



Australian Government  
Department of Foreign Affairs and Trade

# Overseas Aid Gift Deduction Scheme

Guidelines

February 2016

# Overview of the OAGDS

The Overseas Aid Gift Deduction Scheme (OAGDS) enables approved Australian organisations to issue tax deductible receipts for donations made to support their overseas aid activities. This provides a way for members of the Australian community to donate to these organisations and be able to claim their donation as a tax deduction.

The tax deductible funds can only be used to support activities in countries declared as a 'developing country' by the Minister for Foreign Affairs. 'Developing country' status is reviewed every three years and the list of developing countries is found at <http://dfat.gov.au/aid/who-we-work-with/ngos/Pages/list-of-developing-countries.aspx>

Please note that throughout this document references to advice, guidance and general information on non-DFAT websites should not be considered as an endorsement of that advice.

## OAGDS Documents and Application Form

There are three OAGDS documents and an application form. Further information on each item is below.

### OAGDS Eligibility Criteria

The Eligibility Criteria contains criterion that organisations need to meet in order to be declared as an 'approved organisation' by the Minister for Foreign Affairs. The OAGDS Eligibility Criteria is available on DFAT's website: <http://dfat.gov.au/aid/who-we-work-with/ngos/Pages/tax-deductibility.aspx>

### OAGDS Guidelines

These Guidelines will assist you to understand the OAGDS Eligibility Criteria and application process, as well as the details and supporting evidence you can submit for each eligibility criteria.

### OAGDS Frequently Asked Questions

The Frequently Asked Questions provide organisations with additional information related to the application of the OAGDS and the process to obtain status under the scheme.

### OAGDS Application Form

Organisations are to provide details and supporting evidence that addresses the OAGDS Eligibility Criteria in the Application Form. The Application Form and supporting documentation will be used for assessment purposes.

## Application Process

There is a two-step process to achieve tax deductibility under the OAGDS, as per sub-section 30-85 of the *Income Tax Assessment Act 1997*.

## Step 1 – Apply for Approved Organisation Status

The first step is for the organisation to be declared as an ‘approved organisation’ by the Minister for Foreign Affairs.

This stage of the process is administered by the Department of Foreign Affairs and Trade (DFAT) and consists of an organisation submitting an application that addresses the OAGDS criteria. These guidelines provide information on this process and the criteria.

DFAT will assess the application against the Eligibility Criteria, and if it is determined the organisation has met the criterion, then DFAT will seek approval from the Minister for Foreign Affairs for the organisation be declared an ‘approved organisation’. The Minister for Foreign Affairs will then make a decision. Where approval is given, the Minister for Foreign Affairs will advise the Treasurer of this. The organisation can then move to Step 2.

## Step 2 – Establish a Developing Country Relief Fund

Where the organisation has been declared an ‘approved organisation’ by the Minister for Foreign Affairs, the organisation must then put in place a public fund. This step is administered by the Australian Taxation Office (ATO) The ATO will assess the application, and if it is determined that the appropriate fund is in place, they will seek approval for the fund from the Treasurer. The Treasurer will then make a decision on whether to declare the fund as a developing country relief fund, which is exclusively for the relief of persons in declared developing countries.

Once all steps have been satisfactorily completed, the Treasurer will organise for a notice to be published in the Commonwealth Government Gazette declaring the public fund to be a developing country relief fund. The date of the Gazette publication is the date tax deductible status begins, unless otherwise stated.

### ATO Contact

Phone: 1300 130 248 (Non-profit information line)

Web: [www.ato.gov.au/Non-profit](http://www.ato.gov.au/Non-profit)

Mail: Australian Taxation Office

PO BOX 3373, Penrith NSW 2740

## Application Process for Step 1

An application may be submitted at any time. To apply:

1. Review these Guidelines and your organisation against the OAGDS Eligibility Criteria and consider what supporting evidence you can provide.
2. Request a log in for the online application system at:  
<https://dfatoagds.smartygrants.com.au/OAGDSR2>
3. Commence your application.

It is recommended that you carefully read the OAGDS Eligibility Criteria and these Guidelines prior to starting an online application. This will assist you to understand the details and supporting evidence that could be submitted against each eligibility criteria.

