



University of California  
Office of the President

Senior Vice President—  
Business and Finance

Research Administration Office

# Memo

## Operating Guidance

No. 07-01

January 22, 2007

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### CONTRACT AND GRANT OFFICERS VICE CHANCELLORS--RESEARCH

**Subject:** Anti-Terrorism Clauses

#### BACKGROUND:

Foundations and federal agencies are increasingly incorporating clauses in their award documents which require recipients to agree or certify that they do not engage in, support, or promote terrorism or support terrorist organizations or activities. Federal agency certifications may remind recipients of requirements to comply with United States executive order and law prohibiting transactions with terrorists.

As each funder provides different clauses regarding this issue, each clause needs to be reviewed for the appropriateness of scope and application. Any of the following federal laws, regulations, and executive orders may be named in these clauses:

- **USA Patriot Act of 2001** (P.L. 107-56; signed into law 10/2001 by President Bush) – Among other things, imposes penalties for providing material support or resources to be used in terrorist acts or by foreign terrorist organizations. Allows Executive branch to freeze or block property or assets of persons or entities determined have committed or to be under investigation for committing acts of terrorism that threaten the United States. The list of these persons and entities is published on the Office of Foreign Assets Control (OFAC) website provided below;  
<http://www.treas.gov/offices/enforcement/ofac/index.shtml>
- **Executive Order 13224 *Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism*** [Signed 9/23/2001 by President Bush]. See: <http://www.treas.gov/offices/enforcement/ofac/programs/terror/terror.pdf>. Prohibits any U.S. person (individuals and entities) from engaging in transactions (including contributing or receiving funds, goods, or services) with persons deemed by the Executive branch to assist in, sponsor, or provide financial, material or technological support for terrorism. Blocks property and assets of individuals designated by the Executive branch to have committed or pose a significant threat of committing terrorism that threatens the security of U.S. nationals or the national security, foreign policy or economy of the United States. Defines terrorism as activity that involves a violent act or an act dangerous to human life, property or infrastructure that appears to be intended to intimidate or coerce a civilian population; to influence the policy a government by intimidation or coercion; or to affect the conduct of a government by mass destruction, assassination, kidnapping, or hostage-taking. Website cited above lists persons and entities to whom this E.O. applies. This Order created a new category of "Specially Designated Nations and Persons" (SDNs) called "Specially Designated Global Terrorists," resulting in a significant expansion of the SDN list. Because

\*Note: The addressees above represent the standard distribution of Contract and Grant Memos. Additional addressees, if any, may be added based on the subject of the Memo. See cc's.

there are frequent additions to the list, OFAC recommends checking its website [<http://www.treasury.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>] frequently for updates.

- **Executive Order 12947 Prohibiting Transactions with Terrorists who Threaten to Disrupt the Middle East Peace Process** [Signed 1/1995 by President Clinton].  
[http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=1995\\_register&docid=fr25ja95-126.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=1995_register&docid=fr25ja95-126.pdf) - The organizations listed in this Executive Order (E.O.) are incorporated in the State Department list on the website provided below.
- **Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA)**. Section 302 amended the Immigration and Nationality Act to authorize the Secretary of State to designate as “Foreign Terrorist Organizations” foreign organizations engaging in terrorist activity that threatens the security of the U.S. or U.S. nationals. It is a criminal offense for U.S. persons to provide material support or assistance to FTOs, and financial institutions must block all funds in which FTOs or their agents have an interest. FTOs are included on Treasury’s list of Specially Designated Nationals and Blocked Persons, referenced above. FTOs are also designated pursuant to Executive Order 13224 (referenced above).
- **Department of the Treasury, Office of Foreign Assets Control (OFAC) implementing regulations at:**  
31 CFR 594 *Global Terrorism Sanctions Regulations*  
[http://www.access.gpo.gov/nara/cfr/waisidx\\_05/31cfr594\\_05.html](http://www.access.gpo.gov/nara/cfr/waisidx_05/31cfr594_05.html)  
31 CFR 595 *Terrorism Sanctions Regulations*  
[http://www.access.gpo.gov/nara/cfr/waisidx\\_05/31cfr595\\_05.html](http://www.access.gpo.gov/nara/cfr/waisidx_05/31cfr595_05.html)  
31 CFR 596 *Terrorism List Governments Sanctions Regulations*,  
[http://www.access.gpo.gov/nara/cfr/waisidx\\_05/31cfr596\\_05.html](http://www.access.gpo.gov/nara/cfr/waisidx_05/31cfr596_05.html) and  
31 CFR 597 *Foreign Terrorist Organizations Sanctions Regulations*  
[http://www.access.gpo.gov/nara/cfr/waisidx\\_05/31cfr597\\_05.html](http://www.access.gpo.gov/nara/cfr/waisidx_05/31cfr597_05.html)
- **Office of Foreign Asset Controls (OFAC), List of Specially Designated Nationals and Blocked Persons** <http://www.treasury.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>. OFAC publishes and regularly updates an integrated and comprehensive list of designated parties with whom U.S. persons are prohibited from conducting transactions or providing services, and whose assets are blocked. The names on this list include persons designated under country-based and list-based economic sanctions programs, as well as individuals and entities designated under the various executive orders and statutes dealing with terrorism. Persons designated under Executive Orders 13224, 12947, and the AEDPA are included in this integrated comprehensive list, and are called “Specially Designated Global Terrorists,” “Specially Designated Terrorists,” or “Foreign Terrorist Organizations,” respectively. This list may be accessed at the web link provided above.
- **Department of State, Foreign Terrorist Organizations**  
<http://www.state.gov/s/ct/rls/fs/2002/9014.htm>

