

Under the circumstances, there can be no question but that the Amended Complaint adequately alleges materiality.

The Defendant's remaining arguments also lack merit. The Amended Complaint more than adequately alleges that the Defendant either knew, acted in reckless disregard, or acted wilfully blind towards its support of terrorism. In effect, Defendant is asking for a standard that an organization has absolutely no duty of oversight or inquiry in regards to the activities carried out using its name. Such a standard is simply inconsistent with that contained in the False Claims Act.

Further, the Amended Complaint clearly satisfies Rule 9(b) by alleging all the particulars of the Defendant's alleged misbehavior and the dates, names, and locations of the critical false statements.

Finally, the Defendant's argument about personal jurisdiction is so weak that it hardly merits a response. Defendant's position is, in effect, that foreign organizations are perfectly free to defraud the United States government without any concern whatsoever about being called to account in American courts. This position is contrary to both precedent and common sense.

For the foregoing reasons, Defendant's motion should be denied.

Facts

Defendant Christian Aid is a British non-governmental organization based in London. (Amended Complaint Para. 2). Christian Aid has received substantial USAID funding in recent years. (Amended Complaint Para. 8) In order to be eligible for funding, Christian Aid had to execute certifications indicating that it has not provided

material support or resources to terrorist persons or entities in the last 10 years. ("Anti-Terrorism Certifications" or "ATC's") (*Id.*)

Christian aid executed these certifications as follows:

Name of Signer	Title	Date	Location
Dominic Brain	Head of Program Funding	January 8, 2017	London, UK
John E. Kitui	Country Manager	March 17, 2017	Nairobi, Kenya

(Amended Complaint Para. 10a). As a result of signing these certifications, Defendant received approximately \$26 million in USAID funding. (Amended Complaint Para. 19).

The Anti-Terrorism Certifications explicitly state that they are "an express term and condition of any agreement issued as a result of this application." (Amended Complaint Para. 10, Abrams Aff. Para.2 and attachment).

In late 2015, Christian Aid sponsored vocational training activities in Lebanon for mentally disabled individuals. (Amended Complaint Para. 12). The actual training was put on by an organization known as Jihad-al-Binaa (*Id.*) Jihad al Binaa was designated as a Specially Designated Global Terrorist organization on or about February 20, 2007. (Amended Complaint Para. 11a) Moreover, Jihad al Binaa is well known to be an arm of the Hezbollah organization, which has been a State Department designated Foreign Terrorist Organization since October 8, 1997. (*Id.*)

More specifically, for many years Christian Aid has made use of its designated "partner" in Lebanon, the Lebanese Physical Handicap Union ("LPHU") to provide social services in Lebanon. (Amended Complaint Para. 12a) This relationship was in existence since at least 2007 and continues through the present day. (*Id.*) Through its partner LPHU, Christian Aid hired Jihad al Binaa to perform vocational training classes for

persons with disabilities, specifically a cellular phone repair course. (Amended Complaint Para. 12c) These activities were overseen by LPHU's Activity Coordinator a Mr. or Ms. Tufeilli, who was well aware that Jihad al Binaa had been hired and was being paid monies, directly or indirectly, by Christian Aid. (*Id.*) Indeed, Jihad al Binaa proudly displayed its distinctive logo at the vocational training sessions. (*Id.*) Mr. or Ms. Tufeilli did not conceal the fact that LPHU (and therefore Christian Aid) had hired Jihad al Binaa. (Amended Complaint Para. 12e) Even ignoring the partnership relationship between Defendant and LPHU, even the most minimal inquiry would have disclosed what was going on. (Amended Complaint Para. 12g).

A review of the public dockets shows that the United States takes seriously the type of allegations made in this matter. For example, the United States intervened in the case of *United States ex rel. TZAC, Inc. v. Norwegian Peoples' Aid* in a matter with similar allegations; the same Relator; and the same counsel as this matter. *See* Case No. 15 cv 4892 (S.D.N.Y. Apr. 3, 2018). That matter settled for \$2 million. *See id.*

Argument

I. The Amended Complaint Sufficiently Alleges Materiality

At the outset, it should be emphasized that Defendant's argument regarding materiality was never mentioned in its pre-motion letter. Accordingly, if the Court comes to the conclusion that something important is missing from the Amended Complaint, Relator respectfully requests the opportunity to have additional leave to amend.

In any event, even without any further amendment, it is reasonably clear that all three factors of *United States v. Strock*, 982 F.3d 51, 61 (2d Cir. 2020) are present here:

With respect to the first factor, the certifications at issue (incorporated by reference into the Amended Complaint) explicitly state that that the anti-terrorism certifications were "an express term and condition of any agreement issued" as a result of the application.

With respect to the second factor, applicable precedent shows that the United States does in fact consider it a material violation when NGOs accept USAID money after having provided material support to designated terrorist entities. Thus, under very similar circumstances, the United States has demanded partial repayment and certifications of future compliance from a European NGO and a United States university. *See United States v. Norwegian Peoples Aid*, Case No. 15 cv 4892 (S.D.N.Y. Apr. 3, 2018); *United States v. American University of Beirut*, Case No. 14 cv 6899 (S.D.N.Y. March 28, 2017).

While it is true that in two other cases regarding material support and USAID money the United States moved to dismiss, *United States v. Carter Center* and *United States v. Oxfam*, there is no indication that materiality was the reason for dismissal. *See United States v. McInteer*, 470 F.3d 1350, 1360 n.17 (11th Cir. 2006) (noting that the government "may have a host of reasons for not pursuing a [False Claims Act] claim").