The time it takes to assess an application varies depending on the quality and completeness of the application and assessor availability. The assessment is undertaken by independent assessors and they provide an assessment report. The assessment process is explained in the flowchart overleaf. Once the Minister for Foreign Affairs has made a decision, DFAT will advise the contact point of the outcome of Step 1.

## Further Information

Please note that the OAGDS Guidelines may change from time to time to reflect Government policy and international development best practice.

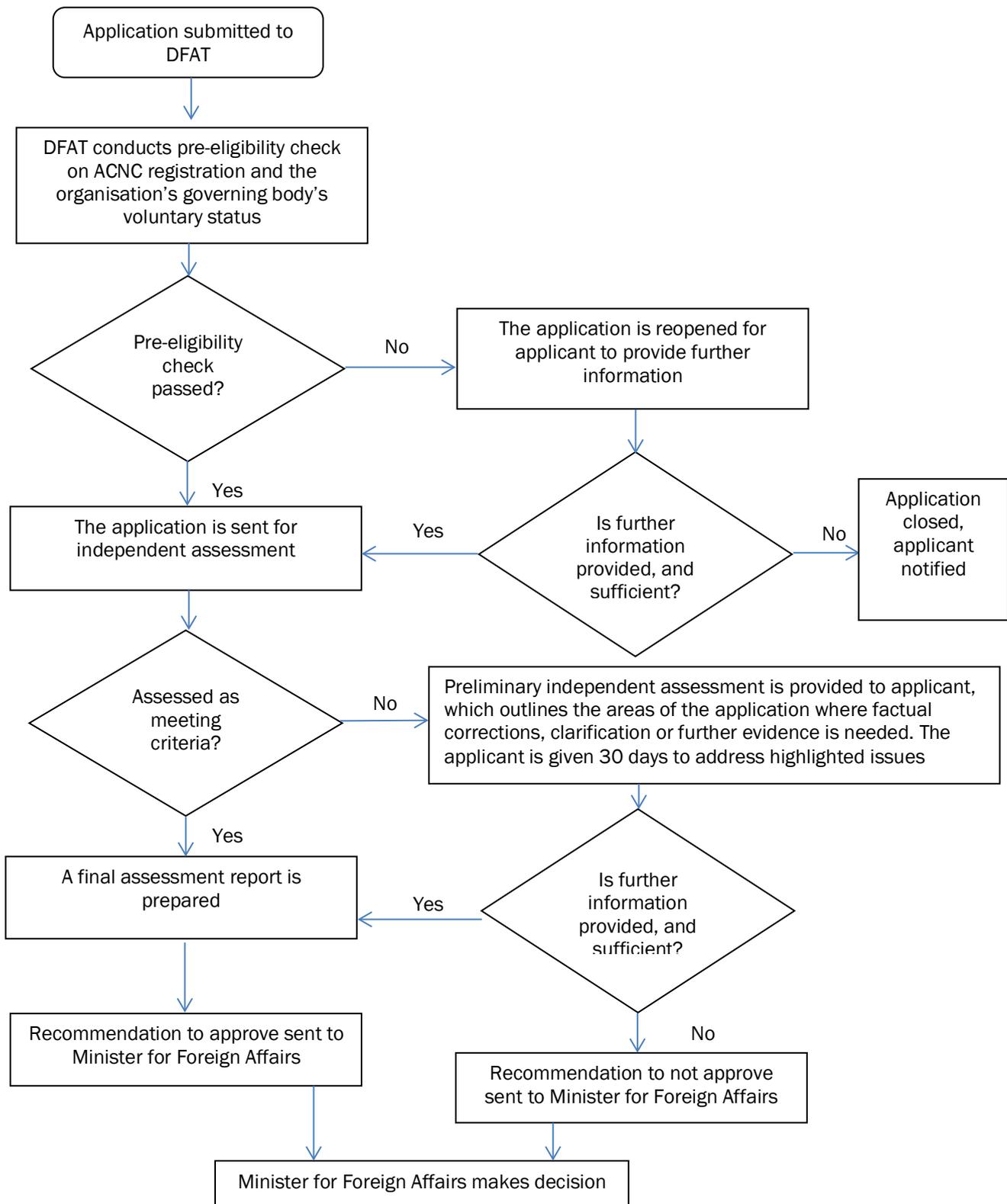
Applications not meeting the OAGDS Eligibility Criteria will normally be refused unless they can show strong cause why Government policy should be waived in their case, and why the application nonetheless has merit.

