



REPUBLIC OF NAURU

**DEPARTMENT OF FINANCE
PLANNING AND AID DIVISION
DONOR POLICY**

1. Overview

1.1 This Policy provides guidance to the Government of Nauru personnel in relation to the management of donor projects and requests.

2. Definitions

2.1 Donor means any person or legal entity who donates something of value whether monetary or in any other form. . Donors may be foreign governments, government bodies, statutory authorities, businesses or individuals.

2.2 Government controlled enterprise means a Government controlled enterprise pursuant to the *Public Enterprises Act 2019* and includes the Nauru Fibre Cable Corporation, Nauru Fisheries and Marine Resources Authority, and the Nauru Tourism Corporation.

2.3 GON means the Government of Nauru, and includes all SOEs and Government controlled enterprises.

2.4 MOU means Memorandum of Understanding.

2.5 NIISP means the Nauru Integrated Infrastructure Strategic Plan published in November 2019.

2.6 NSDS means the National Sustainable Development Strategy, 2019-2030.

2.7 Officer means any individual employed by the GON.

2.8 PAD means the Planning and Aid Division of the Treasury Section in the Department of Finance, Nauru.

2.9 Project or Program means an activity funded, supported or implemented by a Donor.

2.10 SOE means a State-owned enterprise pursuant to the *Public Enterprises Act 2019*, and includes RONPHOS, Nauru Rehabilitation Corporation, Nauru Maritime and Port Authority, Eigigu Holdings Corporation (including the Menen Hotel, Eigigu Solutions Corporation and Eigigu Supermarket), Nauru Utilities Corporation, Cenpac Corporation, Nauru Air Corporation, Naoero Postal Services Corporation and Nauru (RPC) Corporation.

3. Policy Statements

3.1 The Government of Nauru welcomes the valuable assistance of donors in meeting the strategic goals of the Republic of Nauru. Donors have played a key role in helping Nauru develop the capacity to support improvements in governance, logistics, the rehabilitation of land and the skills of GON officials.

3.2 To ensure that Donor assistance is effective and appropriate, this policy sets out the criteria and procedures for Donors to offer support and for the GON officials to assess Donor offers and manage agreed-upon Donor projects.

3.3 Requirements:

3.3.1 Donor Projects should be:

3.3.1.1 achievable within the set time frame and with the resources of the relevant GON agency supporting implementation;

3.3.1.2 targeted towards building a better Nauru by developing the capacity of its people, organisations and institutions; and

3.3.1.3 consistent with the community standards and supported by the Nauruan community.

3.4 Criteria for Donor Projects

3.4.1 Donor assistance must:

3.4.1.1 support at least one NIISP or NSDS goal;

3.4.1.2 be delivered by personnel who are:

3.4.1.2.1 suitable – see paragraph 3.7;

3.4.1.2.2 appropriately qualified and experienced;

3.4.1.2.3 obtain a Police clearance if dealing with children– see paragraph 3.8, and

3.4.1.2.4 able to communicate effectively in English with the GON and Nauruan community;

3.4.1.2.4.1 To meet this requirement, personnel should have received their secondary or tertiary education in either Australia, the United Kingdom, New Zealand, the United States, Canada, Fiji, Nauru or be able to prove that their secondary or tertiary education was provided in English. For example, proof may be provided in the form of a letter from the relevant education institution.

3.4.1.3 be age and ability appropriate (where being delivered to children or vulnerable individuals or groups);

3.4.1.4 be consistent with Nauruan cultural values; and

3.4.1.5 be supported by the relevant Nauruan community.

- 3.4.2 Donor activities should Do No Harm: that is, they should not have a detrimental impact on the GON, Nauru or the Nauruan people. For example, a Program that provides a resource such as school bags for certain students may cause conflict between those receiving bags and those not receiving bags. Such a Program may cause harm and not be suitable in the proposed form.
- 3.4.3 Donor projects should not negatively impact Nauru's sovereignty or security.
- 3.4.4 Projects which are supported by a GON organisation have the best chance of success. Therefore, it is important that a GON organisation has the necessary staff and other resources to support a proposed donor activity.

3.5 Timeframes

- 3.5.1 Nauru reports donor support in the form of cash funded projects via grants regulated by agreements, direct budget support to the Government bank account or Aid-In-Kind - non-cash support such as training, goods or technical assistance. This occurs in the Development Fund Projection submitted with the GON budget each May-June, for the financial year commencing 1 July to 30 June. An Annual Development Fund report for each financial year is also provided to update Parliament on the actual support received compared to the projected support included in the Development Fund Projection. The Annual Development Fund report is completed after 30 June each year, and tabled in Parliament. A half-year development fund report is also prepared for the period 1 July to 31 December each year, and also tabled in Parliament. Reporting requirements are regulated by the *Development Fund Act 2011*.
- 3.5.2 While Donor financial cycles may differ from those of Nauru, the Development Projection, Development Fund Annual Report and Development Fund Half year report should reflect the support being provided to Nauru during Nauru's financial year.

