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ADS Chapter 349

International Agreements

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Functional Series 300 – Acquisition and Assistance
 ADS 349 – International Agreements
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****This is a new ADS chapter.***

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ADS 349 – International Agreements

349.1 OVERVIEW

Effective Date: 02/01/2003

This chapter establishes the policy directives and required procedures for processing international agreements. International agreements are agreements with foreign governments and public international organizations (PIOs).

349.2 PRIMARY RESPONSIBILITIES

Effective Date: 02/01/2003

- a. The **General Counsel (GC)** is responsible for maintaining this chapter and advising Agency officials on the substance, negotiation, and execution of international agreements.
- b. **Assistant Administrators, Mission Directors, Contracting Officers, and others** are responsible for the negotiation and execution of international agreements in accordance with their delegated authorities.

349.3 POLICY DIRECTIVES AND REQUIRED PROCEDURES

349.3.1 Types of USAID International Agreements

Effective Date: 02/01/2003

USAID international agreements are organized into two categories – framework bilateral agreements and implementing agreements.

349.3.1.1 Framework Bilateral Agreements

Effective Date: 02/01/2003

These agreements between the U.S. Government and the host government establish the USAID Mission as a special Mission; identify the privileges and immunities to be provided to USAID personnel; implement USAID's long-standing policy that assistance should be exempt from host government taxes by setting forth the privileges and exemptions from taxes and duties for USAID-financed supplies and services and USAID contractors and recipients; and list other general terms and conditions for USAID assistance.

349.3.1.2 Implementing Agreements

Effective Date: 02/01/2003

USAID implements specific activities and programs through a variety of “implementing” agreements with foreign governments and PIOs. The most common types of implementing agreements are

- Strategic Objective Grant Agreement (SOAG) (see [ADS 350](#));
- Limited Scope Grant Agreement (LSGA) (see [ADS 350](#)); and
- Grants with Public International Organizations (see [ADS 308](#)).

Other examples are commodity import grant agreements, cash transfer grant agreements, memoranda of understanding, and guarantees and other credit program agreements. Where there are specific ADS provisions for a particular type of international agreement, for example ADS 350 on SOAGs and LSGAs, those ADS provisions govern. Where there are no ADS provisions, operating units are authorized to use other types of international agreements, subject to the clearance of the appropriate Regional Legal Adviser (RLA) or Assistant General Counsel Office (AGC).

349.3.2 Circular 175 Procedure

Effective Date: 02/01/2003

International agreements are subject to the "Circular 175 Procedure" in 11 FAM 720. SOAGs and other grants of less than \$25 million are not considered international agreements for the purposes of Circular 175. In addition, USAID has a blanket Circular 175 authorization from the Secretary of State for its framework and implementing agreements. Under the terms of that blanket Circular 175 authorization, USAID is not required to prepare separate Circular 175 authorization for

- a. Framework bilateral agreements. However, they must be cleared with the relevant offices of the Office Legal Advisor of the Department of State (State/L), relevant regional and other offices of the Department of State and other agencies as appropriate.
- b. Implementing agreements, unless the agreement involves unique political, legal, or funding issues.

(See Mandatory Reference, [Action Memorandum for the Secretary of State, Subject: "Blanket Circular 175 Request for USAID to Negotiate and Conclude Certain International Agreements," dated August 15, 2002.](#))

GC is responsible for consulting with State/L offices on whether a particular agreement might require a separate Circular 175 authorization.

349.3.3 Transmission of International Agreements to the Assistant Legal Advisor for Treaty Affairs (State/L/T)

Effective Date: 02/01/2003

This section outlines USAID's procedures for complying with the 11 FAM requirements for transmitting international agreements to the Department of State's Assistant Legal

Advisor for Treaty Affairs (State/L/T) for further transmission to Congress. (See [11 FAM 723.6](#), [723.7](#), and [723.8](#).)

Operating units must transmit to State/L/T

- a. All framework bilateral agreements and amendments.
- b. Only those implementing agreements that obligate \$25 million dollars or more in USAID funds or that are significant for reasons other than the size of the financial commitment. It is the actual amount obligated which is controlling for the purposes of the \$25 million threshold, not the total estimated USAID contribution. For example, a SOAG with an estimated total of \$100 million but obligating \$20 million is not covered. The \$25 million threshold applies to each amendment as if it were a separate agreement. If the amendment obligates less than \$25 million it is not covered, even if it brings the total amount obligated over \$25 million. For example, an amendment of \$24 million to a SOAG with an original obligation of \$10 million is not covered because the amendment is less than \$25 million.

Immediately upon the signing of the international agreement, overseas operating units must cable and USAID/W operating units must write a memorandum to State/L/T with the date of signing and dollar amount.

As soon as possible after signing but no later than 20 days after signing by both parties, operating units must transmit the following documents to State/L/T:

- a. The original or a certified copy of the agreement with the following typed statement signed and dated by any responsible official of the office or Mission transmitting the copies: "Certified to be a true copy of the original signed by [names and titles of signatories]."
- b. A brief statement identifying the nature of the agreement, e.g., "This Strategic Objective Grant Agreement grants \$30 million to the Government of Country X for child survival activities."
- c. In the case of a significant agreement, the reason why the agreement is significant.
- d. A copy of each annex or attachment to the agreement.

349.3.4 Framework Bilateral Agreement Structure and Processing

349.3.4.1 Draft Negotiating Text [reserved]

349.3.4.2 Processing [reserved]

349.4 MANDATORY REFERENCES

349.4.1 External Mandatory References

Effective Date: 02/01/2003

- a. [11 FAM 700, Treaties and Other International Agreements](#)

349.4.2 Internal Mandatory References

Effective Date: 02/01/2003

- a. [ADS 308, Grants and Cooperative Agreements with Public International Organizations](#)
- b. [ADS 349maa, Action Memorandum for the Secretary of State, Subject: "Blanket Circular 175 Request for USAID to Negotiate and Conclude Certain International Agreements," dated August 15, 2002](#)
- c. [ADS 350, Grants to Foreign Governments](#)

349.5 ADDITIONAL HELP

Effective Date: 02/01/2003

There are no Additional Help documents for this chapter.

349.6 DEFINITIONS

Effective Date: 02/01/2003

The terms and definitions listed below have been incorporated into the ADS Glossary. See the [ADS Glossary](#) for all ADS terms and definitions.

framework bilateral agreements

These agreements between the U.S. Government and the host government establish the USAID Mission as a special Mission; identify the privileges and immunities to be provided to USAID personnel; implement USAID's long-standing policy that assistance should be exempt from host government taxes by setting forth the privileges and exemptions from taxes and duties for USAID-financed supplies and services and USAID contractors and recipients; and list other general terms and conditions for USAID assistance. (Chapter 349)

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