For further information, please contact the OAGDS Administrator, NGOs and Volunteers Branch, Department of Foreign Affairs and Trade

Email: [oagds@dfat.gov.au](mailto:oagds@dfat.gov.au)

Web: <http://www.dfat.gov.au/aid/who-we-work-with/ngos/Pages/tax-deductibility.aspx>

# Step 1: Process for approving organisations



# Pre-eligibility

To be eligible to apply for OAGDS your organisation must:

- › have a voluntary governing body, and
- › be a registered charity with the Australian Charities and Not-for-profits Commission (ACNC) and conform to the ACNC Governance Standards.

## Voluntary Governing Body

In order to apply for OAGDS, your organisation must have a voluntary governing body. This pre-eligibility requirement seeks to establish that your organisation provides a public benefit and does not provide a direct or indirect gain to governing body members.

If your organisation has a voluntary governing body, it means that members of the governing body are not remunerated or paid for their role on their governing body. While some not-for-profit and charitable organisations pay members of the governing body sitting fees or other payments, organisations seeking tax deductibility under the OAGDS cannot remunerate governing body members for their role on the governing body.

Depending on the type of legal entity and the state in which it was registered, your organisation may already be legislated to not remunerate its governing body. This applies to trusts, charities that are companies registered with the Australian Securities & Investments Commission that omit the word 'limited' from their company name, and some associations.

Organisations that are associations are regulated by the state in which they are registered. Some may be precluded from remunerating board or committee members, whereas others may not. The list of regulators is available from the ACNC website:

[https://www.acnc.gov.au/ACNC/About\\_ACNC/Site\\_information/List\\_of\\_regulators/ACNC/Site/Regulator\\_list.aspx](https://www.acnc.gov.au/ACNC/About_ACNC/Site_information/List_of_regulators/ACNC/Site/Regulator_list.aspx).

If your organisation is not legislated against remunerating its governing body, the organisation's governing instrument should include a clause that prohibits the remuneration of governing body members for their role on the governing body. An example of a model clause for inclusion in your governing instrument is:

1.1 The company must not pay fees to a director for acting as a director.

1.2 The company may:

(a) pay a director for work they do for the company, other than as a director, if the amount is no more than a reasonable fee for the work done, or

(b) reimburse a director for expenses properly incurred by the director in connection with the affairs of the company.

This model clause is from the ACNC model constitution for charitable companies limited by guarantee.

The requirement for governing body members to be voluntary does not stop governing body members from also undertaking a separate, paid role in the operation of the organisation provided it does not lead to a conflict of interest situation. For example, governing body members may be paid as a staff member or a consultant; or may receive reimbursement for expenses properly incurred by the director in connection with the affairs of the organisation.

If you are establishing your organisation, there are many resources to assist with working out the best legal entity for your work and preferred governance arrangements. For example, Justice Connect's Not-for-profit Law Information Hub: [www.nfplaw.org.au](http://www.nfplaw.org.au) and the ACNC: <https://www.acnc.gov.au>

## Registered charity with the ACNC and conforming to ACNC Governance Standards

In order to apply for OAGDS, your organisation must be registered with the Australian Charities and Not-for-profits Commission (ACNC) and conform to the ACNC Governance Standards. This indicates your organisation is not-for-profit, non-government and accountable to its members, complies with Australian laws, and is governed by responsible persons.