REVIEWING PROPOSED CLAUSES:

In a June 9, 2004 letter to Chancellors, Provost and Senior Vice President Greenwood identified the following concerns with the language in anti-terrorism clauses proposed by two foundations. The concerns which Provost Greenwood described with regard to two specific foundation clauses provide guidance on reviewing anti-terrorism clauses from any sponsor:

While the University of California certainly does not condone terrorism, violence, or bigotry, we are concerned about the overbreadth and vagueness of the language being used by the foundations. We are troubled that the conditions:

.....

**May be construed broadly to apply to protected speech of individuals who are part of the university "organization," including faculty and students.** The conditions apply to the entire "organization," which could be construed to include faculty, students, and employees. We are concerned about the university's ability to agree (much less "certify," as per the Rockefeller language) that no one within our "organization" will engage in any of the prohibited activities, particularly when the prohibited activities may extend to protected speech.

**Contain undefined terms that may result in disagreements over their applicability.** Because "promotion," "bigotry," "violence," and "terrorism" are undefined, institutions (and foundations) might have to continually justify their funding in response to complaints from individuals who believe that a member of the funded organization promoted bigotry or violence. This is true even if the action in question (e.g., sponsorship of a controversial pro-Palestinian -- or Zionist -- speaker on campus?) is wholly unrelated to the funded investigator or project.

**Require that we extend the conditions to all entities with whom we sub-grant.** The language appears to require that we apply the foundation terms to all entities to which we make sub-grants, apparently regardless of whether those sub-grants are made using foundation funds. First, we would not want to apply to other organizations terms that we ourselves find problematic. Second, from a practical standpoint, such a condition would be difficult to enforce (unless we agree to include in ALL university contracts terms that mirror the terms of the foundation award.)

UNIVERSITY PROPOSED CLAUSE:

The University's proposed clause below addresses required compliance with all applicable laws while not prescribing any specific measures that the Grantee must take to implement compliance and not adding further restrictive language which is not supported by the currently applicable laws and regulations:

The Grantee agrees that it will use the grant funds in compliance with all applicable anti-terrorist financing and asset control laws, regulations, rules and executive orders, including but not limited to, the USA Patriot Act of 2001 and Executive Order 13224.

Other examples of acceptable and unacceptable clauses found in the awards from various private foundations and federal agencies as of the date of this memo along with an explanation about each clause are attached to this Memo.

TRANSACTIONS WITH THIRD PARTIES:

Any clauses regarding the University's compliance with anti-terrorism laws should be reviewed in accordance with the guidance provided in this Memo. Such clauses in a prime agreement should be included in any domestic or foreign sub-awards under that prime agreement.

