

Examples of sanctions/counterterrorism clauses in donor agreements

TOOL 7

These clauses are provided as examples of the wording that has appeared in grant agreements. They should not be interpreted as best practice, nor as necessarily being compatible with principled humanitarian action.

EXAMPLES OF CLAUSES FROM HUMANITARIAN DONORS

Example A:

Special Provisions Regarding the Financing of Terrorism

10. The Grantee confirms that, consistent with UN Security Council Resolutions relating to terrorism, including UN Security Council Resolution 1373 (2001) and 1267 (1999) and related resolutions, it is firmly committed to the international fight against terrorism, and in particular, against the financing of terrorism. Similarly, the Grantee recognizes its obligation to comply with any applicable sanctions imposed by the UN Security Council in addition to any other sanctions regime to which it is subject. In addition to complying with any laws to which it is subject, the Grantee will use all reasonable efforts to ensure that the funds transferred to it in accordance with this Grant Confirmation Letter are not used to provide support or assistance to individuals or entities associated with terrorism as designated by any UN Security Council sanctions regime. If, during the term of this Grant Confirmation Letter, the Grantee determines there are credible allegations that funds transferred to it in accordance with this Grant Confirmation Letter have been used to provide support or assistance to individuals or entities associated with terrorism as designated by any UN Security Council sanctions regime, it will as soon as it becomes aware of it inform XX and the contributors and, in consultation with the XX, determine an appropriate response.

Example B

If the recipient becomes aware that any activity funded under this award involves a transaction with, or the provision of resources or support to, any sanctioned individual or entity, including for any transaction covered under a specific license or general license, the recipient must submit a semi-annual report to XXX with a copy to the XXX Officer, itemizing the following information for each transaction:

(1) Payments of funds under this award in the form of taxes, tolls, and fees to, or for the benefit of, sanctioned individuals or entities. For each payment, the recipient will make best efforts to include details about the amount paid, the approximate date and location of the payment, the name of the individual or entity receiving the payment, a description of how such payment facilitated the assistance activities, and remedial steps, if any, taken to address the issue;

- (2) Any diversions of funds, supplies, or services, under this award by sanctioned individuals or entities. For each diversion, the recipient will make best efforts to include details about the circumstances of the diversion, the name of the individual or entity causing the diversion, estimated value diverted, the approximate date and location of the diversion, description and intended destination, and remedial steps, if any, taken to address the issue; and
- (3) Any relevant additional information the recipient deems appropriate on obstacles to the provision of assistance under this award.
- d. If there were no known payments to, or diversions by, a sanctioned individual or entity during the reporting period, the recipient does not need to submit a report for that period under paragraph (c).
- e. The recipient must retain records related to any transaction reported under paragraph (c) for at least 5 years after the date of any subject transaction.
- f. Any violation of the above will be grounds for unilateral termination of the agreement by XXX.
- g. The recipient must include this provision in all subawards and contracts issued under this award.
- The recipient is responsible for the submission of any reporting as required under paragraph (c) of this provision.

Example C

The Recipient must obtain the prior written approval of the XXX before providing any assistance made available under this Award to individuals it knows to have been formerly affiliated with Boko Haram or the Islamic State of Iraq and Syria (ISIS)-West Africa, including former fighters, nonfighting members, and individuals who may have been kidnapped by Boko Haram or ISIS-West Africa but held for periods greater than 6 months. Former affiliates do not include civilian populations who only resided in areas that were, at some point in time, controlled by the groups.

EXAMPLES OF CLAUSES FROM DEVELOPMENT DONORS

Example D

The Recipient undertakes

- a) to fully comply with anti-money laundering and terrorism financing standards in accordance with the FATF Recommendations, and implement, maintain and, if necessary, improve its internal standards and guidelines (including without limitation in relation to customer due diligence) appropriate to avoid any Sanctionable Practice, act of money laundering or financing of terrorism;
- b) as soon as the Recipient or XXX becomes aware of or suspects any Sanctionable Practice, act of money laundering or financing of terrorism, to fully cooperate with XXX and its agents, in determining whether such compliance incident has occurred. In particular, the Recipient shall respond promptly and in reasonable detail to any notice from XXX and shall furnish documentary support for such response upon XXX's request.

Example E

ARTICLE 1. The Partner and XXX are committed to taking appropriate steps to ensure that funds provided under this Agreement are not used to aid, or otherwise support, terrorists or terrorist organisations.

ARTICLE 2. The Partner agrees that it shall use all reasonable efforts to ensure that funds received under this Agreement are not used to engage in, support or promote violence, terrorist activity or related training of any kind and will take all appropriate precautions and institute all procedures necessary to prevent any portion of the funds from being so used.

ARTICLE 3. The Partner shall screen its Implementing Partners to ensure that no such funds, other financial assets and economic resources will be made available, directly or indirectly, to, or for the benefit of, a natural or legal person, group or entity associated with terrorism consistent with European Union's Consolidated list of persons, groups and ties subject to EU financial sanctions.

ARTICLE 4. The Partner shall include in its agreements with its Implementing Partners, contractors and subcontractors a clause requiring that the recipient of Grant funds screens its potential subsequent Implementing Partners, contractors and subcontractors as per Article 3 above and uses all reasonable means to ensure that none of the funds provided under those agreements are used to benefit individuals or entities associated with terrorism.

ARTICLE 5. If, during the course of this Agreement, the Partner discovers any link whatsoever with any organisation or individual associated with terrorism, it must inform XXX immediately. The Cooperation Partner shall provide XXX with an account of all the known facts and shall continuously thereafter consult with XXX on the further handling of the matter.

Example F

Grant beneficiaries and contractors must ensure that there is no detection of subcontractors, natural persons, including participants to workshops and/or trainings and recipients of financial support to third parties, in the lists of XX restrictive measures.