You can register your charity on the ACNC website: [www.acnc.gov.au](http://www.acnc.gov.au). The ACNC also has tools, resources and fact sheets on managing your charity. In addition, the ACNC has a guide to good governance for charities - Governance for Good: [www.acnc.gov.au/ACNC/Edu/Tools/GFG/GFG\\_Intro.aspx](http://www.acnc.gov.au/ACNC/Edu/Tools/GFG/GFG_Intro.aspx)

Charities that are registered with the ACNC are required to meet the legal definition of 'charity', conform to the ACNC Governance Standards and report to the regulator on an annual basis. The ACNC Governance Standards are available on its website: [www.acnc.gov.au/ACNC/Manage/Governance/ACNC/Edu/GovStds\\_overview.aspx](http://www.acnc.gov.au/ACNC/Manage/Governance/ACNC/Edu/GovStds_overview.aspx)

If your organisation is registered with the ACNC as a basic religious charity, it is not eligible for OAGDS. According to the ACNC, if your organisation can be registered as a different charity sub-type, it cannot be a basic religious charity. There is an expectation that an organisation undertaking overseas aid activities would be able to register as a different charity sub-type by the nature of their work.

# Guidelines for OAGDS Eligibility Criteria

There are four criteria that your organisation must meet in order to be recommended as an 'approved organisation' (refer to the OAGDS Eligibility Criteria available on DFAT's website).

**Criterion 1:** The organisation delivers overseas aid activities.

**Criterion 2:** The organisation has the capacity to manage and deliver overseas aid activities.

**Criterion 3:** Overseas aid activities are delivered in partnership with in-country organisations, based on principles of cooperation, mutual respect and shared accountability.

**Criterion 4:** The organisation has appropriate safeguards in place and manages risks associated with child protection and terrorism.

These Guidelines provide further information on the OAGDS Eligibility Criteria and application process, as well as the details and supporting evidence that you can submit against each eligibility criteria.

## Criterion 1: The organisation delivers overseas aid activities

This criterion seeks to establish that your organisation delivers overseas aid activities. For the purpose of OAGDS, aid activities include development and/or humanitarian assistance activities. These activities must be delivered in developing countries as declared by the Minister for Foreign Affairs.

Organisations are assessed against the following components:

- › the organisation's focus is on an overseas aid, supporting development and/or humanitarian assistance activities in developing countries as declared by the Minister for Foreign Affairs; and
- › the organisation has the ability to separate its management of overseas aid activities from other activities that the organisation supports.

## Overseas Aid Focus

It is expected that organisations will have a clear organisational objective to support overseas aid. This is usually expressed in the organisation's governing instrument, Strategic Plan or other approved document that establishes the organisation's priorities.

To be eligible for OAGDS, an organisation needs to undertake aid activities that are delivered in developing countries as declared by the Minister for Foreign Affairs. The following link provides the list of developing countries.

<http://dfat.gov.au/aid/who-we-work-with/ngos/Pages/list-of-developing-countries.aspx>

This list is reviewed every three years and was last updated in February 2015.

## Development Activities

Development activities improve the long-term well-being of individuals and communities in developing countries. Eligible development activities must demonstrate: fair distribution; be informed by local people; and deliver sustained or lasting benefits. Further guidance is provided below.

### Fair Distribution

The principle of fair distribution seeks to ensure that development activities aim to improve the well-being of those in need without favouritism or discrimination by race, religion, culture or political persuasion. This means that if an activity is targeted at a particular group, community, or location, the rationale should demonstrate that the distribution of benefits is fair.

### Informed by local people

This principle recognises that affected populations are the primary stakeholders in development. Development activities should be identified and designed in close dialogue and cooperation with local people to ensure that activities are appropriate, are in direct response to local needs, and build on local capacities.

The involvement of local people helps organisations to better understand the needs and aims of the people who will come into contact with the project. It also increases the sense of ownership of the project by local people, which increases the likelihood of project objectives being achieved and local people being committed to carrying on the activity after external support has stopped.

### Sustained or lasting benefits

This principle recognises that the success of a development activity is closely linked to the degree to which its benefits have a lasting impact and do not create dependency. The activity itself does not need to be sustained or demonstrate that it is sustainable, but the benefits which have resulted from the activity should be lasting and able to be sustained. Capacity building and an exit strategy (explained below) are tools toward achieving sustained or lasting benefits.

Capacity building recognises that development activities should seek to build the capacity or capability of leaders, communities, organisations, and institutions to create lasting environments which foster the well-being of individuals and communities.

