



COUNCIL *on* FOUNDATIONS

July 23, 2007

The Honorable Joseph Lieberman
Chair
Homeland Security and Governmental Affairs Committee
U.S. Senate
Washington, DC 20510

Dear Senator Lieberman:

I am writing to you in reference to your committee hearing on May 10, 2007 at which you received testimony from Chip Ponce, Director, Office of Strategic Policy for Terrorist Financing and Financial Crimes at the U.S. Department of the Treasury. I do so in my capacity as President and CEO of the Council on Foundations, a membership association of 2100 grantmaking organizations, but also on behalf of the Treasury Guidelines Working Group, composed of 75 representatives of foundations, operational charities, advocacy groups, legal advisers, and nonprofit umbrella organizations such as the Council, Independent Sector, InterAction and Grantmakers Without Borders.

Many of us in the Treasury Guidelines Working Group have been in dialogue with Mr. Ponce and the Treasury Department for more than four years on issues related to the potential terrorist abuse of charitable organizations. During that time Treasury has consistently maintained that charities provide a "significant source" of financing to terrorists and their organizations. This assumption, which seems to provide the rationale for the large amount of time and attention that Treasury is devoting to the U.S. charitable sector, has been challenged by the Working Group on numerous occasions.

If Treasury's assertion is true with respect to U.S. charities, we want to know the facts. If not, then Treasury's efforts and resources are misdirected, and the legitimate U.S. charitable sector is doing an excellent job of following the rules, making careful judgments and taking appropriate precautions to ensure that charitable assets are not diverted for terrorist purposes. U.S. charities feel that our long track record in this regard has been exemplary, and we are concerned that Treasury's oft-repeated assertion that charities provide a substantial conduit for terrorist financing is unfairly tainting the sector and discouraging wary citizens from giving to worthy charities. The reality is that U.S. foundations and humanitarian organizations provide major support to alleviating poverty, resolving conflict, responding to disasters, and promoting democracy, tolerance and human rights around the world – efforts that are addressing the root causes of terrorism.

Treasury's response to our requests for hard evidence that U.S. charities are a "significant source" of terrorist financing has been to discuss terrorist links to charities in other countries and in a global context. An annex to the most recent version of Treasury's Anti-Terrorism Financing Guidelines: Best Practices for U.S.-Based Charities, issued in September 2006 to assist legitimate U.S. charities avoid terrorist exploitation, cites news and book accounts about HAMAS, Hezbollah, Lashkar e

Tayyiba and other organizations around the world. The annex also notes that, "To date, the United States has designated 43 charities worldwide and 29 associated individuals for their support of terrorist organizations and operations." Of these, Mr. Poncy points out in his May 10th testimony to your committee, the U.S. has designated only five U.S.-based charities for terrorism-related activities and blocked the assets of a sixth in aid of investigation. In response to a question from the chair, Mr. Poncy acknowledged Treasury's view that the connection between American-based charities and foreign terrorists is "knowing and intentional." In other words, legitimate U.S. charities, the express target of Treasury's outreach and anti-terrorist financing guidelines, are *not* the problem.

Mr. Poncy's May 10th testimony also describes the Treasury Department's efforts to reach out to and collaborate with the U.S. charitable sector, mentioning the Council on Foundations and Independent Sector by name. He suggests that "a good example of how this partnership can produce significant results is the revision and issuance of Treasury's Voluntary Guidelines, based on extensive consultation between the Department and the charitable and Muslim communities." Consultation, maybe; agreement, no. What Mr. Poncy fails to note in his testimony is that many charities, including those participating in the broadly representative Treasury Guidelines Working Group, have been critical of Treasury's Voluntary Anti-Terrorist Financing Guidelines and have called repeatedly for them to be withdrawn. Attached is a letter which I sent to Treasury Secretary Henry Paulson, Jr. in December 2006 outlining the concerns of the Treasury Guidelines Working Group about the 2006 version and urging again that they be withdrawn.

After learning in 2006 that Treasury planned to issue a risk matrix as a tool to help charities assess their level of risk for terrorist exploitation, the Council on Foundations wrote to Treasury requesting that this document be issued initially as a draft for public comment. Treasury did not respond and instead issued the risk matrix in the spring of 2007 without publicity and without inviting public comments. Such is the state of Treasury's collaboration with the charitable sector.

Legitimate charities are aware of the potential for terrorist exploitation and have long taken appropriate measures to guard against that threat. In 2005 the Treasury Guidelines Working Group developed the *Principles of International Charity* (a copy of which is attached) as a more realistic alternative to the Treasury Guidelines, and we have worked to educate charities about their responsibilities to be vigilant and to act responsibly in this area. The Treasury Guidelines Working Group believes that U.S. charities are responding well to this challenge.

I and other members of the Treasury Guidelines Working Group would be happy to discuss our concerns and the U.S. charitable sector's response to terrorism at any time with you or your staff.

Sincerely,



Steve Gunderson
President and CEO

Attachments:

Letter to Secretary Henry M. Paulson, Jr. (December 18, 2006)
Principles of International Charity