisational publications that detail, summarise, or comment on financial performance must also indicate that the Full Financial Report is available on request.

5.5 Donations shall be used as promised or implied in fundraising appeals or as requested by the donor. When funding is invited from the general public for a specific purpose, the Organisation shall have a plan for handling any excess and shall make this known as part of the appeal. Organisations shall substantiate, upon request, that their application of funds is in accordance with donor intent or request.

5.6 The use of ratios in publications shall at all times be accompanied by a note explaining how these have been determined.

## **6. Personnel and Management Practice**

6.1 The Organisation will seek to achieve best practice in its personnel policies in response to initiatives in the aid sector and to changes in working and legal environments. The Organisation will have well defined policies and procedures relating to paid staff including expatriate and local staff employed overseas and volunteers working in Australian or overseas. These policies and procedures will clearly define and protect the rights and safety of personnel assuring fair treatment in all matters. Policies and procedures relating to staff and volunteers based outside Australia will be informed by the *People in Aid: Code of best practice in the management and support of aid personnel*.

- 6.2 The Organisation's expectations of its employees' and volunteers' professional conduct shall be clearly communicated and consistent with the requirements of the ACFID Code of Conduct.
- 6.3 The Organisation will be committed to continuous improvement in its management practice including the provision of regular opportunity to employees for training and professional development.
- 6.4 The Organisation will have policies and strategies to promote gender equity especially in senior positions in the management and governance of the Organisation.

## **7. Reference to Other Codes and Standards**

- 7.1 Organisations that are signatories to the ACFID Code of Conduct are guided by the strategies and standards of engagement for program management in the ACFID NGO Effectiveness Framework.
- 7.2 Organisations which are signatories to this Code, will also be informed by the following codes and standards where they are relevant to the work of the Organisation:
- *The Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief*
  - *Sphere Humanitarian Charter and Minimum Standards in Disaster Response*

## **8. Complaints Handling Process**

- 8.1 No legal representation or hearings

No person has a right to:

- a. legal representation;
- b. a hearing; or
- c. make oral submissions,

under this complaint handling process set out in this clause 8.

- 8.2 **Complaint received**

A Complaint may be made by any person and must:

- a. be in writing, and should be addressed to the chairperson of the ACFID Code of Conduct (**Chairperson**);
- b. include the name and contact details of the person making the Complaint (**Complainant**),

and should be made in the form (if any) approved by the ACFID Code of Conduct Committee.

- 8.3 **Complaint to be acknowledged**

Receipt of the Complaint will be confirmed in writing to the Complainant.

#### 8.4 Chairperson review of Complaint

The Chairperson (in consultation with one member of the ACFID Code of Conduct Committee of the Chairperson's choosing) will review the Complaint and decide whether:

- a. to recommend to the ACFID Code of Conduct Committee that the Complaint be dismissed. If such a recommendation is made and the ACFID Code of Conduct Committee does not accept the recommendation, the Chairperson must appoint an Investigating Officer under clause 8.5;
- b. to recommend to the ACFID Code of Conduct Committee that the Complaint be referred to a more appropriate body. If such a recommendation is made and the ACFID Code of Conduct Committee does not accept the recommendation, the Chairperson must appoint an Investigating Officer under clause 8.5; or
- c. to appoint an Investigating Officer under clause 8.5 to investigate the Complaint further.

If the ACFID Code of Conduct Committee accepts a recommendation made under paragraph (a) or paragraph (b) of this clause 8.4, then the Complaint is dismissed (in the case of a recommendation under paragraph (a)) or must be referred to the other body (in the case of a recommendation under paragraph (b)).