Finally, Defendant's argument that its support of terrorism was "minor or insubstantial" has been roundly rejected by precedent making it clear that when it comes to material support, there is absolutely no *de minimus* exception. *See Hincapie-Zapata v. United States*, 977 F.3d 1197 (11th Cir. 2020) (\$100 donation to terrorist organization constituted "material support"); *Rayamajhi v. Whitaker*, 912 F.3d 1241 (9th Cir. 2019) (\$50 donation to Maoist organization was "material support"). Here, the Amended

Complaint alleges that Defendant provided funds to Jihad Al Binaa, a terrorist organization. Although the precise amount of funds is an issue for discovery, there can be no doubt that no matter how little was paid to Jihad al Binaa to put on the program in question, it is not seen by the law as "minor and insubstantial."

Although the Court should not consider the extra materials submitted by the Defendant, if it does, it should be noted that the revised anti-terrorism certification of 2020 which allows grantees to "come clean" regarding past material support is of no relevance here, since this was not the certification in effect in 2017. Moreover, the fact that the United States now considers giving USAID grants to organizations which file honest certifications is logically irrelevant in the situation where the organization files a dishonest certification. For the same reason, the mere fact that the Lebanese Physical Handicapped Union has received a USAID grant, without more, does not in any way permit a conclusion that the United States accepts false certifications in this area. One would need to look at the actual documents in question, which are not before the Court.

In any event, the bottom line here is that all three *Strock* factors point in favor of materiality and therefore the reasonable conclusion is that the Amended Complaint has satisfactorily alleged materiality.

II. The Amended Complaint Sufficiently Alleges Scienter

At the outset, it should be emphasized that the False Claims Act has a "liberal scienter requirement" and that thus "knowledge . . . may be averred generally." *Gold v. Morrison-Knudson Co.*, 68 F.3d 1475, 1477 (2d Cir. 1995) (citation omitted).

The Defendant denies that its self-admitted partnership with LPHU is an actual partnership or agency relationship which would make the Defendant chargeable with

LPHU's knowledge. Putting aside that this is an issue for discovery, it is clear that the Amended Complaint adequately alleges that even a simple inquiry would have disclosed LPHU's engagement of Jihad al Binaa with Defendant's monies. This alone is sufficient.

As the Ninth Circuit Court of Appeals has pointed out, the False Claims Act's knowledge standard "reaches 'what has become known as the ostrich type situation where an individual has buried his head in the sand and failed to make simple inquiries which would alert him that false claims are being submitted.'" *United States v. United Healthcare Ins. Co.*, 848 F.3d 1161, 1176 (9th Cir. 2016).

"One who signs a certification cannot choose to remain unaware of the veracity of that certification like the proverbial ostrich who buried its head in the sand so as to see no evil, hear no evil, and speak no evil." *United States v. Raymond & Whitcomb Co.*, 53 F. Supp. 2d 436, 447 (S.D.N.Y. 1999) "Thus, a failure to conduct a proper investigation before making a false statement may be sufficiently reckless to yield False Claims Act liability." *Id.*

The False Claims Act "impose[s] upon individuals and contractors receiving public funds 'some duty to make a limited inquiry so as to be reasonably certain they are entitled to the money they seek,'" and to "preclude 'ostrich' type situations where an individual has 'buried his head in the sand' and failed to make any inquiry that would have revealed the false claim." *United States v. Gabelli* 345 F. Supp. 2d 313, 330 (S.D.N.Y. 2004) (citation omitted).

At a minimum, the Amended Complaint plausibly alleges such an "ostrich" type situation. Whatever the nature of the "partnership" between Defendant and LPHU, given that LPHU openly used Christian Aid funds to engage Jihad al Binaa to teach a class with

everyone's logos on display, it is completely implausible that a simple inquiry would not have revealed the activities in question. Thus, there can be no question but that the Amended Complaint adequately alleges scienter.

III. The Amended Complaint Satisfies Rule 9(b)

The Defendant's argument that the Amended Complaint is not sufficiently particular is completely lacking in merit. The Amended Complaint provides the specifics of the allegedly false certifications: date; location signed; and the name and title of the individual who signed on behalf of Defendant. The Amended Complaint further provides the specifics of the alleged material support, identifying the time, location, and specific individuals involved.

As noted above, Rule 9(b) explicitly provides that mental states such as scienter "may be alleged generally." F.R.C.P. 9(b). As set forth above, the Defendant's scienter is more than adequately alleged.

IV. There Exists Personal Jurisdiction over the Defendant

As with particularity, Defendant's personal jurisdiction is completely lacking in merit. Since the False Claims Act authorizes nationwide service of process, *see* 31 U.S.C. 3732(a), what matters is the Defendant's contacts with the United States as a whole. *See, e.g., Pinker v. Roche Holdings*, 292 F.3d 361, 369 (3d Cir. 2002) (holding that "a federal court's personal jurisdiction may be assessed on the basis of the defendant's national contacts when the plaintiff's claim rests on a federal statute authorizing nationwide service of process").

Further, applicable precedent shows that even a "single transaction" will suffice if "the relevant cause of action arises from that transaction." *Bank Brussels Lambert v. Fiddler Gonzalez & Rodriguez*, 171 F.3d 779, 787 (2d Cir.1999) (citation omitted).

Common sense says that entering voluntarily into a transaction with the United States government is sufficient to permit jurisdiction of United States courts. Indeed, it would be difficult to think of a more compelling example of the "single transaction" rule.

It should also be noted that the anti-terrorism certification executed by Christian Aid contains a specific acknowledgment that "the United States will have the right to seek judicial enforcement of these assurances." (Attachment to Abrams Affirmation, p. 7) Is the Defendant seriously arguing that the United States' sole legal remedy arising from the USAID grants in question is to bring suit in the courts of the United Kingdom? Such a position defies all common sense.