3.6 Legal and Regulatory

- 3.6.1 Donors must comply with and not contravene any laws of Nauru, including the *Counter Terrorism and Transnational Organised Crime Act 2004*, *Proceeds of Crimes Act 2004*, *Anti-Money Laundering and Targeted Financial Sanctions Act 2023*, *Electoral Act 2016* and *Leadership Code Act 2016* .
- 3.6.2 A Donor, who is a '**foreign association**' for the purposes of and as defined in the *Registration of Associations Act 2020*, must obtain a certificate of compliance under Section 30; **Part 6 - Registration of Foreign Associations Act 2020**, prior to operating in Nauru.
- 3.6.3 A MOU or agreement may be entered into for a donor funded project. However, MOUs must not include provisions which change the ownership or management of land or assets.

- 3.6.4 All MOUs, agreements or other documents between the GON and a Donor must be vetted by the Department of Justice before being signed by a GON representative.
- 3.6.5 Any Nauruan employed by a Donor must, at a minimum, be employed in accordance with the requirements of the *Workers (Contracts of Service) Act 1922*.
- 3.6.6 Any building/construction work must meet Nauru's legal and regulatory requirements.
- 3.6.7 Donors must comply with Nauruan health and safety requirements.
- 3.6.8 Any proposed tenderer selected for a donor project must be submitted to the GON for approval.
- 3.6.9 While a donor may manage a tender or selection process, the GON must be involved in the assessment of tenders and in any panel constituted for such purpose. This is to ensure that the requirements of the GON are met and that proposed tenderers are suitable. An equal number of Nauruan representatives should be involved in tenders or panels, to ensure the GON has a fair opportunity to advocate for Nauru's interests.
 - 3.6.9.1 Donors will often have their own selection processes for personnel working on donor-funded projects. However, if there is no set process, the *Government of Nauru Procurement Manual dated 8 July 2013* must be followed.

3.7 Suitability

- 3.7.1 Programs should be reviewed by the GON agency or body with the most direct responsibility for the content of the Project.
- 3.7.2 There may be political sensitivities associated with a donor or program. Therefore, GON line departments and SOEs should always check with GON's Department of Foreign Affairs and Trade and PAD before engaging with a donor. It is recommended that all requests to work with GON be directed to the Department of Foreign Affairs and Trade or PAD in the first instance.
- 3.7.3 Programs should have a development focus – if a program is solely designed to market the Donor, to further the commercial success of an entity or for political purposes, it may not be in the best interests of Nauru.
- 3.7.4 A Donor's history, legal structure, governance, board members, officers, values and goals are relevant considerations for the GON when assessing the suitability of a Donor or Donor Program. GON officers should use the 'reasonable person' test as a guide for assessing Donors - ie: what would a 'reasonable' member of the Nauruan community think about the Donor or individual?
- 3.7.5 Donors with links to individuals or organisations with questionable background or reputation, or whose history/past activities in Nauru or elsewhere gives rise to concerns may not be deemed appropriate for a project in Nauru. GON officers must review

publicly available information such as the organisation's website, relevant reports and social media pages to ensure they understand the organisation and their values.

- 3.7.6 GON officers should be particularly wary of individuals or organisations who have dealings with or support persons who are designated terrorists or organisations who are designated terrorist groups by the Nauruan government or other governments. Advice must be sought from the relevant Nauruan authorities when in doubt.
- 3.7.7 Content which is not age-appropriate may be well-intentioned but have negative consequences. What may be appropriate in other countries may not be appropriate in Nauru.
- 3.7.8 Donors who mislead the GON regarding their connections, their personnel or their Program content may be asked to stop their Program and be prevented from engaging in any activity in Nauru in the future. It is incumbent on donors to be up-front and honest in their dealings with the GON, to ensure GON officials can make an appropriate assessment about the proposed Program.
- 3.7.9 GON officials may seek references to make a determination on the suitability of the Donor or the Donor's personnel.
- 3.7.10 The GON's decision regarding the suitability of a Donor Program is final.

3.8 Police Checks of Donor Personnel

- 3.8.1 Most international donors have stringent policies to regulate interactions with children, including checks of the personnel who may have contact with children. GON line departments must ask donors what their child protection processes and checks involve.
- 3.8.2 Any Donor personnel implementing a Donor program in a School or who is dealing with children must have undergone a recent police check by the Donor, and the police check should be clear of any offences except minor traffic violations. The police check must be:
 - 3.8.2.1 conducted within the 3 months prior to submitting the donor application
 - 3.8.2.2 for the current country of residence of the individual, and for any other countries they have resided in for 12 months or more.
- 3.8.3 GON may ask Donors for written confirmation that such checks have been undertaken and meet these criteria.
- 3.8.4 Should any Donor personnel who have not had a Police Check meets this criteria, GON has the right to revoke the individual's visa and have them removed from Nauru. Such personnel may also be prohibited from future work on Nauru.