Although the University's external financial institution which sends University funds outside the United States does screen foreign recipients in accordance with these federal rules, for projects conducted in foreign countries or subcontracts to foreign persons or foreign entities, it may be appropriate to undertake some additional screening, using the Office of Foreign Asset Controls (OFAC), *List of Specially Designated Nationals and Blocked Persons* <http://www.treasury.gov/offices/enforcement/ofac/sdn/t11sdn.pdf> and the Department of State, *Foreign Terrorist Organizations* <http://www.state.gov/s/ct/rls/fs/2002/9014.htm>. This is particularly important where a foreign-based is providing cash to participants. It would also be prudent to review these lists for subawards to any unfamiliar domestic entities or payments to individuals as well.

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[Samuela.Evans@ucop.edu](mailto:Samuela.Evans@ucop.edu)

Subject: 2, 10, 16

David F. Mears  
Director

Attachment: Example Clauses

Cc: Provost Hume  
AVP Plotts  
Vice Provost Coleman  
Exec. Dir. Auriti

AGILENT TECHNOLOGIES FOUNDATION

Awards from this sponsor originally stated:

You certify that as of the date of this document indicated below, your organization does not knowingly employ individuals or contribute funds to organizations found on any terrorist-related list promulgated by the United States Government, the United Nations or the European Union, including the Department of Treasury's Office of Foreign Assets Control Specially Designated Nationals List, the Department of Justice's Terrorist Exclusion List and the list annexed to Executive Order 13224. Should any change in circumstances occur during the year, the Foundation will be notified as soon as possible.

The University's concern with this clause is the inclusion of the United Nations and European Union lists which may not apply to domestic U.S. organizations. In response to the University's request to modify this clause, Agilent replaced it with:

You certify that your organization will use these grant funds in compliance with all applicable U.S. anti-terrorism laws and regulations including, but not limited to those promulgated by the Department of Treasury, the Department of Justice, Executive Order 13224 and the Global Terrorism Sanctions Regulations set forth in 31 CFR Part 594. Without limiting the generality of this Section 3, you agree that, to the extent legally mandated, none of these grant funds will be paid, distributed, contributed, given or otherwise knowingly made available to, or for use by, any person or firm listed on the United States Government's Terrorist Exclusion List or the list of specially designated nationals and blocked persons maintained by the United States Treasury Department's Office of Foreign Assets Control. Should any change in circumstances occur during the year, the Foundation will be notified as soon as possible.

FORD FOUNDATION:

The Ford Foundation's website provides a copy of its January 8, 2004 letter to grantees ([http://www.fordfound.org/about/docs/ff\\_grantee\\_memo.pdf](http://www.fordfound.org/about/docs/ff_grantee_memo.pdf)) that explains its "anti-terrorism" clause:

We have added the following new language to our standard grant agreement letter: "By countersigning this grant letter, you agree that your organization will not promote or engage in violence, terrorism, bigotry or the destruction of any state, nor will it make sub-grants to any entity that engages in these activities." This prohibition applies to all of the organization's funds, not just those provided through a grant from Ford.

In addition, the grant letter now includes explicit language explaining that Ford may cease funding for failure to comply with terms of the grant letter and of the grant itself: "Failure to comply with the terms of this letter may result in immediate cessation of funding and/or support from the Foundation. In addition, if your organization expends or commits any part of the grant funds for purposes or activities other than the purposes and activities for which this grant is made, your organization must repay to the Foundation an amount equal to the amount of grant funds so expended for other purposes or activities."

The University of California and many other major universities objected to the language from Ford. [<http://chronicle.com/prm/daily/2004/05/2004050501n.htm>] While the Ford Foundation declined to amend the language of their standard clause, the Foundation did agree to incorporate supplemental language into agreements with the University of California, which clarifies the intent of the antiterrorism clause. University General Counsel Holst's July 13, 2004 letter to Ford Foundation General Counsel Tenny provides the Foundation's supplemental language for University of California grants:

“The Ford Foundation supports and endorses academic freedom. We recognize that it entails the expression by faculty, students and other individuals on campus of a broad range of views and opinions, which, in some cases, may be controversial, unpopular or offensive. We value and support free and open debate. We do not want or intend to interfere with discussions in classrooms, faculty publications, student remarks in chat rooms, or other communications that express the views of the individual(s) and not the institution. Our grant letter relates only to the official speech and conduct of the university and to speech or conduct the university explicitly endorses.”