Conclusion

For the foregoing reasons, Plaintiff respectfully that Defendant's motion should be denied. To the extent that the Defendant has made factual submissions to the Court, Plaintiff respectfully requests the opportunity to take discovery and have an evidentiary hearing. Plaintiff also requests the opportunity, if necessary to amend the Complaint and correct any deficiencies which could be corrected.

/s/ David Abrams

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Dated: March 11, 2021
New York, New York

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Tel. 212-897-5821 dnabrams@gmail.com

United States District Court
Southern District of New York

_____)	
United States of America ex rel.)		
TZAC, Inc.,)		
)		
Plaintiff-Relator,)		
)		
- against -)	Index No.: 17 cv 4135 (PKC)	
)		
Christian Aid,)	<u>Affirmation of David Abrams</u>	
)		
)		
Defendant.)		
_____)	

David Abrams affirms to the following under penalty of perjury:

1. I am the attorney for the Relator in this matter. I make this affirmation in opposition to Defendant's motion to dismiss.
2. Attached hereto is a copy of one of the certifications incorporated by reference in the Amended Complaint in this matter. I have highlighted the relevant portions.

Respectfully submitted,



David Abrams, Attorney at Law
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Zionist Advocacy Center

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Dated: New York, NY
March 11, 2021



USAID
FROM THE AMERICAN PEOPLE

**Certifications, Assurances,
Other Statements of the Recipient and
Solicitation Standard Provisions**

A Mandatory Reference for ADS Chapter 303

Partial Revision Date: 04/08/2016
Responsible Office: M/OAA/P
File Name: 303mav_040816

Certifications, Assurances, Other Statements of the Recipient and Solicitation Standard Provisions

NOTE: When these Certifications, Assurances, and Other Statements of Recipient are used for cooperative agreements, the term "Grant" means "Cooperative Agreement."

Part I – Certifications and Assurances

1. Assurance of Compliance with Laws and Regulations Governing Non-Discrimination in Federally Assisted Programs

Note: This certification applies to Non-U.S. organizations if any part of the program will be undertaken in the United States.

(a) The recipient hereby assures that no person in the United States will, on the bases set forth below, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program or activity receiving financial assistance from USAID, and that with respect to the Cooperative Agreement for which application is being made, it will comply with the requirements of:

(1) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352, 42 U.S.C. 2000-d), which prohibits discrimination on the basis of race, color or national origin, in programs and activities receiving Federal financial assistance;

(2) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination on the basis of handicap in programs and activities receiving Federal financial assistance;

(3) The Age Discrimination Act of 1975, as amended (Pub. L. 95-478), which prohibits discrimination based on age in the delivery of services and benefits supported with Federal funds;

(4) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), which prohibits discrimination on the basis of sex in education programs and activities receiving Federal financial assistance (whether or not the programs or activities are offered or sponsored by an educational institution); and

(5) USAID regulations implementing the above nondiscrimination laws, set forth in Chapter II of Title 22 of the Code of Federal Regulations.

(b) If the recipient is an institution of higher education, the Assurances given herein extend to admission practices and to all other practices relating to the treatment of students or clients of the institution, or relating to the opportunity to participate in the

provision of services or other benefits to such individuals, and must be applicable to the entire institution unless the recipient establishes to the satisfaction of the USAID Administrator that the institution's practices in designated parts or programs of the institution will in no way affect its practices in the program of the institution for which financial assistance is sought, or the beneficiaries of, or participants in, such programs.

2. Certification Regarding Lobbying

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal Cooperative Agreement, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned must complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- (3) The undersigned must require that the language of this certification be included in the award documents for all subawards at all tiers (including contracts, subawards, and contracts under grants, loans, and cooperative agreements) and that all subrecipients must certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, United States Code. Any person who fails to file the required certification will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

"The undersigned states, to the best of his or her knowledge and belief, that: If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with

this commitment providing for the United States to insure or guarantee a loan, the undersigned must complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure."

3. Prohibition on Assistance to Drug Traffickers for Covered Countries and Individuals (ADS 206)

USAID reserves the right to terminate this Agreement, to demand a refund or take other appropriate measures if the Grantee is found to have been convicted of a narcotics offense or to have been engaged in drug trafficking as defined in 22 CFR Part 140. The undersigned must review USAID ADS 206 to determine if any certifications are required for Key Individuals or Covered Participants.

If there are COVERED PARTICIPANTS: USAID reserves the right to terminate assistance to or take other appropriate measures with respect to, any participant approved by USAID who is found to have been convicted of a narcotics offense or to have been engaged in drug trafficking as defined in 22 CFR Part 140.

4. Certification Regarding Terrorist Financing, Implementing Executive Order 13224

By signing and submitting this application, the prospective recipient provides the certification set out below:

1. 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. The Certification in the preceding sentence will not be deemed applicable to material support or resources provided by the Recipient pursuant to an authorization contained in one or more applicable licenses issued by the U.S. Treasury's Office of Foreign Assets Control (OFAC).
2. The following steps may enable the Recipient to comply with its obligations under paragraph 1:
 - a. Before providing any material support or resources to an individual or entity, the Recipient will verify that the individual or entity does not (i) appear on the master list of **Specially Designated Nationals and Blocked Persons**, which is maintained by OFAC, or (ii) is not included in any supplementary

information concerning prohibited individuals or entities that may be provided by USAID to the Recipient.

b. Before providing any material support or resources to an individual or entity, the Recipient also will verify that the individual or entity has not been designated by the United Nations Security (UNSC) sanctions committee established under UNSC Resolution 1267 (1999) (the "1267 Committee") [individuals and entities linked to the Taliban, Usama bin Laden, or the Al-Qaida Organization]. To determine whether there has been a published designation of an individual or entity by the 1267 Committee, the Recipient should refer to the consolidated list available online at the Committee's Web site: <http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>.

c. 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 and all public information that is reasonably available to it or of which it should be aware.

d. The Recipient also will implement reasonable monitoring and oversight procedures to safeguard against assistance being diverted to support terrorist activity.