An exit strategy recognises the importance of organisations not creating or fostering aid dependency. While it is acknowledged that achieving sustainable change can take a long time, development activities should have clear phase-out or exit strategies that support the sustainable recovery and resilience of the affected population in the medium and long-term.

## Humanitarian assistance

Humanitarian assistance activities save lives, alleviate suffering and maintain human dignity during and in the aftermath of humanitarian crises in developing countries. Humanitarian activities are delivered in accordance with the humanitarian principles of humanity, impartiality, independence and neutrality. Eligible humanitarian assistance activities must demonstrate: they are in response to a humanitarian crisis; meet humanitarian needs; and have an exit strategy. Further guidance is provided below.

## In response to a humanitarian crisis

A humanitarian crisis occurs where an event or series of events threatens the lives, health, livelihoods, safety, security or wellbeing of a community or other large group of people, usually over a wide area. It may be caused by a disaster, or a human-generated crisis such as armed conflict, or a combination of both.

### Meets an immediate need

The organisation needs to describe what immediate needs are being met by the humanitarian assistance activity. Immediate needs are usually considered to be food, shelter, protection, psycho-social support and medical attention but may also encompass other needs such as education, depending on the context.

### Has an exit strategy

The organisation needs to demonstrate that humanitarian activities have planned a transition or exit strategy that supports the sustainable recovery and resilience of the affected population in the medium and long-term.

## Good practice principles for humanitarian assistance

Humanitarian assistance is guided by four widely accepted principles. Although compliance with these principles is not assessed through the OAGDS criteria, these principles should guide an organisation's approach to providing humanitarian assistance:

1. **Humanity:** Human suffering must be addressed wherever it is found. The purpose of humanitarian action is to protect life and health and ensure respect for human beings.
2. **Impartiality:** Humanitarian action must be carried out on the basis of need alone, giving priority to the most urgent cases of distress and making no adverse distinction on the basis of nationality, race, gender, religious belief, class or political opinion.
3. **Independence:** Humanitarian action must be autonomous from the political, economic, military or other objectives that any actor may hold with regard to areas where humanitarian action is being implemented.
4. **Neutrality:** Humanitarian actors must not take sides in hostilities or engage in controversies of a political, racial, religious or ideological nature.

More detail on the international standards for humanitarian practice can be found at:

<http://www.corehumanitarianstandard.org/the-standard> and  
[https://docs.unocha.org/sites/dms/Documents/OOM-humanitarianprinciples\\_eng\\_June12.pdf](https://docs.unocha.org/sites/dms/Documents/OOM-humanitarianprinciples_eng_June12.pdf)

## Ineligible activities

Activities which do not demonstrate the principles of development activities or humanitarian assistance activities will not satisfy this criterion. This may be because they: discriminate; do not meet locally identified needs; create dependency; do not lead to lasting benefits; or do harm. Organisations undertaking such activities will not be recommended for approval under the OAGDS.

Ineligible activities include support for partisan political and/or proselytism activities. These activities will not be recommended for approval under the OAGDS.

**Partisan political activities** are defined by DFAT as supporting a political party, candidate or organisation affiliated to a political party. Examples include:

- › Australian entity or partners' staff being involved in party political activities;

- > Using funds or resources to facilitate or support a specific political party, candidate, or party political organisation in a local, regional or general/ national election;
- > Using funds or resources to facilitate or support a particular politician or faction to gain power within a government or within a political party structure.

**Proselytism activities** are defined by DFAT as supporting or promoting a particular religious adherence. Examples include:

- > Activities undertaken with the intention of converting individuals or groups from one faith and/or denominational affiliation to another;
- > Using funds to support religious clergy - e.g. priests, ministers, imams, nuns, monks, rabbis - outside of the context of delivering overseas aid activities;
- > Using funds to construct or support the running of religious institutions or places of worship - e.g. temples, churches, mosques.

If your organisation supports a mix of activities, it will need to clearly identify the activities which meet the principles of development activities or humanitarian assistance. It will also need to demonstrate that it manages these activities separately from ineligible activities, such as through separate budgets, expenditure reports and communications with supporters.

