

**Comments of Kinder USA on the Amended Version of the Anti-Terrorist Financing Guidelines: Voluntary Best Practices For US-Based Charities, U.S. Department Of Treasury.**

**Submitted by Dr. Laila Al-Marayati, M.D., Chairperson of the Board of Directors of KINDER-USA, February 1, 2006.**

Following the publication of the November 2002 *Anti-Terrorist Financing Guidelines* by the US Department of Treasury, KINDER USA<sup>[i]</sup> has engaged with other charities and NGOs, through the Treasury Guidelines Working Group, not only in developing a critical analysis of the government's attempt to regulate the charitable sector and promulgate best practices but also to develop an alternative model, based on the collective experience of those engaged in international philanthropy, to provide guidance to the charitable sector. One result of the discussions has been the publication of *Principles of International Charity* (available online at: [www.cof.org](http://www.cof.org)).

KINDER USA has endorsed the *Principles* document as a useful tool for charities, such as ours, engaged in international philanthropy. Additionally, KINDER USA has participated in recent discussions through the Treasury Guidelines Working Group, which resulted in a collective response to the publication of the amended *Anti-Terrorist Financing Guidelines* by the US Department of Treasury and endorses the comments filed by the Working Group in a separate document.

Additionally, as the only Muslim charity participating in the Treasury Guidelines Working Group, and as an organization providing relief in an area of conflict (i.e. Gaza and West Bank in Palestine), KINDER USA has a unique perspective on the practice of international relief and the Treasury Department's efforts to regulate that activity.

The Treasury Guidelines have a chilling effect on overseas partners engaged in humanitarian aid, particularly with the government's underlying assumption that charitable donations on behalf of Muslims have been and will be corrupted intentionally or unintentionally and therefore, all acts of Muslim giving overseas are suspect. To date, the government has not been able to demonstrate a "money trail" that would confirm unequivocally the allegation that American Muslim charitable funds have been used to finance terrorism. Thus, the "risk-based" approach is pursued by our government without any showing of increased risk.

The chilling effect has created new obstacles in already difficult work, as KINDER USA has found it necessary to convince reputable NGOs engaged in philanthropy in the middle east that the undertaking of joint or cooperative work with a US-based charity will not result in adverse consequences due to the multitude of requirements put forth in the Treasury Guidelines.

The recommendation of internet-based searches of recipients and key employees, put forth in, under the guise of basic vetting, Section VI, Paragraphs (B)(1) and (C)(1) are reckless.

The Internet is notorious for making available inaccurate, slanted, untrue and reliable assertions due to the ability of anyone with a computer and phone line to post their views on a website or web log. Literally anyone with a partisan axe to grind can label an individual or organization “suspicious.”

The presence of false or misleading claims about Muslim charities, however, is not limited to extreme hate groups. Even a search of the United States State Department website “links” nearly every Muslim charity and even the Islamic Society of North America (ISNA) to terrorist financing:

”The Senate Finance Committee has asked the Internal Revenue Service (IRS) for its records on more than two-dozen Muslim charities and organizations as part of an investigation into possible links between nongovernmental organizations and terrorist financing networks.” (<http://usinfo.state.gov/ei/Archive/2004/Jan/15-147062.html>).

While the inquiry of the Senate Finance Committee concluded without producing any evidence of the targeted Muslim organizations being involved in terrorist finance, under the standard put forth in the amended Treasury Department guidelines, “whether the recipient (or any of its key employees) *is suspected of* activity relating to terrorism, including terrorist financing or other support (Anti-Terrorist Financing Best Practices, Section VI, Paragraphs (B)(1) and (C)(1)), (*emphasis added*)

Section VI, Paragraph D recommends specific action following the collection of information (even from unreliable sources) and not merely refraining from doing business with a suspect entity.

“The charity can provide information on any suspicious activity that does not directly involve an OFAC match through a referral form available on Treasury’s website. In addition, a charity should simultaneously report suspicious activity to the Federal Bureau of Investigation through its local field office.” (Section VI, Paragraph (D)(2).

Thus the US-based charities are asked not only to gather intelligence but also to inform the FBI of its findings. Charities acting as spy and informer for the government in politically volatile situations put the lives of their personnel at risk.

Hostage taking and executions have been a known risk for humanitarian workers in areas of conflict, including the Middle East. Rather than increasing security for US-based charities, the Treasury Guidelines present a sharply increased risk to security on ground if US-based charities are known to collect information, to be provided to the US government, on community-based partners, stakeholders and entities in areas of conflict, particularly in areas like Gaza and West Bank where the United States is viewed as a provider of unequivocal support for one of the antagonists, i.e. the State of Israel.

On-site audits, under Section VI, Paragraph (E)(3) are impossible in the case of US-based organizations working in Gaza and West Bank due to the arbitrary visa denial policy of the Israeli government, the primary US ally in the Middle East. The Israeli

Embassy and Israeli government have repeatedly denied reasonable requests made on behalf of members of the KINDER USA Board of Directors and the Executive Director for entry visas in order to conduct on-site monitoring of its projects. Appeals to the US State Department and other US government officials for assistance have been futile.

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[i] KINDER USA is a US-based Muslim charity recognized for exemption under Section 501(c)3 of the Internal Revenue Code. Founded in 2002 by a group of physicians and humanitarian relief workers, KINDER USA believes in fostering creative solutions to long-standing problems believing that all children are born with fundamental freedoms and are entitled to the rights of survival, health, and education. KINDER USA puts into action programs to ensure these rights are not forgotten. KINDERUSA relies on an immense group of partners in our mission of caring for the children. Through partnership, we improve our efficiency and effectiveness, and increase our impact on improving the lives of children and their families wherever our work takes us.