3. For purposes of this Certification -

a. "Material support and resources" means currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials."

(i) "Training" means instruction or teaching designed to impart a specific skill, as opposed to general knowledge.

(ii) "Expert advice or assistance" means advice or assistance derived from scientific, technical, or other specialized knowledge.

b. "Terrorist act" means -

(i) an act prohibited pursuant to one of the 12 United Nations Conventions and Protocols related to terrorism (see UN terrorism conventions Internet site: <http://untreaty.un.org/English/Terrorism.asp>); or

(ii) an act of premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents; or

(iii) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

c. "Entity" means a partnership, association, corporation, or other organization, group or subgroup.

d. References in this Certification to the provision of material support and resources must not be deemed to include the furnishing of USAID funds or USAID-financed commodities to the ultimate beneficiaries of USAID assistance, such as recipients of food, medical care, micro-enterprise loans, shelter, etc., unless the Recipient has reason to believe that one or more of these beneficiaries commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated or participated in terrorist acts.

e. The Recipient's obligations under paragraph 1 are not applicable to the procurement of goods and/or services by the Recipient that are acquired in the ordinary course of business through contract or purchase, e.g., utilities, rents, office supplies, gasoline, etc., unless the Recipient has reason to believe that a vendor or supplier of such goods and services commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated or participated in terrorist acts.

This Certification is an express term and condition of any agreement issued as a result of this application, and any violation of it will be grounds for unilateral termination of the agreement by USAID prior to the end of its term.

5. Certification Regarding Trafficking in Persons, Implementing Title XVII of the National Defense Authorization Act for Fiscal Year 2013

Note: This certification must be completed prior to receiving an award if the estimated value of services required to be performed under the award outside the United States exceeds \$500,000. This certification must also be submitted annually to the Agreement Officer during the term of the award.

By signing below, the applicant or recipient, as applicable, through its duly designated representative, after having conducted due diligence, hereby certifies the following:

1. The applicant/recipient has implemented a compliance plan to prevent the prohibited activities identified in section (a) of the Mandatory Provision

"Trafficking in Persons" and is in compliance with that plan;

2. The application/recipient has implemented procedures to prevent any activities described in section (a) of the Mandatory Provision "Trafficking in Persons" and to monitor, detect, and terminate any contractor, subawardee, employee, or other agent of the applicant/recipient engaging in any activities described in such section; and
3. To the best of the representative's knowledge, neither the applicant/recipient, nor any employee, contractor, or subawardee of the applicant/recipient, nor any agent of the applicant/recipient or of such a contractor or subawardee, is engaged in any of the activities described in section (a) the Mandatory Provision "Trafficking in Persons."

6. Certification of Recipient

By signing below the recipient provides certifications and assurances for (1) the Assurance of Compliance with Laws and Regulations Governing Non-Discrimination in Federally Assisted Programs, (2) the Certification Regarding Lobbying, (3) the Prohibition on Assistance to Drug Traffickers for Covered Countries and Individuals (ADS 206), (4) the Certification Regarding Terrorist Financing Implementing Executive Order 13224, and (5) the Certification Regarding Trafficking in Persons above.

These certifications and assurances are given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts, or other Federal financial assistance extended after the date hereof to the recipient by the Agency, including installment payments after such date on account of applications for Federal financial assistance which was approved before such date. The recipient recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in these assurances, and that the United States will have the right to seek judicial enforcement of these assurances. These assurances are binding on the recipient, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign these assurances on behalf of the recipient.



Request for Application or
Annual Program Statement No. _____

Application No. _____

Date of Application _____

Name of Recipient Dominic Brain

Typed Name and Title Dominic Brain, Head of Programme Funding

Signature

(b)(6)

Date

January 18, 2017

Part II – Key Individual Certification Narcotics Offenses and Drug Trafficking

I hereby certify that within the last ten years:

1. I have not been convicted of a violation of, or a conspiracy to violate, any law or regulation of the United States or any other country concerning narcotic or psychotropic drugs or other controlled substances.
2. I am not and have not been an illicit trafficker in any such drug or controlled substance.
3. I am not and have not been a knowing assister, abettor, conspirator, or colluder with others in the illicit trafficking in any such drug or substance.

Signature:

(b)(6)

Date:

January 18, 2017

Name:

Dominic Brain

Title/Position:

Head of Programme Funding

Organization:

CHRISTIAN AID

Address:

35 Lower Marsh, London, SE1 7RL

United Kingdom

Date of Birth:

(b)(6)

NOTICE:

1. You are required to sign this Certification under the provisions of 22 CFR Part 140, Prohibition on Assistance to Drug Traffickers. These regulations were issued by the Department of State and require that certain key individuals of organizations must sign this Certification.
2. If you make a false Certification you are subject to U.S. criminal prosecution under 18 U.S.C. 1001.