As the letter explained that when a Foundation grant contains the Ford Foundation clause above, the Foundation is to include the language in the UC-Ford letter as a side letter with the grant, to be considered to be an integral part of the award agreement. Alternatively, a campus may returned the Foundation award with a notation that this letter applies to the grant as a supplement clarifying the Foundation's antiterrorism clause.

FOUNDATION FOR THE NATIONAL INSTITUTES OF HEALTH (FNIH):

The FNIH, funded by the Bill & Melinda Gates Foundation, terms and conditions include the following language:

Grantee certifies that the Grantee complies with the laws of the country or countries in which it is registered and/or operates; that all information and documentation provided for its Grant application is complete and accurate to the best of its knowledge; that the Grantee takes reasonable steps to ensure that Grant funds are not ultimately distributed to terrorists organizations or for violent purposes; and the Grantee takes reasonable steps to ensure that staff, board, Subgrantees and other volunteers have no dealings whatsoever with known terrorists or terrorist organizations.

This language reaches beyond the course and scope of employment of grantee's employees and obligations of Grantee board members and volunteers to the grantee. The phrase "for violent purposes" sets forth an undefined, overly broad requirement which could not be reasonably implemented by any grantee system established to capture payments to known terrorist organizations. The use of the words "terrorists or terrorist organizations" should be modified by noting that these are as defined under federal law.

FNIH has accepted the use of the National Institutes of Health (NIH) anti-terrorism clause below instead:

Grantee certifies and warrants that Grantee complies and shall during the term of this Grant comply with the all U.S. Executive Orders, U.S. laws and regulations, including but not limited to E.O. 13224 and P.L. 107-56, which prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the Grantee and Subgrantees to ensure and Grantee and Subgrantees shall ensure, compliance with these U.S. Executive Orders, U.S. laws, and regulations. This clause shall be included in all agreements relating to the Project between Grantee and third parties.

H.J. HEINZ COMPANY FOUNDATION:

Heinz' original clause, below, requires the grantee to comply with the Department of the Treasury's "Anti-Terrorist Financing Guidelines: Voluntary Best Practices for U.S.-based Charities:"

Grantee will comply with all applicable requirements of the Patriot Act and related laws, as well as the Voluntary Anti-Terrorism Guidelines.

As the Guidelines referenced in this clause are voluntary, the University is not required to follow them in its specific implementation of federal laws and regulations. The Heinz Foundation has agreed to replace the clause above with the following clause proposed by the University, which states that these Treasury Guidelines are provided as information.:

Grantee will comply with all applicable requirements of the Patriot Act and related laws in its use of the funds provided by the Foundation under this Grant. (Grantee is referred to U.S. Department of the Treasury's "Anti-Terrorist Financing Guidelines: Voluntary Best Practices for U.S.-based Charities" which provides further information to assist Grantee in fulfilling its obligation under this paragraph.)

JAMES IRVINE FOUNDATION:

The Irvine Foundation has accepted the University's standard clause on this subject in place of Foundation's language. The University clause now accepted by the Foundation is:

The Grantee agrees that it will use the grant funds in compliance with all applicable anti-terrorist financing and asset control laws and regulations.

This clause replaces the Foundation's original clause which was:

Grantee shall not use any portion of the grant funds to support any form of violent political activity, terrorists or terrorist organizations.

KORET FOUNDATION:

The May, 2006 grant awards from Koret to the University contained the following requirements:

In accepting these funds, you further agree that the university will not promote or engage in violence, terrorism, bigotry, or efforts to destroy any state, nor will it make sub-grants to any entity, including student organizations, or individuals that engage in these activities. You also agree that your university and any entity or individual you support with any funds or other material assistance complies with all U.S. anti-terrorism laws and regulations, including, without limitation, Executive Order 13224 and the Global Terrorism Sanctions Regulations set forth in 31 CFR Part 594.

In addition to the general restrictions regarding violent and illegal activities, the Koret Foundation requires that you agree not to use Koret's funds or its name in connection with any program that includes anti-Israel or anti-Semitic elements, speeches, or positions.

