

sets forth additional procedures applicable to intermediate credit institutions. Sections 140.11 through 140.14 contain general provisions related to the enforcement process.

§ 140.6 Foreign government entities.

(a) *Review procedures.* (1) The Country Narcotics Coordinator shall be responsible for establishing a system for reviewing available information regarding narcotics offense convictions and drug trafficking of proposed assistance recipients under this section and, except under the circumstances described in § 140.6(b)(4), determining whether a proposed recipient is to be denied such assistance or other measures are to be taken as a result of the application of FAA Section 487.

(2) Prior to providing assistance to or through a proposed recipient, the head of the agency providing the assistance, or the agency head's designee, shall provide the Country Narcotics Coordinator in the country in which the proposed recipient is located or, as appropriate, where assistance is to be provided, the information specified in § 140.6(a)(3) in order that the Country Narcotics Coordinator may carry out his or her responsibilities under these regulations.

(3) In each case, the agency proposing the assistance shall provide to the Country Narcotics Coordinator the name of each key individual within the entity who may be expected to control or benefit from assistance as well as other relevant identifying information (e.g., address, date of birth) that is readily available. If a question arises concerning who should be included within the group of key individuals of an entity, the head of the agency providing the assistance, or the agency head's designee, shall consult with the Country Narcotics Coordinator, and the final decision shall be made by the Country Narcotics Coordinator.

(4) Within fourteen calendar days after receiving the name of a proposed recipient and other relevant information, the Country Narcotics Coordinator shall determine whether any available information may warrant withholding assistance or taking other measures under these regulations, based on the criteria set forth in § 140.6(b). If, during that period, the Country Narcotics Coordinator determines that available information does not so indicate, he or she shall notify the proposing agency that the assistance may be provided to the proposed recipient.

(5) If, during the initial fourteen-day period, the Country Narcotics Coordinator determines that information

exists that may warrant withholding assistance or taking other measures under these regulations, then the Country Narcotics Coordinator shall have another fourteen calendar days to make a final determination whether to provide or withhold the assistance or take such other measures.

(b) *Criteria to be applied.* (1) A decision to withhold assistance or take other measures shall be based on knowledge or a reasonable belief that the proposed recipient individual or entity, or one or more key individuals within a proposed recipient entity, during the past ten years, has:

(i) Been *convicted* of a narcotics offense as defined in these regulations; or

(ii) Been *engaged* in drug trafficking, regardless of whether there has been a conviction.

(2) Factors that may support a decision to withhold assistance or take other measures based on the belief that the proposed recipient has been engaged in drug trafficking during the past ten years when there has been no conviction of such an offense may include, but are not limited to, the following:

(i) Admission of participation in such activities;

(ii) A long record of arrests for drug trafficking with an unexplained failure to prosecute by the local government;

(iii) Several reliable and corroborative reports.

(3) If the Country Narcotics Coordinator determines that a key individual (as described in § 140.6(a)(3)) within a proposed recipient entity has been convicted of a narcotics offense or has been engaged in drug trafficking under the terms of these regulations, the Country Narcotics Coordinator must then decide whether withholding assistance or taking other measures in connection with the entity itself is warranted. This decision shall be made in consultation with the head of the agency proposing the assistance, or the agency head's designee. In making this determination, the Country Narcotics Coordinator shall take into account:

(i) The extent to which such individual would have control over assistance received;

(ii) The extent to which such individual could benefit personally from the assistance;

(iii) The degree to which financial or other resources of the entity itself have been used to support drug trafficking; and

(iv) Whether such individual has acted alone or in collaboration with others associated with the entity.

(4) A decision to withhold assistance or to take other measures based on information or allegations that a key individual who is a senior government official of the host nation has been convicted of a narcotics offense or has been engaged in drug trafficking shall be made by the Assistant Secretary for International Narcotics Matters in consultation with the affected bureaus and other interested agencies. For purposes of these regulations, "senior government official" includes host nation officials at or above the vice minister level, heads of host nation law enforcement agencies, and general or flag officers of the host nation armed forces. In making the decision whether to withhold assistance or take other measures because of information or allegations that a senior government official of the host nation has engaged in drug trafficking, the criteria set forth in §§ 140.6(b)(2) and (3) shall apply.

(c) *Violations identified subsequent to obligation.* The foregoing procedures require a review before funds are obligated. If, however, subsequent to an obligation of funds an assistance recipient is found to have been convicted of a narcotics offense or to have been engaged in drug trafficking (e.g., the head of a recipient entity changes during the course of an activity and the new head is found to have been engaged in drug trafficking), appropriate action should be taken, including, if necessary, termination of the assistance. Agreements shall be written to permit termination of assistance in such circumstances.

§ 140.7 Multilateral institutions and international organizations.

Assistance provided to or through multilateral institutions or international organizations is subject to these regulations as follows:

(a) Where the government agency providing assistance has reasonable grounds to suspect that a recipient multilateral institution or international organization may be or may have been involved in drug trafficking, the agency shall apply the provisions of § 140.6.

(b) Where the government agency providing assistance designates the recipient of assistance from the multilateral institution or international organization and the designated recipient is a covered individual or entity, the agency shall apply the provisions of these regulations that would apply if the assistance were provided directly to the designated recipient.

(c) Where the government agency providing assistance does not designate the recipient of assistance from the