Part III – Participant Certification Narcotics Offenses and Drug Trafficking

1. I hereby certify that within the last ten years:

- a. I have not been convicted of a violation of, or a conspiracy to violate, any law or regulation of the United States or any other country concerning narcotic or psychotropic drugs or other controlled substances.
- b. I am not and have not been an illicit trafficker in any such drug or controlled substance.
- c. I am not or have not been a knowing assister, abettor, conspirator, or colluder with others in the illicit trafficking in any such drug or substance.

2. I understand that USAID may terminate my training if it is determined that I engaged in the above conduct during the last ten years or during my USAID training.

Signature: (b)(6) _____

Name: Dominic Brain

Date: January 18, 2017

Address: 35 Lower Marsh, London, SE1 7RL

United Kingdom

Date of Birth: September 3, 1970

NOTICE:

1. You are required to sign this Certification under the provisions of 22 CFR Part 140, Prohibition on Assistance to Drug Traffickers. These regulations were issued by the Department of State and require that certain participants must sign this Certification.
2. If you make a false Certification you are subject to U.S. criminal prosecution under 18 U.S.C. 1001.

Part IV – Representation by Organization Regarding a Delinquent Tax Liability or a Felony Criminal Conviction

(a) As required by sections 744 and 745 of Division E of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235), and similar provisions, if contained in subsequent appropriations acts, none of the funds made available by that Act may be used to enter into an assistance award with any organization that

(1) “Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency has direct knowledge of the conviction, unless the agency has considered, in accordance with its procedures, that this further action is not necessary to protect the interests of the Government”; or

(2) “Has any unpaid Federal tax liability that has been assessed for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency has direct knowledge of the unpaid tax liability, unless the Federal agency has considered, in accordance with its procedures, that this further action is not necessary to protect the interests of the Government”.

It is USAID’s policy that no award may be made to any organization covered by (1) or (2) above, unless the M/OAA Compliance Division has made a determination that suspension or debarment is not necessary to protect the interests of the Government.

(b) **Applicant Representation:**

(1) The Applicant represents that it is [] is not [] an organization that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

(2) The Applicant represents that it is [] is not [] an organization that has any unpaid Federal tax liability that has been assessed for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

Part V – Other Statements of Recipient

1. Authorized Individuals

The recipient represents that the following persons are authorized to negotiate on its behalf with the Government and to bind the recipient in connection with this application or grant:

Name	Title	Telephone No.	Facsimile No.
Martin Birch	Chief Operating Officer		Tel: +44 20 7620 4444
Dominic Brain	Head of Programme Funding		Tel: +44 20 7620 4444

2. Taxpayer Identification Number (TIN)

If the recipient is a U.S. organization, or a foreign organization which has income effectively connected with the conduct of activities in the U.S. or has an office or a place of business or a fiscal paying agent in the U.S., please indicate the recipient's TIN:

TIN: N/A

3. Data Universal Numbering System (DUNS) Number

(a) Unless otherwise specified in the solicitation using an applicable exemption, in the space provided at the end of this provision, the recipient should supply the Data Universal Numbering System (DUNS) number applicable to that name and address. Recipients should take care to report the number that identifies the recipient's name and address exactly as stated in the proposal.

(b) The DUNS is a 9-digit number assigned by Dun and Bradstreet Information Services. If the recipient does not have a DUNS number, the recipient should call Dun and Bradstreet directly at 1-800-333-0505. A DUNS number will be provided immediately by telephone at no charge to the recipient. The recipient should be prepared to provide the following information:

- (1) Recipient's name.
- (2) Recipient's address.
- (3) Recipient's telephone number.

- (4) Line of business.
- (5) Chief executive officer/key manager.
- (6) Date the organization was started.
- (7) Number of people employed by the recipient.
- (8) Company affiliation.

(c) Recipients located outside the United States may email Dun and Bradstreet at **globalinfo@dbisma.com** to obtain the location and phone number of the local Dun and Bradstreet Information Services office.

The DUNS system is distinct from the Federal Taxpayer Identification Number (TIN) system.

DUNS: 739182504

4. Letter of Credit (LOC) Number

If the recipient has an existing Letter of Credit (LOC) with USAID, please indicate the LOC number:

LOC: N/A

5. Procurement Information

(a) **Applicability.** This applies to the procurement of goods and services planned by the recipient (i.e., contracts, purchase orders, etc.) from a supplier of goods or services for the direct use or benefit of the recipient in conducting the program supported by the grant, and not to assistance provided by the recipient (i.e., a subgrant or subagreement) to a subgrantee or subrecipient in support of the subgrantee's or subrecipient's program. Provision by the recipient of the requested information does not, in and of itself, constitute USAID approval.

(b) **Amount of Procurement.** Please indicate the total estimated dollar amount of goods and services which the recipient plans to purchase under the grant:

\$67,997

(c) **Nonexpendable Property.** If the recipient plans to purchase nonexpendable equipment which would require the approval of the Agreement Officer, indicate below (using a continuation page, as necessary) the types, quantities of each, and estimated unit costs. Nonexpendable equipment for which the Agreement Officer's approval to purchase is required is any article of nonexpendable tangible personal property charged

directly to the grant, having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.