This restriction is not intended to preclude support for programs that include criticism of Israel or Jewish organizations for specific policies or practices. The Koret Foundation's intent is to be disassociated from all forms of bigotry directed at Israel or Jews.

The Koret Foundation is authorized to conduct audits at any time during the term of the gift [*sic*] and within four years after completion of the gift, including on-site audits on reasonable notice, for the purpose of ascertaining compliance with the conditions of its gift.

The broad scope of this requirement concerned the University as it could be interpreted to restrict students, faculty and employees who are part of the University community from participation in or sponsorship of lectures, art exhibits, readings, or other activities which express support for controversial political movements or causes, or in teaching or scholarly writing about violent or insurgent political movements. Such activities might be construed by some as indirectly "promoting" bigotry or terrorist activities.

The language also applies to all members of the University community as well as to all subawards. It is not clearly limited to the funding provided under the Koret Foundation award.

A June 29, 2006 letter from Provost Hume to Jeffrey A. Farber, Executive Director, Koret Foundation, clarifies the University's understanding that the above quoted language is meant to apply only to use of Koret funds for official University speech and conduct, and that it is not meant to restrict protected speech that expresses the views of individuals rather than of the institution. The letter also clarifies the use of the federal law proscribing "terrorist" activity to interpret the references to violence and terrorism in the above quoted language. This letter can be referenced in accepting Koret Foundation awards which contain the above quoted requirements.

MACARTHUR FOUNDATION:

The original MacArthur Foundation anti-terrorism clause was:

Your organization hereby represents and warrants that Foundation grant funds will be used in compliance with all applicable anti-terrorist financing and asset control laws, regulations, rules and executive orders, including, but not limited to, the USA Patriot Act of 2001. In this regard, your organization agrees to take all reasonable steps to ensure that no person or entity expected to receive funds in connection with this grant is named on any list of suspected terrorists or blocked individuals maintained by the U.S. government, including but not limited to (a) the Annex to Executive Order No. 13224 (2001) (Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or (b) the List of Specially Designated Nationals and Blocked persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury.

The clause was limited to "Foundation grant funds," which makes it less sweeping, and to use the funds specifically in compliance with applicable laws which are listed above in this Memo. So this clause was acceptable as written.

The Foundation has recently replaced the above clause with a new clause below which is also acceptable:

Your organization agrees that Foundation grant funds will be used in compliance with all applicable anti-terrorist financing and asset control laws, regulations, rules and executive orders, including but not limited to, the USA Patriot Act of 2001 and Executive Order No. 13224. Attachment 1 [*or II*] hereto provides further information to assist you in fulfilling your obligations under this paragraph and a description of the Foundation's process to ensure it meets its legal obligations while respecting the rights of grantees.

The referenced Attachment 1 [*or II*], entitled "Information Regarding Compliance with U.S. Anti-Terrorism Financing Rules," is provided as guidance.

ROCKEFELLER FOUNDATION:

In 2004, the Rockefeller Foundation grant clause stated:

In accepting these funds, you .... certify that your organization does not directly or indirectly engage in, promote or support other organizations or individuals who engage in or promote or support, terrorist activity.”

In a June, 2004 letter, the Office of the President expressed its concerns to the Foundation about the vagueness of language which could be “construed to apply to protected speech.” The University and the Foundation agreed to an understanding of the definition of "terrorist activity" in May 2005 so that the University could accept these awards.

On January 1, 2006, the Rockefeller Foundation modified its grant award letter language for its U.S. grantees. The new acceptable language states:

In accepting these funds, you...confirm that your organization complies with all U.S. anti-terrorism laws and regulations, including Executive Order 13224 and the Global Terrorism Sanctions Regulations set forth in 31 CFR Part 594.”

SLOAN FOUNDATION:

Recent Sloan Foundation awards included the following paragraph:

8. The Grantee acknowledges that it is important to ensure that the funds are not misdirected to terrorist organizations or for violent activities. The Grantee agrees that it will not use funds for any such purposes and that it will take care to ensure the funds over which it has control are not misdirected to such purposes. If the purpose of the grant includes giving funds to organizations other than the Grantee, then the Grantee will provide the Foundation the names and addresses of organizations to which the Grantee currently provides or proposes to provide funding, services or material support, and the names and addresses of any subcontracting organizations utilized by the Grantee.