#### 8.5 Investigating Officer review of Complaint

- a. If a Complaint is to be investigated following the Chairperson's review under clause 8.4, the Chairperson must appoint a member of the ACFID Code of Conduct Committee or a team including at least one member of the ACFID Code of Conduct Committee, and any number of other people (as the Chairperson considers appropriate) with expertise related to the nature of the Complaint (**Investigating Officer**) to investigate the matters raised in the Complaint. A person may not be appointed as the Investigating Officer (and a person may not be appointed to the team which is the Investigating Officer) if they have, or the Chairperson reasonably considers them to have, a material personal interest in the outcome of the Complaint.
- b. The Investigating Officer must give the Affected Signatory a copy of the Complaint and invite the Affected Signatory to respond to the Complaint in writing no later than 21 days after the date of the notice.
- c. The Investigating Officer must inform the Complainant in writing of the decision to investigate the Complaint further and any expected timeframes for dealing with the Complaint. The Complainant will be notified in writing of any substantial changes to expected timeframes.
- d. The Investigating Officer must consider the Complaint and any response submitted by the Affected Signatory if that response is submitted within the time period set out in paragraph 8.5(b). The Investigating Officer may, but is not required to, seek further information or invite further written submissions from the Complainant, the Affected Signatory or any other person, with such time limits to respond as the Investigating Officer considers reasonable in the circumstances. The Investigating Officer must consider any further submissions made in accordance with this paragraph 8.5(d), if they are submitted within the relevant time limit set by the Investigating Officer.

- e. In its investigations, the Investigating Officer is not limited to the breaches of the Code and/or, if applicable, the Rules specified in the Complaint and may investigate any other breaches arising from substantially the same circumstances as those set out in the Complaint. The Investigating Officer is not bound by the laws of evidence.
- f. The Investigating Officer must prepare a draft report regarding the Complaint and make a recommendation on whether, in the opinion of the Investigating Officer:
  - i. the Complaint should be dismissed;
  - ii. the Complainant should be referred to a more appropriate body; or
  - iii. the Affected Signatory has breached the Code.
  - iv. If the Investigating Officer considers that the Affected Signatory has breached the Code and/or, if applicable, the Rules, the Investigating Officer must make a recommendation as to the disciplinary action that should be taken by the ACFID Code of Conduct Committee.
- g. A copy of the draft report (with recommendations) must be given to the Affected Signatory, who may, within 7 days after the date on which the draft report is sent, submit written submissions in response to the draft report.
- h. The Investigating Officer must consider any submissions in response to the draft report made by the Affected Signatory, and may, but is not required to, make changes to the draft report when it prepares a final report (with recommendations) for the ACFID Code of Conduct Committee.
- i. The final report of the Investigating Officer and the submissions of the Affected Signatory in response to the draft report must be submitted to the ACFID Code of Conduct Committee for a final determination.

#### **8.6 Determination by ACFID Code of Conduct Committee**

- a. The ACFID Code of Conduct Committee must consider the Complaint, the final report of the Investigating Officer, any submissions made by the Affected Signatory in response to the draft report, and may consider any other information it considers relevant. The ACFID Code of Conduct Committee must make a determination (by simple majority of those present and eligible to vote) as to whether the Affected Signatory:
  - i. has not breached the Code, in which case the Complaint must be dismissed; or
  - ii. has breached the Code and/or, if applicable, the Rules.

The ACFID Code of Conduct Committee is not bound to follow the recommendations made by the Investigating Officer or the laws of evidence.
- b. A member of the ACFID Code of Conduct Committee who:
  - i. is the Investigating Officer (or any member of the Investigating Officer, if a team has been appointed);
  - ii. is an employee or director (or equivalent) of either the Complainant or the Affected Signatory; or

- iii. for some other reason has a material personal interest in the outcome of the Complaint,

must not be present at discussion regarding the Complaint or at any vote in relation to the Complaint.

#### **8.7 Signatories must co-operate**

If the Investigating Officer or the ACFID Code of Conduct Committee requests information from a signatory to the Code in relation to an investigation, the signatory must not without reasonable excuse fail to comply with the request. Without limiting what may be considered a reasonable excuse, the signatory is not required to comply with the request to the extent that:

- a. to do so would involve the signatory breaching a law or an obligation under a contract to which it is a party; or
- b. the request involves the disclosure of information which is subject to legal professional privilege or an obligation to keep the information confidential.

To avoid doubt, a breach of the obligation under this clause 8.7 is a breach of the Code.