TYPE/DESCRIPTION (Generic) _____
 QUANTITY _____
 ESTIMATED UNIT COST _____

(d) Source If the recipient plans to purchase any goods/commodities which are not in accordance with the Standard Provision "USAID Eligibility Rules for Procurement of Commodities and Services," indicate below (using a continuation page, as necessary) the types and quantities of each, estimated unit costs of each, and probable source. "Source" means the country from which a commodity is shipped to the cooperating country or the cooperating country itself if the commodity is located in the cooperating country at the time of purchase. However, where a commodity is shipped from a free port or bonded warehouse in the form in which received, "source" means the country from which the commodity was shipped to the free port or bonded warehouse. Additionally, "available for purchase" includes "offered for sale at the time of purchase" if the commodity is listed in a vendor's catalog or other statement of inventory, kept as part of the vendor's customary business practices and regularly offered for sale, even if the commodities are not physically on the vendors' shelves or even in the source country at the time of the order. In such cases, the recipient must document that the commodity was listed in the vendor's catalog or other statement of inventory; that the vendor has a regular and customary business practice of selling the commodity through "just in time" or other similar inventory practices; and the recipient did not engage the vendor to list the commodity in its catalog or other statement of inventory just to fulfill the recipient's request for the commodity.

TYPE/DESCRIPTION _____
 QUANTITY _____
 ESTIMATED GOODS _____
 PROBABLE GOODS _____
 PROBABLE (Generic) _____
 UNIT COST _____
 SOURCE _____

(e) Restricted Goods. If the recipient plans to purchase any restricted goods, indicate below (using a continuation page, as necessary) the types and quantities of each, estimated unit costs of each, intended use, and probable source. Restricted goods are Agricultural Commodities, Motor Vehicles, Pharmaceuticals, Pesticides, Used Equipment, U.S. Government-Owned Excess Property, and Fertilizer.

TYPE/DESCRIPTION _____
 QUANTITY _____
 ESTIMATED _____
 PROBABLE _____
 INTENDED USE (Generic) _____
 UNIT COST _____
 SOURCE _____

(f) Supplier Nationality. If the recipient plans to purchase any goods or services from suppliers of goods and services whose nationality is not in accordance with the Standard Provision "USAID Eligibility Rules for Procurement of Commodities and Services," indicate below (using a continuation page, as necessary) the types and quantities of each good or service, estimated costs of each, probable nationality of each non-U.S. supplier of each good or service, and the rationale for purchasing from a non-U.S. supplier.

<u>Type/Description</u>	<u>Estimated Quantity</u>	<u>Probable Unit Cost</u>	<u>Supplier Nationality (Non-US)</u>	<u>Rationale for Non-US</u>
Flights	17	\$100-\$500	Various European	Flights in and around Europe
Conference Facilities	4	\$1,000-\$9,000	Various European	Conference/workshops to be held in Europe
Research Consultants	4	\$1,000-\$18,000	Various European	Will depend on skillset and knowledge
Editing/publishing	2	\$5,000	UK	Reduce cost of shipping
Website & IT support services	1	\$6,000	UK	For ease of co-ordination with EISF Secretariat
Stationary & Consumables	1	\$7,000	UK	Minimum cost

6. Past Performance References

On a continuation page, please provide past performance information requested in the RFA.

7. Type of Organization

The recipient, by checking the applicable box, represents that -

(a) If the recipient is a U.S. entity, it operates as a corporation incorporated under the laws of the State of, an individual, a partnership, a nongovernmental nonprofit organization, a state or local governmental organization, a private college or university, a public college or university, an international organization, or a joint venture; or

(b) If the recipient is a non-U.S. entity, it operates as a corporation organized under the laws of _____ (country), an individual, a partnership, a nongovernmental nonprofit organization, a nongovernmental educational institution, a governmental organization, an international organization, or a joint venture.

8. Estimated Costs of Communications Products

The following are the estimate(s) of the cost of each separate communications product (i.e., any printed material [other than non-color photocopy material], photographic services, or video production services) which is anticipated under the grant. Each estimate must include all the costs associated with preparation and execution of the product. Use a continuation page as necessary.

'Managing Security for Staff with Diverse Profiles' paper	\$23,067
'Duty of Care Guide'	\$14,750
Website rent	\$601
Webinars	\$882

Part VI – Standard Provisions for Solicitations

1. Branding Strategy – Assistance (June 2012)

- a. Applicants recommended for an assistance award must submit and negotiate a "Branding Strategy," describing how the program, project, or activity is named and positioned, and how it is promoted and communicated to beneficiaries and host country citizens.
- b. The request for a Branding Strategy, by the Agreement Officer from the applicant, confers no rights to the applicant and constitutes no USAID commitment to an award.

- c. Failure to submit and negotiate a Branding Strategy within the time frame specified by the Agreement Officer will make the applicant ineligible for an award.
- d. The applicant must include all estimated costs associated with branding and marking USAID programs, such as plaques, stickers, banners, press events, materials, and so forth, in the budget portion of the application. These costs are subject to the revision and negotiation with the Agreement Officer and will be incorporated into the Total Estimated Amount of the grant, cooperative agreement or other assistance instrument.
- e. The Branding Strategy must include, at a minimum, all of the following:
 - (1) All estimated costs associated with branding and marking USAID programs, such as plaques, stickers, banners, press events, materials, and so forth.
 - (2) The intended name of the program, project, or activity.
 - (i) USAID requires the applicant to use the "USAID Identity," comprised of the USAID logo and landmark, with the tagline "from the American people" as found on the USAID Web site at <http://www.usaid.gov/branding>, unless Section VI of the RFA or APS states that the USAID Administrator has approved the use of an additional or substitute logo, seal, or tagline.
 - (ii) USAID prefers local language translations of the phrase "made possible by (or with) the generous support of the American People" next to the USAID Identity when acknowledging contributions.
 - (iii) It is acceptable to cobrand the title with the USAID Identity and the applicant's identity.
 - (iv) If branding in the above manner is inappropriate or not possible, the applicant must explain how USAID's involvement will be showcased during publicity for the program or project.
 - (v) USAID prefers to fund projects that do not have a separate logo or identity that competes with the USAID Identity. If there is a plan to develop a separate logo to consistently identify this program, the applicant must attach a copy of the proposed logos. Section VI of the RFA or APS will state if an Administrator approved the use of an additional or substitute logo, seal, or tagline.

