



MUSLIM PUBLIC AFFAIRS COUNCIL  
Los Angeles | Washington

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Comments of the Muslim Public Affairs Council on  
**Updated Anti-Terrorist Financing Guidelines:  
Voluntary Best Practices for US-Based Charities  
(December 2005)**  
*Submitted January 2006*

## INTRODUCTION

The Muslim American community continues to engage with Treasury and finds great value in the cooperative relationship that has developed. Since 2002, the community and Treasury have worked diligently to find a common ground of understanding.

According to the introduction to the revised Guidelines, “[i]nvestigations have revealed terrorist abuse of charitable organizations, both in the United States and worldwide, often through the diversion of donations intended for humanitarian purposes but funneled instead to terrorists, their support networks, and their operations.” There are many throughout the U.S. charitable community, both Muslim and non-Muslim, who take issue with such broad and sweeping statements about the evidence of actual criminal abuse within established institutions of the Muslim American community. In response to such discussions, Treasury officials regularly cite the shut-down of the Global Relief Foundation, Inc. (GRF) and Benevolence International Foundation (BIF) which were subjected to public accusations of providing financial support to al Qaeda and international terrorism, which has yet to be proven in a court of law.

The 911 Commission’s work speaks directly upon those cases:

*“Although effective in shutting down its targets, this aggressive approach raises potential civil liberties concerns, as the charities’ supporters insist that they were unfairly targeted and denied due process, and closed without any evidence they actually funded al Qaeda or any terrorist groups. ... The BIF and GRF investigations highlight fundamental issues that span all aspects of the government efforts to combat al Qaeda financing: the difference between seeing links to terrorists and proving funding of terrorists, and the problem of defining the threshold of information necessary to take disruptive action.” - Terrorist Financing Staff Monograph, National Commission on Terrorist Attacks Upon the United States (911 Commission), Executive Summary.*

We raise this concern here once again to underscore the need for clear communications from Treasury on abuses that have occurred and have been proven in a court of law. It is important for the Muslim American community and its leaders to be well versed in such examples when engaging in discussions about the utility and benefit of working with Treasury on terrorist financing issues.

The community has worked to form the National Council of American Muslim Non-Profits to serve as a venue for institutions to receive a community-based certification for meeting rigorous due diligence measures in their administration. We as a community continue to believe that our greatest contributions are only possible if Muslims and their institutions are seen as a part of the solution on issues of terrorist financing and support.

MPAC is also committed to working with other American institutions in the non-profit and charitable community such as the Treasury Working Group headed by the Council on Foundations, which has offered technical guidance through these discussions. As a member of the working group, OMB Watch has also helped create the “Principles of International Charities”. This document is a proposed alternative to earlier guidelines developed by a working group of nonprofit organizations which includes MPAC and other Muslim American institutions (SEE: <http://www.ombwatch.org/article/articleview/3210/1/3?TopicID=>).

## **ANTI-TERRORIST FINANCING BEST PRACTICES**

As with most of the Updated Guidelines, we agree with both the substance and tone of the Best Practices section. There are, however, a few sections that are objectionable both in substance and in the assumptions upon which they are based. The following is a detailed analysis of the major areas of contention in Section VI.

### **Section VI B. 1, 4 and C. 1**

The Treasury encourages the use of “publicly available information, including information available via the Internet” to determine whether an individual or institution are “suspected of activity relating to terrorism.”

As the Treasury knows well, there is a movement of individuals aimed at excluding Islam and Muslims from the mainstream of America’s pluralism. Their tactics include smear campaigns against major Muslim American leaders and institutions in an attempt to cast the entire community within a suspicious shadow of “supporting terrorism”. We caution the Treasury, as we have before, from reaching out to such anti-Muslim activists who present themselves as so-called “terrorism experts” for advice on our community or its role in counterterrorism programs. Their intent is to indict the entire Muslim American community and they have had a number of opportunities to do so. Since the last version of the Guidelines, Treasury has made numerous appearances before House and Senate Committees and has failed every single time to mention the contributions of the Muslim American community in combating terrorist financing. In many of those hearings, anti-

Muslim activists such as Steven Emerson of the Investigative Project, are offered opportunities to misinform USG officials while institutions representing communities most at risk are shut out. Treasury is well aware of this reality and is perceived to have chosen to stand aside and watch as the Muslim American community is defamed.

### **Section VI B. 3**

Treasury advises that “charities should be aware that other nations may have their own lists of designated terrorist-related individuals, entities, or organizations.” This raises a serious concern about the methodology involved in compiling such lists. There are numerous examples of nation-states, including political dissidents and movements with opinions contrary to ruling regimes, in their list of terrorists or terrorist sympathizers. As Treasury encourages US NGOs to reference those lists, it is inadvertently legitimizing the lists created by other governments, some of which directly oppose our laws and our commitment to the promotion of human rights and civil liberties around the world.

### **Section VI D. 1, 2**

MPAC recognizes the responsibility of every American to report information that potentially relates to terrorist activity and further recognizes that charitable institutions are not exempt from such a practice. Concerns arise, however, when NGOs are expected to perform law enforcement duties through the simulation of investigative enterprises throughout the sector. This could potentially undermine their work, as they would be perceived as agents of US law enforcement as opposed to neutral parties engaged in legitimate humanitarian work.

## **ROLE AND RELEVANCE OF PATRIOT ACT**

Finally, our major concern with the Voluntary Guidelines is that they provide no safe haven against USG sanctions even with 100% compliance. According to the USA PATRIOT ACT, while an investigation of a charity is ongoing, the USG is able to use secret evidence to take action against US charities by freezing their assets. Muslim American non-profit organizations are committed to operating according to the relevant laws that govern their work in the US and in the countries where they distribute relief. They will likely comply with whatever guidelines are issued by the Treasury Department, voluntary or otherwise, in order to avoid any possibility that their donors’ funds could be diverted to criminal activity.

We have been told by Treasury officials that if an organization is targeted and its assets frozen during an ongoing investigation, offering evidence that the organization was in compliance with Treasury Guidelines will help when an appeal is filed. We are all aware that by then it will be too late for the organization to recover its losses in terms of time, money and donor trust to be able to resume its activities in a meaningful way. The use of secret evidence is contrary to the principle of transparency that the USG is so keen on emphasizing for the non-profit sector.

## **CONCLUSION**

MPAC stands committed to continue its cooperative relationship with the Treasury to further our nation's ability to combat terrorist financing and the usurpation of the legitimacy of Muslim American institutions by saboteurs. This can only happen through continued and honest substantive dialogue. This solicitation of comments by the Treasury on the Updated Guidelines has offered a venue for such discourse. We look forward to a response and further discussion.