#### **8.8 If a breach is found**

If the ACFID Code of Conduct Committee determines that the Affected Signatory has breached the Code and/or, if applicable, the Rules, it may:

- a. attempt to negotiate (including through conciliation or mediation) a course of action with the Affected Signatory. If the ACFID Code of Conduct Committee and the Affected Signatory are not able to reach an agreement within such time as the ACFID Code of Conduct (in its absolute discretion) considers appropriate in the circumstances, the ACFID Code of Conduct Committee may take disciplinary action in accordance with clause 8.9; or
- b. take disciplinary action in accordance with clause 8.9.

#### **8.9 Disciplinary action**

- a. The ACFID Code of Conduct Committee may take any of the following actions (including any combination of them) as it considers appropriate:
  - i. require the Affected Signatory to provide information concerning the breach to the Affected Signatory's donors;
  - ii. revoke the Affected Signatory's status as a signatory to the Code, or suspend its status as a signatory to the Code or any period it determines not exceeding 1 year;
  - iii. notify the ACFID Executive Committee of the details of the disciplinary action (if any) which the ACFID Code of Conduct Committee has determined it will take under this clause 8.9;
  - iv. if the Affected Signatory has been accredited by AusAID, notify AusAID of the breach; and

- v. publish the name of the Affected Signatory and the nature of the breach on the ACFID website.
- c. No disciplinary action may be taken until the expiry of the period within which an appeal may be requested in accordance with clause 8.13(a), or if an Appeal (as defined in clause 8.11 has been made, until the Appeal has been determined by the Appeals Officer.
- d. The Affected Signatory must comply with any disciplinary action the ACFID Code of Conduct Committee determines in response to the breach. If the Affected Signatory fails to do so, the ACFID Code of Conduct Committee may take any further disciplinary action in accordance with this clause 8.9 as it considers appropriate.

#### 8.10 Notification of outcome

The ACFID Code of Conduct Committee must notify the Complainant and the Affected Signatory in writing:

- a. of its determination under clause 8.6(a);
- b. of any action it has determined to take in accordance with clause 8.8 or clause 8.9(a); and
- c. that the decision may be appealed in accordance with this clause 8.

A copy of the notices must be given to the ACFID Executive Committee.

#### 8.11 Appeal

An appeal from a determination of the ACFID Code of Conduct Committee made under clauses 8.6 to 8.9 (inclusive) (**Appeal**) may be made to the Appeals Officer in accordance with clause 8.13.

#### 8.12 Appeals Officer

The ACFID Executive Committee must appoint an Appeals Officer, for a term of three years and on such other terms and conditions as the ACFID Executive Committee resolves. The Appeals Officer is to be selected from nominations made by the ACFID Code of Conduct Committee.

#### 8.13 Review process

- a. An Appeal must be:
  - i. made in writing;
  - ii. sent to the ACFID Code of Conduct Committee Appeals Officer;
  - iii. received within 30 days after the date of the notice referred to in clause 8.10; and
  - iv. specify the grounds on which the Appeal is made.
- b. An Appeal may be made on any grounds, and may relate to the whole or a part only of a determination.



- c. The Appeals Officer must
  - i. consider the Appeal;
  - ii. give:
    - A the Complainant, if the Affected Signatory has made the Appeal; or
    - B the Affected Signatory, if the Complainant has made the Appeal,

a copy of the Appeal and the opportunity to make written submissions in response to the Appeal within 21 days after the date of the notice;
  - iii. consider any submissions made in accordance with clause 8.13(c)(ii).
- d. The Appeals Officer must notify the ACFID Code of Conduct Committee and the Investigating Officer of the Appeal. The ACFID Code of Conduct Committee must give the Appeals Officer copies of:
  - i. the Complaint and all submissions received by the Investigating Officer in relation to the Complaint;
  - ii. the Investigating Officer's draft report and the Affected Signatory's submissions in relation to it;
  - iii. the Investigating Officer's final report; and
  - iv. the ACFID Code of Conduct Committee's notices to the Complainant and Affected Signatory under clause 8.10.
- e. The Appeals Officer may:
  - i. uphold the determinations of the ACFID Code of Conduct Committee in whole or in part;
  - ii. overturn the determinations of the ACFID Code of Conduct Committee in whole or in part;
  - iii. make a new determination in relation to the Complaint; and
  - iv. if the Appeals Officer determines that there has been a breach of the Code, exercise the powers of the ACFID Code of Conduct Committee set out in clauses 8.8 and 8.9.
- f. The Appeals Officer must notify the Affected Signatory, the Complainant and the ACFID Code of Conduct Committee in writing of the determination made under clause 8.13(e).