- (3) The intended primary and secondary audiences for this project or program, including direct beneficiaries and any special target segments.
 - (4) Planned communication or program materials used to explain or market the program to beneficiaries.
 - (i) Describe the main program message.
 - (ii) Provide plans for training materials, posters, pamphlets, public service announcement, billboards, Web sites, and so forth, as appropriate.
 - (iii) Provide any plans to announce and promote publicly this program or project to host country citizens, such as media releases, press conferences, public events, and so forth. Applicant must incorporate the USAID Identity and the message, "USAID is from the American People."
 - (iv) Provide any additional ideas to increase awareness that the American people support this project or program.
 - (5) Information on any direct involvement from host-country government or ministry, including any planned acknowledgement of the host-country government.
 - (6) Any other groups whose logo or identity the applicant will use on program materials and related materials. Indicate if they are a donor or why they will be visibly acknowledged, and if they will receive the same prominence as USAID.
- e. The Agreement Officer will review the Branding Strategy to ensure the above information is adequately included and consistent with the stated objectives of the award, the applicant's cost data submissions, and the performance plan.
 - f. If the applicant receives an assistance award, the Branding Strategy will be included in and made part of the resulting grant or cooperative agreement

(END OF PROVISION)

2. Marking Plan – Assistance (June 2012)

- a. Applicants recommended for an assistance award must submit and negotiate a "Marking Plan," detailing the public communications, commodities, and program

materials, and other items that will visibly bear the "USAID Identity," which comprises of the USAID logo and brandmark, with the tagline "from the American people." The USAID Identity is the official marking for the Agency, and is found on the USAID Web site at <http://www.usaid.gov/branding>. Section VI of the RFA or APS will state if an Administrator approved the use of an additional or substitute logo, seal, or tagline.

- b. The request for a Marking Plan, by the Agreement Officer from the applicant, confers no rights to the applicant and constitutes no USAID commitment to an award.
- c. Failure to submit and negotiate a Marking Plan within the time frame specified by the Agreement Officer will make the applicant ineligible for an award.
- d. The applicant must include all estimated costs associated with branding and marking USAID programs, such as plaques, stickers, banners, press events, materials, and so forth, in the budget portion of the application. These costs are subject to the revision and negotiation with the Agreement Officer and will be incorporated into the Total Estimated Amount of the grant, cooperative agreement or other assistance instrument.
- e. The Marking Plan must include all of the following:
 - (1) A description of the public communications, commodities, and program materials that the applicant plans to produce and which will bear the USAID Identity as part of the award, including:
 - (i) Program, project, or activity sites funded by USAID, including visible infrastructure projects or other sites physical in nature;
 - (ii) Technical assistance, studies, reports, papers, publications, audio-visual productions, public service announcements, Web sites/Internet activities, promotional, informational, media, or communications products funded by USAID;
 - (iii) Commodities, equipment, supplies, and other materials funded by USAID, including commodities or equipment provided under humanitarian assistance or disaster relief programs; and
 - (iv) It is acceptable to cobrand the title with the USAID Identity and the applicant's identity.
 - (v) Events financed by USAID, such as training courses, conferences, seminars, exhibitions, fairs, workshops, press conferences and

other public activities. If the USAID Identity cannot be displayed, the recipient is encouraged to otherwise acknowledge USAID and the support of the American people.

- (2) A table on the program deliverables with the following details:
 - (i) The program deliverables that the applicant plans to mark with the USAID Identity;
 - (ii) The type of marking and what materials the applicant will use to mark the program deliverables;
 - (iii) When in the performance period the applicant will mark the program deliverables, and where the applicant will place the marking;
 - (iv) What program deliverables the applicant does not plan to mark with the USAID Identity , and
 - (v) The rationale for not marking program deliverables.
- (3) Any requests for an exemption from USAID marking requirements, and an explanation of why the exemption would apply. The applicant may request an exemption if USAID marking requirements would:
 - (i) Compromise the intrinsic independence or neutrality of a program or materials where independence or neutrality is an inherent aspect of the program and materials. The applicant must identify the USAID Development Objective, Interim Result, or program goal furthered by an appearance of neutrality, or state why an aspect of the award is presumptively neutral. Identify by category or deliverable item, examples of material for which an exemption is sought.
 - (ii) Diminish the credibility of audits, reports, analyses, studies, or policy recommendations whose data or findings must be seen as independent. The applicant must explain why each particular deliverable must be seen as credible.
 - (iii) Undercut host-country government "ownership" of constitutions, laws, regulations, policies, studies, assessments, reports, publications, surveys or audits, public service announcements, or other communications. The applicant must

explain why each particular item or product is better positioned as host-country government item or product.

- (iv) Impair the functionality of an item. The applicant must explain how marking the item or commodity would impair its functionality.
 - (v) Incur substantial costs or be impractical. The applicant must explain why marking would not be cost beneficial or practical.
 - (vi) Offend local cultural or social norms, or be considered inappropriate. The applicant must identify the relevant norm, and explain why marking would violate that norm or otherwise be inappropriate.
 - (vii) Conflict with international law. The applicant must identify the applicable international law violated by the marking.
- f. The Agreement Officer will consider the Marking Plan's adequacy and reasonableness and will approve or disapprove any exemption requests. The Marking Plan will be reviewed to ensure the above information is adequately included and consistent with the stated objectives of the award, the applicant's cost data submissions, and the performance plan.
- g. If the applicant receives an assistance award, the Marking Plan, including any approved exemptions, will be included in and made part of the resulting grant or cooperative agreement, and will apply for the term of the award unless provided otherwise.