## Criterion 2: The organisation has the capacity to manage and deliver overseas aid activities

This criterion seeks to ensure that your organisation has the capacity to manage and deliver overseas aid activities. This capacity may be shared between the Australian organisation and its in-country project partners. Organisations will need to provide sufficient information on their respective roles to allow for an assessment of their capacity.

Organisations are assessed against the following components:

- › planning and appraisal
- › budgeting
- › financial management
- › implementation
- › monitor and tracking.

### Planning and appraisal

Organisations need to demonstrate that planning is undertaken, and plans are appraised before being implemented. For example, activities are documented in a project plan or similar and critical review is carried out to determine whether activities go ahead. It is expected that plans are based on an analysis and understanding of the context, and set out a clear purpose and objectives for all activities, including consideration of the timeframe, sustainability of the activity and its impacts beyond their involvement. It is also expected that decision makers will have relevant knowledge and experience to make well informed decisions.

### Budgeting

Organisations need to demonstrate that plans are costed, budgets are set and reviewed. For example, activities have a budget, and plans and budgets are reviewed before approval for support is made. It is expected that budgets are prepared prior to the start of activities, and show sufficient information to allow for monitoring and review. Where there are changing circumstances it is expected that these are reflected in budget reviews, and budgets are adapted accordingly.

### Financial management

Organisations need to demonstrate that funds are held and used prudently, carefully managed and accounted for. For example, activity expenditure is reported and reviewed periodically. It is expected that appropriate internal financial controls and procedures are in place and implemented to minimise the risk of misuse of funds. It is also expected that books of accounts are maintained, and audits are undertaken, ideally by a qualified accountant, and financial reports are produced. Where appropriate to scale, finance manuals are maintained and staff training undertaken.

### Implementation

Organisations need to demonstrate that activities are well managed and implemented according to plans. For example, appropriately skilled and experienced individuals are engaged. It is expected that dialogue with and support for project partners throughout activity implementation and monitoring is undertaken and changes to plans are made as needed. The Australian organisation should be well informed of the aid activities and have the ability to

review progress and constraints and influence its partners' activities. It is also expected that risks are reviewed, and mitigated where necessary.

### Monitor and tracking of progress

Organisations need to demonstrate that the effectiveness of activities is tracked. For example, implementation is monitored through indicators and targets for key outputs. Data should be collected, reviewed, and evaluated. It is expected that progress is reported and reviewed periodically. Performance information should be shared with governing body, partners, donors and other stakeholders.

### Assessment

Organisations need to demonstrate that assessments are made, lessons are learnt, and the organisation adapts. For example, evaluations are undertaken where the success or otherwise of activities is assessed. Where lessons are learnt these should be shared appropriately. It is expected that actions for improving the activity and the broader work of the organisation are identified, and fed back into the planning of new work, implementation of other activities, and the development of the organisation.

The points provided above are examples of good activity management, and the assessment of organisations will be based on the relevant context, including scale and complexity of activities and operating environment. Evidence of capacity will generally take the form of a track record of successful activities. For an organisation to be able to demonstrate a track record against each of the areas above – planning to assessment – it will usually take twelve months of operation.

Applicants that have existing partnership arrangements with other Australian organisations will need to provide sufficient information on their respective roles to allow for an assessment of the applicant organisation's capacity.

### Criterion 3: Overseas aid activities are delivered in partnership with in-country organisations, based on principles of cooperation, mutual respect and shared accountability.

This criterion seeks to establish that your overseas aid activities are delivered in partnership with in-country organisations. Partnerships based on principles of cooperation, mutual respect and shared accountability will enhance the effectiveness of development and humanitarian outcomes. Cooperation and mutual respect will enable you and your partners to contribute in different ways to projects and to value each other's contributions. Organisations are assessed against the following components:

- > the organisation has in-country partners
- > the organisation works with partners to contribute and add value to the delivery of aid activities
- > partnership arrangements outline the roles and responsibilities of each partner.

