



## COUNTER TERRORISM POLICY

<b>Policy &amp; Procedure Owner</b>	CEO	
<b>Approved by</b>	ERFA Board of Directors	
	<b>Date Approved</b>	<b>Next Review</b>
	5 March 2018	February 2019

**PURPOSE** This policy articulates Edmund Rice Foundation Australia’s (ERFA) commitment to avoiding involvement in terrorist activities, avoiding supporting terrorism and avoiding supporting individuals and organisations that support terrorism. This policy also articulates ERFA’s commitment to complying with United Nation’s resolutions and Australian law relating to counter-terrorism.

<b>ABBREVIATIONS</b>	ERFA	Edmund Rice Foundation (Australia)
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**IMPLEMENTATION PLAN**

- Included in partner compliance documentation
- Inclusion of this policy in finance and management staff induction process

**RELATED POLICIES**

- Anti-Corruption & Anti-Fraud Policy
- Funding Policy

**RELATED FORMS**

The following International Development Program templates are relevant for the implementation of this policy:

- ERFA Program Funding Application
- ERFA Capital Funding Application
- ERFA Program Funding Annual Acquittal Report
- ERFA Capital Funding Acquittal Report
- ERFA Quarterly Report

## 1. ERFA's Commitment

- 1.1 As a not-for profit organization operating in Australia and overseas, ERFA recognizes there is a risk of ERFA being misused by individuals or other organisations to support terrorist activity. ERFA recognizes that this risk would be increased if ERFA does not exercise appropriate oversight of the delivery and operation of the in-country programs it funds.
- 1.2 This Counter-Terrorism Policy is necessary to ensure that ERFA funds and resources are not being used directly or indirectly to support terrorist groups or activities and to provide clear guidance on the steps to be taken if support of terrorist groups or activities is suspected. Furthermore, this policy scaffolds ERFA's ability to support and/or deliver sustainable development programs and safeguards its reputation and continued community support for the delivery of development programs.
- 1.3 The Australian Government has extensive legislation around counter-terrorism. Terrorism is against the law, against Australia's national interests and undermines sustainable development. ERFA is committed to the implementation of best practice principles to ensure that its activities are conducted within the context of these laws and obligations.
- 1.4 ERFA renounces all forms of terrorism and will never knowingly support, tolerate or encourage terrorism or the activities of those who embrace terrorism and will make every effort to ensure that its resources are not used to facilitate terrorist activity.
- 1.5 This policy sets out ERFA's response to the risk of dealing with individuals and organisations associated with terrorism and associated Australia Government legislation.
- 1.6 Failure to comply with Government requirements could significantly impact the reputation of ERFA as well as expose the organization to potential penalties.

## 2. Relevant authorities, legislation, associated regulations and guidelines

### 2.1 United Nations

- Part 4 of the Charter of United Nations Act 1945 (UN Security Council Decisions that Relate to Terrorism)
- The United Nations Security Council Resolution 1373 (2001) to combat terrorism
- Charter of the United Nations (Dealing with Assets) Regulations 2008

### 2.2 Australia

- Part 5.3, Sections 102.6, 102.7 & 103.1 of the Criminal Code Act 1995 (Australian Government)
- Australia's Counter-Terrorism Laws  
<https://www.ag.gov.au/NationalSecurity/Counterterrorismlaw/Pages/Australiascounterterrorismlaws.aspx>
- Australian Human Rights Commission: A Human Rights Guide To Australia's Counter-Terrorism Laws (2008)  
<https://www.humanrights.gov.au/human-rights-guide-australias-counter-terrorism-laws>
- Safeguarding your organization against terrorism financing: A guidance for non-profit organisations (Australian Government 2009)
- Attorney General Department's List of Terrorist Organisations  
<http://www.ag.gov.au/nationalsecurity/counterterrorismlaw/pages/terroristorganisations.aspx>
- Department of Foreign Affairs & Trade's Consolidated List  
<http://dfat.gov.au/international-relations/security/sanctions/Pages/consolidated-list.aspx>
- Australian NGO Accreditation Guidance Manual, October 2014 Criterion B3
- Australian Council for International Development Code of Conduct (Revised 2016): Quality Principle 8: Resource Management – Compliance verifier 8.2.1

### 3. Policy

- 3.1 ERFA acknowledges that Australian Government legislation prohibits dealing with listed terrorist organizations and/or proscribed persons or entities. ERFA acknowledges its obligations under these laws and therefore will exercise all reasonable care and make every reasonable effort to ensure that its funds and program activities are not misused to further terrorism or support terrorist activities.
- 3.2 ERFA will confirm the identity, credentials and good standing of the people and organisations it supports and will check that these people or organisations are not on the prohibited lists maintained by the Australian Government.
- 3.3 ERFA will not knowingly remit any funds to known or suspected terrorist organisations or individuals.
- 3.4 ERFA will report any known or suspected terrorist links to the relevant national authority.
- 3.5 ERFA will ensure that its overseas partners are aware of its obligations related to counter terrorism and ERFA will ensure that these obligations are reflected in its contractual agreements with them. The relevant policies and procedures of ERFA's in-country partners must enable ERFA to fulfil its obligations under relevant Australian anti-terrorist legislation.