(END OF PROVISION)

3. Conscience Clause Implementation (Assistance) – Solicitation Provision (February 2012)

APPLICABILITY: This provision must be included in any new Request for Applications (RFA) or Annual Program Statement (APS) that intends to obligate FY04 or later funds made available for HIV/AIDS activities, regardless of the program account. Further guidance is found in AAPD 14-04, Section 2.D.

CONSCIENCE CLAUSE IMPLEMENTATION (ASSISTANCE) – SOLICITATION PROVISION (February 2012)

- (a) An organization, including a faith-based organization, that is otherwise eligible to receive funds under this agreement for HIV/AIDS prevention, treatment, or care—
 - 1) Shall not be required, as a condition of receiving such assistance—
 - (i) to endorse or utilize a multisectoral or comprehensive approach to combating HIV/AIDS; or
 - (ii) to endorse, utilize, make a referral to, become integrated with, or otherwise participate in any program or activity to which the organization has a religious or moral objection; and
 - 2) Shall not be discriminated against in the solicitation or issuance of grants, contracts, or cooperative agreements for refusing to meet any requirement described in paragraph (a)(1) above.
- (b) An applicant who believes that this solicitation contains provisions or requirements that would require it to endorse or use an approach or participate in an activity to which it has a religious or moral objection must so notify the cognizant Agreement Officer in accordance with the Mandatory Standard Provision titled “Notices” as soon as possible, and in any event not later than 15 calendar days before the deadline for submission of applications under this solicitation. The applicant must advise which activity(ies) it could not implement and the nature of the religious or moral objection.
- (c) In responding to the solicitation, an applicant with a religious or moral objection may compete for any funding opportunity as a prime partner, or as a leader or member of a consortium that comes together to compete for an award. Alternatively, such applicant may limit its application to those activities it can undertake and must indicate in its submission the activity(ies) it has excluded based on religious or moral objection. The offeror’s proposal will be evaluated based on the activities for which a proposal is submitted, and will not be evaluated favorably or unfavorably due to the absence of a proposal addressing the activity(ies) to which it objected and which it thus omitted. In addition to the notification in paragraph (b) above, the applicant must meet the submission date provided for in the solicitation.

(END OF PROVISION)

4. Prohibition on Providing Federal Assistance to Entities that Require Certain Internal Confidentiality Agreements – Representation (April 2015)

APPLICABILITY: This pre-award provision must be included in Section IV of all assistance solicitations.

PROHIBITION ON PROVIDING FEDERAL ASSISTANCE TO ENTITIES THAT REQUIRE CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS – REPRESENTATION (APRIL 2015)

- (a) In accordance with section 743 of Division E, Title VII, of the Consolidated and further Continuing Resolution Appropriations Act, 2015 (Pub. L. 113-235), Government agencies are not permitted to use funds appropriated (or otherwise made available) under that or any other Act for providing federal assistance to an entity that requires employees, subawardees or contractors of such entity seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees, subawardees, or contractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.
- (b) The prohibition in paragraph (a) of this provision does not contravene requirements applicable to Standard Form 312, Form 4414, or any other form issued by a Federal department or agency governing the nondisclosure of classified information.
- (c) By submission of its application, the prospective recipient represents that it does not require employees, subawardees, or contractors of such entity seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees, subawardees, or contractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

(END OF PROVISION)

303mav_042116

PART VI – Additional Required Information & Certification

1. SYSTEM FOR AWARD MANAGEMENT (SAM) REGISTRATION EXPIRATION DATE:

May 27, 2017

2. SINGLE AUDIT (2 CFR 200) OR SIMILAR AUDITS

If applicable, please provide the date of your most recent Single Audit or Recipient Contracted Audit, including findings and results of such audits.

Crowe Clark Whitehall Audit Report for financial year 2015 dated 12/23/2016

Findings: Incorrect allocation of personnel costs to a USAID funded project.

3. Special Provision: Include the special provision below in all Requests for Applications for activities using USAID funds appropriated under the Consolidated Appropriations Act, 2014 (Public Law 113-76):

REPRESENTATION BY ORGANIZATION REGARDING A DELINQUENT TAX LIABILITY OR A FELONY CRIMINAL CONVICTION (August 2014)

(a) In accordance with section 7073 of the Consolidated Appropriations Act, 2014 (Pub. L. 113-76) none of the funds made available by that

Act may be used to enter into an assistance award with any organization that –

(1) Was “convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency has direct knowledge of the conviction, unless the agency has considered, in accordance with its procedures, that this further action is not necessary to protect the interests of the Government”; or

(2) Has any “unpaid Federal tax liability that has been assessed for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency has direct knowledge of the unpaid tax liability, unless the Federal agency has considered, in accordance with its procedures, that this further action is not necessary to protect the interests of the Government”.

For the purposes of section 7073, it is USAID’s policy that no award may be made to any organization covered by (1) or (2) above, unless the M/OAA Compliance Division has made a determination that suspension or debarment is not necessary to protect the interests of the Government.

(b) Applicant Representation:

(1) The Applicant represents that it is [] is not [X] an organization that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

(2) The Applicant represents that it is [] is not [X] an organization that has any unpaid Federal tax liability that has been assessed for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

As applicable:

Request for Application or Annual Program Statement No.:

Application No.:

Date of application:

Name of Recipient:

CHRISTIAN AID

Typed Name and Title:

Dominic Brain

Signature:

(b)(6)

Date:

January 18, 2017