The Australian Council for International Development, (ACFID) is the peak body for Australian non-government organisations (NGOs) involved in international development and humanitarian action. ACFID hosts many useful resources (link below) including the publication "Partnerships for effective development". <https://acfid.asn.au/resources>

## In-country Partners

Organisations need to demonstrate that they work with in-country partner organisations or groups, not just individuals. Local organisations usually understand their own context better than overseas organisations, have established networks and relationships with local stakeholders, and are likely to have longer term commitments to local people. Their engagement and involvement in development and humanitarian assistance activities is integral to sustainable results.

This cooperation will be demonstrated across the activity cycle, including project identification and planning, implementation, monitoring and assessment.

## Working with Partners

Organisations need to demonstrate that they cooperate with in-country partners to plan, implement and track progress of overseas aid activities. For example through regular communication between the in-country partner and the organisation.

## Partnership Agreements

Shared accountability will reduce misunderstandings and promote improved quality of work and outcomes. Organisations need to demonstrate that agreements with in-country partners are in place. It is expected that the agreements will include the objectives of the partnership, the roles of each party, the reporting requirements, and financial management arrangements.

Organisations need to demonstrate that their in-country partners recognise the origin of support from Australia. For example, this may be included in the partnership agreement, in communications, through joint field visits or other acknowledgements.

## Criterion 4: The organisation has appropriate safeguards in place and manages risks associated with child protection and terrorism

### Child protection

Children in developing country contexts are especially vulnerable. Aid organisations and aid projects enable increased access to communities and vulnerable children and their families. Therefore special care, including increased vigilance and protective practices, are required to manage the increased vulnerability and risk to ensure the protection and safeguarding of children.

The organisation will have a child protection policy and procedures in place that promote child protection and child safe practices. Those who have direct contact with children will undergo Australian Federal Police (AFP) criminal history checks. Where there is an increased risk to children, such as direct contact with children or the project and partners are working with children with disabilities or children in institutionalised care, additional child safe practices are expected to be in place including:

- › that the organisation has discussed child protection risks and management procedures with project partners; and
- › project partners have procedures in place to promote child protection and child safe practices including child safe recruitment practices, criminal history checks or equivalent, supervised visits involving children, etc.

### Counter terrorism and sanctions

There is a risk that funds designated for aid activities could be utilised by terrorists, terrorist organisations or to finance terrorist activities, or be diverted to other individual or entities subject to sanctions under Australian law. This risk may increase in countries with less structured regulatory environments. Therefore special care, including screening of funding recipients and financial management practices, are required.

The organisation will have a counter terrorism and sanctions policy and procedures in place that manage the risks associated with terrorism and sanctions. The organisation screens partners, key individuals and entities receiving funds against the DFAT Consolidated List and terrorist organisations listed under the Criminal Code. The organisation will discuss terrorism risks and management procedures with project partners and will verify that its project partners undertake terrorism and sanctions screening of key downstream partners or suppliers receiving funds against the DFAT Consolidated List and terrorist organisations listed under the Criminal Code.

Where projects are being undertaken in higher risk locations for terrorism activity or terrorist organisations, or in countries in relation to which sanctions have been imposed by the United Nations Security Council or Australian autonomous sanctions, additional risk management measures are expected.

For more information refer to the following:

- › [DFAT Child Protection policy](#)
- › [ACNC anti-terrorism checklist](#)
- › [DFAT consolidated list](#)
- › [World Bank Listing of ineligible firms and individuals,](#)
- › [Asian Development Bank Sanctions List](#)
- › [Attorney General's Department List of Terrorist organisations](#)

# Requirements for Step 2

## Establish a Developing Country Relief Fund

If your application under OAGDS is approved, then the next step is to establish a public fund.

**This step is administered by the ATO and any queries related to this step should be directed to the ATO.**

For clarification on requirements for the developing country relief fund contact ATO

Phone: 1300 130 248 (Non-profit information line)

Web: [www.ato.gov.au/Non-profit](http://www.ato.gov.au/Non-profit)

Mail: Australian Taxation Office

PO BOX 3373

Penrith NSW 2740

The information below is provided by the ATO.