#### **8.14 No further appeal**

A determination of the Appeals Officer may not be appealed.

#### **8.15 Resignation of Affected Signatory**

If an Affected Signatory ceases to be a signatory to the Code at any time before any action that must be taken under this clause 8 is taken, the ACFID Code of Conduct

Committee may resolve that any current procedures under this clause 8 in relation to the Complaint are to cease. If it does so, any action which may have been required to be taken under this clause 8 if the Affected Signatory had continued to be a signatory to the Code, is no longer required to be taken.

However, the resignation of an Affected Signatory does not prevent:

- a. the investigation of a Complaint concerning the Affected Signatory;
- b. a determination being made in relation to the Complaint; or
- c. the taking of any disciplinary action under clause 8.9, which is capable of being taken despite the Affected Signatory's ceasing to be a signatory,

in accordance with this clause 8.

#### **8.16 ACFID may publicise**

The ACFID Code of Conduct Committee may, but is not required to, publicise at any time and by any method it considers appropriate:

- a. the fact that a Complaint has been made, including the names the Complainant and the Affected Signatory;
- b. the fact that a Complaint will be, is being or has been investigated; and
- c. the outcome of an investigation and any disciplinary action taken.

### **9. Amending the ACFID Code of Conduct and the Guidance Document**

9.1 The **ACFID Code of Conduct** may only be amended by ACFID Council according to the procedures in the ACFID Rules and Objects. The consent of non-members of ACFID which are signatories to this Code is not required for amendment of the Code of Conduct.

9.2 The **Guidance Document** to the ACFID Code of Conduct may be amended by ordinary resolution of the ACFID Council or by the ACFID Executive Committee on the recommendation of the ACFID Code of Conduct Committee.

## 10. Definitions

### **ACFID Code of Conduct**

The standards and requirements set out in this Code to which signatories to the Code are bound and against which complaints and compliance is assessed.

### **Annual Report**

The annual report is one of the principal windows of organisational performance, activity and accountability. It should be both reflective of the pursuits, issues and achievements for the period being reported and be predictive on future directions and activity. It shall contain, as a minimum:

- a statement of the Organisation's goals or purposes;
- a summary of overall program activities by country or region;
- the names, qualifications and experience of current members of the Governing Body as well as those who served at any time during the period being reported on;
- financial statements using the Code of Conduct Summary Financial Report Format; and
- an audit opinion on the financial statements, clearly identifying the auditor (name, company, address and signature).

### **Code of Conduct Summary Financial Report**

Summary Financial Report derived from Full Financial Report as detailed in the Guidance document to the Code of Conduct.

### **Full Financial Report**

Organisation's Full Financial Report (inclusive of statements, notes and auditor's report) as approved by the Organisation's Governing Body and presented to Members.

### **The Governing Body**

The Governing Body is the authority ultimately responsible for governance over all aspects of the Organisation and the authority responsible for the Organisation's signature to and compliance with this Code of Conduct. The Governing Body must be elected or appointed by members from within the membership or support base of the Organisation.

### **Guidance Document**

The guidance document to the ACFID Code provides guidelines on how signatories maintain adherence to the ACFID Code of Conduct. It includes the Code of Conduct Summary Financial Report Format, explanatory notes and other documents which the Code of Conduct Committee recommend as useful to inform and guide the application of the ACFID Code to the work of signatories.

### **Organisation**

A Non Government Development Organisation (NGDO), which is a signatory to this Code.