3.9 Donor Personnel Behaviour in Nauru

- 3.9.1 A Donor personnel whilst in Nauru must obey the laws of Nauru. Any breach of the laws may result in the cancellation of such personnel's visa and immediate removal from Nauru pursuant to the *Immigration Act 2014*.
- 3.9.2 Donors and their personnel must not bring the island of Nauru into disrepute. This includes providing any interviews to journalists in Nauru or abroad, or publishing articles, information or images critical of the GON.
- 3.9.3 Donors and their personnel must respect the culture and traditions of Nauru and not publish any information about Nauru or any information gathered during a project without the prior written approval of the GON.
- 3.9.4 Creating offense to the Nauruan people may make an individual's position untenable on the island, and may result in the individual being asked to leave their role.
- 3.9.5 Criminal behaviour or behaviour that is intimidating, derogatory, or offensive will not be tolerated.
- 3.9.6 GON reserves the right to seek the removal of any Donor personnel deemed by a GON official as a potential threat to the safety of a GON officer, any Nauruan, or any other person in Nauru.

3.10 Information

- 3.10.1 A Donor personnel can only gather information from Nauruan individuals with the written permission of the relevant Minister.
- 3.10.2 Information gathered by a Donor personnel while working on a project in Nauru must be provided to the GON at any time it is requested by a representative of the GON, and also at the end of the project.
- 3.10.3 Donors and their personnel must seek the written permission of GON to publish documents using information gathered during a project for the GON.
- 3.10.4 Donors and their personnel must not distribute, misuse or retain any information provided in the course of the Donor project outside of individuals who need to know the information in the Donor organisation.
- 3.10.5 Donors and their personnel must not take personal information from or about children, e.g., child weight, unless approved to do so in writing by the relevant GON department. The written consent of a parent or guardian must also be obtained.
- 3.10.6 At a minimum, verbal consent must be obtained to take photographs of adults. The manner in which the photograph will be used, and on what websites and platforms,

must be made clear at the time the consent is requested. The consent of parents must be obtained in writing to photograph a child.

3.11 Roles and Responsibilities

3.11.1 PAD:

- 3.11.1.1 is responsible for the coordination and oversight of donor support for GON;
- 3.11.1.2 is the secretariat for the NSDS Committee, which oversees donor contributions to the NSDS;
- 3.11.1.3 publishes Development Fund reporting and Annual Development Fund projections;
- 3.11.1.4 manages legal agreements overseeing donor programs; and
- 3.11.1.5 acts as the Executing Agency for the ADB projects.

3.11.2 Line Departments and SOEs:

- 3.11.2.1 implement donor programs;
- 3.11.2.2 assess Donor applications sent by PAD and make recommendations regarding the approval or otherwise of such applications;
- 3.11.2.3 seek approval from their relevant decision makers, including the relevant Minister, regarding Donor projects and applications, as required;
- 3.11.2.4 support Donor projects, once approved; and
- 3.11.2.5 monitor Donor projects and provide any necessary information to GON or the Donor regarding project progress.

3.11.3 Ministers:

- 3.11.3.1 may approve Donor projects prior to the Cabinet approval; and
- 3.11.3.2 provide senior oversight of approved Donor projects for which their agency is the lead GON organisation.

3.11.4 Cabinet:

- 3.11.4.1 must approve donor projects which involve significant infrastructure investment, may be controversial, have implications for national security, or involve a number of different GON organisations.

3.12 **Regular Monitoring and Evaluation**

- 3.12.1 Donor projects are to be monitored and evaluated according to the requirements of the donor, the relevant agreement, and in line with the requirements of the *Development Fund Act 2011*.
- 3.12.2 At a minimum, information on Donor projects will be needed for annual Development Fund reporting and Budget Paper reporting. Any separate processes will be aligned as far as possible with GON budget cycles, to aid GON planning and budgeting.
- 3.12.3 PAD will manage the coordination of reporting for GON processes and any other requirements for consolidated reporting or data regarding Donor activity in Nauru. GON leads are responsible for supplying relevant information to PAD to support such reporting.

3.13 **Disputes**

- 3.13.1 All disputes should be resolved in good faith and by mutual negotiations at the lowest possible level.
- 3.13.2 Disputes should be resolved in accordance with the relevant agreement. Where there is no guidance in the agreement, the Department of Justice should be consulted for advice.
- 3.13.3 GON should seek legal advice in relation to any dispute where a criminal activity is suspected or evidence is obtained thereof.

4. Approval

Approved by:	NSDS Committee
	Date: December 2023

5. Version Control

Amendment	Date	Amendment made by