As with other clauses, this clause was overly broad and vague. "Terrorist organizations" and "violent activities" are not defined and the language appears to apply beyond the scope of the grant to all institutional funds.

The Sloan Foundation was very willing to work with the University to arrive at acceptable alternate language. They agreed to accept the University's standard clause in lieu of Paragraph 8 for pending awards:

The Grantee agrees that it will use the grant funds in compliance with all applicable anti-terrorist financing and asset control laws and regulations.

However, Sloan is still considering how to modify their clause for future awards.

UNITED WAY:

The United Way Counterterrorism Compliance form has a checklist of seven compliance statements for grantees to certify. While most of these statements set forth the federal requirements with which the University must comply, a few reach beyond the federal requirements in ways which the University may not reasonably be able to comply. Statements that reach back in time, asking for certification that such actions have not taken place in the past are difficult to assess. Statements that just use the word "support" or do not limit the definition of terrorists and terrorist groups to those on the federal lists reach to a scope beyond what the University can certify.

In place of this Counterterrorism Compliance checklist, the United Way has accepted the University's statement provided in this Memo.

FEDERAL AGENCY CLAUSES:

CENTERS FOR DISEASE CONTROL:

The Centers for Disease Control (CDC) contracts may include a "Terrorist Financing" clause. The current version of this clause provided below is acceptable as it simply notifies the recipient of federal law and provides the websites listed above in this Memo as a resource, stating that "Transactions with these organizations are prohibited."

Terrorist Financing

The recipient is notified that U.S. executive order and U.S. law prohibits transactions with and the provision of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the recipient to ensure compliance with these executive order and laws. This provision must be included in all sub-contracts/sub-agreements issued under this agreement.

In addition to relying on locally available resources, the recipient may use resources available on the internet to review established lists published by the U.S. government. These may be located at:

<http://www.treasury.gov/offices/enforcement/ofac/santions/t11ter.pdf>  
<http://www.treasury.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>  
<http://www.state.gov/s/ct/rls/fs/2002/9014.htm>

Transactions with these organizations are prohibited.

NATIONAL INSTITUTES OF HEALTH (NIH):

The current NIH clause provided below is acceptable:

**PROHIBITION AGAINST TRANSACTIONS AND SUPPORT TO INDIVIDUALS AND ORGANIZATIONS ASSOCIATED WITH TERRORISM**

The Offeror/Contractor acknowledges that U. S. Executive Orders and Laws, including but not limited to E.O. 13224 and P.L. 107-56, prohibit transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the contractor to ensure compliance with these Executive Orders and Laws. This clause must be included in all subcontracts issued under this contract.

USAID:

The Agency for International Development (USAID) Acquisition & Assistance Policy Directive (AAPD) 04-14, published on September 24, 2004, required applicants to sign "Certification Regarding Terrorist Financing Implementing E.O. 13224 (revision 2)."  
[http://www.usaid.gov/business/business\\_opportunities/cib/pdf/aapd04\\_14.pdf](http://www.usaid.gov/business/business_opportunities/cib/pdf/aapd04_14.pdf)

The Certification states that

The Recipient, to the best of its current knowledge, did not provide, within the previous ten years, and will take all reasonable steps to ensure that it does not and will not knowingly provide, material support or resources to any individual or entity that commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated, or participated in terrorist acts, as that term is defined in paragraph 3.

It continues by stating what steps the recipient has to follow to comply, defining "material support", "terrorist act" and "entity", but does not limit such entities to those of the federal government official lists included in this AAPD. In fact, it specifically provides them only as a reference and then adds:

Before providing any material support or resources to an individual or entity, the Recipient will consider all information about that individual or entity of which it is aware or that is available to the public.

Thus, there is no limit to what research the Recipient has to do before providing funds to another entity from any part of the Recipient organization, not just under a USAID cooperative agreement or grant. It also does not clearly limit the prohibited groups and persons to those on the lists provided. This is only implied by requiring the Recipient to review these lists.

Another major addition to AAPD 04-14 is in the first paragraph of the Certification where USAID has added " to the best of its current knowledge, did not provide, within the previous ten years..."