



**USAID**  
FROM THE AMERICAN PEOPLE

## *An Implementing Partner's Guide to* **COMPETITION REQUIREMENTS IN ASSISTANCE AWARDS**

### What is the USAID's policy with respect to competition?

The Federal Grant and Cooperative Agreement Act (FGCA) of 1977 states that federal agencies must "encourage competition in the award of grants and cooperative agreements." USAID complies with this statutory directive and its policies reinforce the fact that maximizing competition broadens the competitive base.

### Are there different levels of eligibility?

Yes. USAID defines levels of competition for its assistance instruments in terms of "unrestricted eligibility" and "restricted eligibility."

1. Unrestricted eligibility. Unrestricted eligibility refers to instances in which USAID posts a Notice of Funding Opportunity (NOFO) with no limitations on the eligibility for applicants. Unless program needs regarding USAID's Development Objectives (DOs) dictate otherwise, unrestricted eligibility is USAID's preferred method of awarding assistance instruments and can include NOFOs for standard grants and cooperative agreements, Leader with Associate Awards, Simplified Grants and Fixed Amount Awards (FAAs).

2. Restricted eligibility. Restricted eligibility refers to any assistance actions that are restricted to a particular type of organization or other limitation, most typically for sole source awards (including follow-on awards), extensions, limited to local entities or limited for efficiency. Restricted eligibility awards can take the form of standard grants and cooperative agreements, associate awards under a LWA, Simplified Grants and FAAs; as program needs dictate. Because unrestricted eligibility awards limit competition, USAID must document the need to limit competition in a Justification to Restrict Eligibility (JRE).

### Given the preference to promote competition, are there any circumstances when eligibility requirements do not apply?

Three situations exist for which restrictions to eligibility do not apply and are therefore not considered "exceptions to eligibility" or competition:

1. The issuance of associate awards, or amendments to associate awards, made within the terms and conditions of a previously solicited Leader with Associate Award.
2. Awards, extensions, or amendments using non-appropriated funds (including, but not limited to, monies or in-kind contributions from bilateral and multilateral development partners, host country governments, foundations and other private sector entities).
3. Extensions to existing agreements under 2 CFR 200.308(d)(2), in which recipients have been pre-authorized to initiate a one-time extension to the period of performance for no more than 12 months, in accordance with the stipulations of that part.

### What are the situations for which USAID allows an exception to unrestricted eligibility?

A USAID AO may restrict eligibility only when a proper exception (in accordance with USAID policy) applies and is appropriately documented. USAID policy in ADS 303 explains such exceptions. The policy defines two basic types of exceptions, exceptions that require the submission of a Justification to Restrict Eligibility (JRE) and exceptions that do not.

The following exceptions are those that do not require a JRE:

- Emergency and Disaster Assistance Restricted Eligibility to Local or Regional Entities; and
- Transition Awards (awards to a local entity that has been a subrecipient under a USAID prime assistance award).

Certain conditions and agency management clearances exist for awards made under these exceptions.

The following are exceptions that DO require a JRE:

- **Exclusive or predominant capability:** USAID may restrict eligibility, including issuing a sole source award to a recipient, in cases where the recipient will use proprietary resources; possesses unique programmatic expertise or relationship with the cooperating country or beneficiaries; or participates in a USAID Global Development Alliance.

- **Small grants:** When the award will be less than the simplified acquisition threshold (currently \$150,000) and will have a period of performance of a year or less, USAID may restrict eligibility, including issuing a sole source award to a recipient.

- **Restricted eligibility for efficiency:** USAID may restrict eligibility to a selected group of applicants when it is necessary for the sake of efficiency. This class of restriction requires that USAID explain other options explored as well as obtain senior agency management clearance.

- **New entrants:** USAID may also restrict eligibility to organizations that have received less than \$1,500,000 of direct USAID assistance (in prime awards) during the last three years, in order to promote the expansion and sustainability of development partners. This exception is allowed only for grants and cooperative agreements that are less than \$5 million.

- **Congressionally mandated programs:** There are times when Congress directs USAID to make an award to a particular organization. USAID may restrict eligibility to a single source for such congressional earmarks and directives.

- **Critical objectives of the foreign assistance program:** When appropriate, awards may be made to a particular class of applicants for a particular purpose or period of time in order to further specific Development Objectives. An example of such an exception is the USAID Administrator-approved Expedited Procedures Package for HIV/AIDS.

- **Unsolicited applications:** Unsolicited applications are those that are submitted by an applicant on its own initiative. Such applications should 1) demonstrate a unique, innovative or proprietary program; 2) represent an appropriate use of USAID funds; and 3) fit within an existing USAID Development Objective (DO).

- **Follow on awards and extensions to an existing awardee:** USAID may restrict eligibility for follow on awards or funded extensions of awards for activities that are substantially similar to the recipient's current award, within specific funding and period of performance limitations dictated by USAID policy.

- **Science and technology and innovation:** In instances which the Agency determines that a promising science and technology concept or innovative solution exists to tackle a pressing development challenge, USAID may restrict eligibility for new or follow-on awards, or amend existing awards. It is important to note the specific parameters for and definitions of science, technology and innovation as stated in USAID policy.

USAID requires various approvals, clearances, and additional documentation as either part of the JRE or in addition to it, for some of these above exceptions. ADS 303 provides additional information for each exception and exception-specific requirements.

## What is included in the Justification to Restrict Eligibility (JRE)?

The JRE sets forth the facts and rationale justifying the restricted eligibility and includes a description of the assistance activity, its estimated value, the exception being used and why it needs to be used. Each justification must contain sufficient facts and rationale to justify the use of the specific exception cited. Requirements for the content of justifications and applicable clearances and approval authorities are determined by a combination of the following: the dollar threshold of the new award or amount of increase to an existing award; the type of exception used; and whether the action is a follow on or extension. Exceptions to restrict eligibility must not be justified on the basis of mobilization costs, demobilization costs, lack of planning, or funding concerns (such as expiring funds).

For grants or cooperative agreements awarded under restricted eligibility, the AO will also ensure that proposed costs are fair and reasonable. He or she may look to the AOR to help determine the reasonableness of various programmatic expenses.

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