### 4. Responsibilities

ERFA Board is committed to compliance with Australian anti-terrorist legislation to avoid dealing with individuals and organisations associated with terrorism. The Board is responsible for the review of this policy.

- 4.1 ERFA CEO is responsible for disseminating and explaining this policy to all ERFA employees and partners to ensure the implementation of the procedures detailed in Section 5 below, to minimise the risk of supporting terrorist organisations or individuals. This includes the induction process for new staff.

### 5. Procedures

- 5.1 ERFA must know the identity, credentials and good standing of its partners and recipient organisations (i.e. what they do, where they operate and the identity of their key governance, program leadership and program financial management personnel. This procedure must also be followed in the selection process for new partners and projects.
- 5.2 The names of all governance, key program leadership and key program finance management personnel must be provided to ERFA with Program and Capital Funding Applications. Any changes to these listings must be provided with Quarterly Reports to ERFA. ERFA Program Director will ensure that all listings are checked against the prohibited lists maintained by the Australian Government.

The protocols for the identification and verification of program partners and recipient organisations are set out in the following documents:

- Australian Government Anti-Money Laundering & Counter-Terrorism Financing Rules 2007 (Chapters 1 & 4) - available at: <https://www.comlaw.gov.au/Details/F2015C00096>
- *Know Your Customer* (factsheet) - Australian Transaction Reports & Analysis Centre - see Appendix 1

- 5.3 In the overseas transfer of funds, ERFA will use only reputable banks and other financial institutions.
- 5.4 All of ERFA's program partners will be made aware of this policy and ERFA's obligations under Australian law and will be required to adopt similar measures in respect of funds from ERFA.

Therefore, funding agreements will include wording that requires recipient organisations to adopt policies and procedures consistent with Australian Government requirements.

- 5.5 A section on counter-terrorism will be included within the Risk Management Plan of every Project Design Document.
- 5.6 Prior to signing of MoUs or funding agreements, details of funded entities and their office bearers will be compared to Australian Government lists of proscribed entities and individuals.
- 5.7 Funding recipients will be required to provide detailed Financial Report, at least annually, showing how funds have been disbursed. Financial Reports must be accompanied by an Independent Auditor's Report and Auditor's Management Letter, certifying that the Program Finance Report is a true and fair view of the income and expenditure of the program. The independent auditor must be accredited in-country and must not be an employee of or be related to the program.
- 5.8 ERFA will immediately cease forwarding funds and withdraw all support, including provision of resources, if it has reason to believe that a project partner has breached the requirements of this policy or is found to be on the Australian Government lists of proscribed entities and individuals. The National Security Hotline on 1800 123 400 will be informed immediately.

## 6. Definitions

### 6.1 Partner organisation

Edmund Rice Foundation Australia (ERFA) is a company limited by guarantee. The objects of the company are set out in clause 3 of ERFA's constitution. Clause 3 (f) reads as follows:

*To develop partnerships with overseas aid agencies or formal arrangements with other delivery agents related to the Company but resident in Developing Countries for the implementation of the objects in paragraph (a).*

One of ERFA's roles is to act as trustee of the Edmund Rice Overseas Aid Fund.

Throughout its policies and official documentation ERFA uses the term Partners for those organisations with which it has formed alliances in developing countries for the receipt of overseas aid funding for the in-country delivery of education, health and development programs. These are not partnerships in the legal sense. Rather, they are alliances for funding that ERFA has formed with in-country organisations with whom ERFA has communicated its vision, mission, values, policies and expectations with respect to sustainable development and whose own vision, mission, values, policies and development goals are congruent with those of ERFA.

### 6.2 A Terrorist Act

(Australia's terrorist act offences are contained in the *Criminal Code Act 1995*)

A 'terrorist act' is an act, or a threat to commit an act, that is done with the intention to coerce or influence the public or any government by intimidation to advance a political, religious or ideological cause, and the act causes:

- death, serious harm or endangers a person
- serious damage to property
- a serious risk to the health or safety of the public, or
- seriously interferes with, disrupts or destroys critical infrastructure such as a telecommunications or electricity network.

A terrorist act does not cover engaging in advocacy, protest, dissent or industrial action where a person does not have the intention to urge force or violence or cause harm to others. If found guilty of committing a terrorist act, a person could face up to life imprisonment.

### **6.3 A Terrorist Offence**

The terrorist act offences mean it is an offence to:

- commit a terrorist act
- plan or prepare for a terrorist act
- finance terrorism or a terrorist
- provide or receive training connected with terrorist acts
- possess things connected with terrorist acts, or
- collect or make documents likely to facilitate terrorist acts

A person may be convicted of a terrorist act offence if the person intends to commit one of these offences or if the person was reckless as to whether his or her actions would amount to a terrorist act. For example, a person may be found guilty of a terrorist act offence where the person intentionally prepared or planned the commission of a terrorist act but did not actually commit the terrorist act themselves. A person may still commit a terrorist act offence even though a terrorist act did not occur.

Source: Pamphlet – Australia’s Counter-Terrorism Laws

<https://www.ag.gov.au/NationalSecurity/Counterterrorismlaw/Documents/Australias%20counter%20terrorism%20laws.pdf>