## ATO Requirements

For the Treasurer to declare a public fund to be a developing country relief fund, the fund's documents must confirm that:

- › the fund is governed by a constitution or set of rules from which it is clear that its sole purpose is to provide relief to people in declared developing countries
- › the fund's name reflects the fact that it is a developing country relief fund and that name appears on all receipts issued to donors
- › ATO is informed of any changes within the organisation, reflecting on the operational or financial arrangements of the fund
- › should the fund be wound-up or if their endorsement is revoked, any surplus money or assets are to be transferred to another DGR fund qualifying under the OAGDS.

The following list covers the required relief fund clauses.

### 1. Rules and objects of the relief fund

A relief fund must have its own rules and objects. Clauses governing the establishment and administration of a relief fund can be inserted into an organisation's founding documents or can be contained in a separate document, which should be kept with the founding documents.

Sample clause: 'The purpose of the relief fund is to solicit and receive gifts towards the carrying out of the objects of the relief fund.'

## 2. Gifts kept separate

Gifts to a relief fund must be kept separate from any other funds that it may receive, for example, government funding and sponsorship. If the fund receives money other than gifts or donations, a separate account with clear accounting procedures for gifts is required. A clause is necessary for this requirement.

Sample clause: 'An account will be established to receive all gifts accepted by the relief fund. This account must only include any money or property which is a gift to the relief fund or which is received because of such gifts, including, interest received on any monies in the account.'

Note: The account set up to receive gifts should be referred to as the 'relief fund' to distinguish it from the other accounts held by the organisation.

## 3. Receipts to issue in the name of the relief fund

A clause is necessary for this requirement.

Sample clause: 'All receipts for gifts must issue in the name of the relief fund. Receipts issued for gifts must include:

(a) the name of the relief fund on behalf of the organisation (an abbreviation will be acceptable where the full name of the fund cannot be shown on the receipt – the issuer of the receipt may need to publish the abbreviation somewhere, such as on its website, if the abbreviation does not readily identify the fund)

(b) that the receipt is for a gift

(c) the organisation's Australian Business Number (ABN).

## 4. Public invited to contribute

You must include a clause to state that the public are invited to contribute to the relief fund.

Sample clause: 'The general public will be invited to make gifts to the relief fund to be used for the purpose of carrying out the objects of the relief fund.'

## 5. Management committee

A clause is required to state that the relief fund must be managed by members of a committee, and that the majority of committee members must have a degree of responsibility to the community. As a majority is required, the committee must be made up of at least three members.

The ATO would generally accept people who are considered to have a degree of responsibility to the community as a whole, such as school principals, judges, solicitors, doctors, and other professional people – refer to Taxation Ruling TR 95/27 [External Link](https://www.ato.gov.au/law/view/document?docid=TXR/TR9527/NAT/ATO/00001) Income tax: public funds for more examples.

<https://www.ato.gov.au/law/view/document?docid=TXR/TR9527/NAT/ATO/00001>

Sample clause: 'The relief fund is to be managed by a committee of management (the committee doesn't need to be called a 'committee of management'). The directors or board must ensure that the majority of fund committee members are persons having a degree of responsibility to the general community by reason of their occupation or standing in the community.'

## 6. Non-profit clause

A clause is required with words to the effect that the public fund must operate on a non-profit basis. This is separate to the non-profit clause for the organisation as a whole.

Sample clause: 'The assets and income of the relief fund shall be applied solely in furtherance of the objects of the relief fund and no portion shall be distributed directly or indirectly to any individual except as bona fide compensation for services rendered or expenses incurred on behalf of the relief fund.'

#### 7. Winding-up clause

A clause is required with words to the effect that, should the organisation or the relief fund be wound-up or if their endorsement is revoked, any surplus money or other assets in the relief fund will be transferred to some other fund, authority or institution to which income tax deductible gifts can be made.

Sample clause: 'If the organisation is wound up or its endorsement as a deductible gift recipient is revoked (whichever occurs first), any surplus of the following assets shall be transferred to another organisation or fund with similar purposes to which income tax deductible gifts can be made.'

#### 8. ATO advised of changes

An undertaking in writing or the inclusion of a clause in the founding documents is required to the effect that the ATO will be notified of any changes to them.

Sample clause: 'The Board must notify the Australian Taxation Office of any alterations made to the relief fund rules.'