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ADS Chapter 303

Grants and Cooperative Agreements to Non-Governmental Organizations

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Organizations
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ADS 303 – Grants and Cooperative Agreements to Non-Governmental Organizations

303.1 OVERVIEW

Effective Date: 12/23/2019

This chapter describes the Agency's internal guidance, policy directives, required procedures, and standards for the award and administration of USAID grants and cooperative agreements to:

- Institutions of higher education,
- Hospitals,
- Nonprofit non-governmental organizations (NGOs), and
- Commercial organizations.

USAID provides assistance to U.S. or non-U.S organizations, individuals, nonprofits, and for-profit entities. Authorizing legislation (including the [Foreign Assistance Act of 1961, as amended](#)), other statutes, Government-wide directives and regulations, and Agency policies specify the eligibility requirements for individual assistance programs. The Agency has identified its corporate priorities for, and approach to, assistance in the [USAID Acquisition and Assistance Strategy](#).

303.2 PRIMARY RESPONSIBILITIES

Effective Date: 11/19/2020

a. The **Bureau for Management, Office of Acquisition and Assistance (M/OAA)** develops and interprets policy on behalf of USAID for the award and administration of grants and cooperative agreements. M/OAA carries out this responsibility in accordance with the requirements of [2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards](#) and USAID's implementing regulation [2 CFR 700 USAID Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards](#), and this ADS chapter.

b. The **M/OAA Director** is also the Assistance Executive and coordinates all matters that OMB or USAID regulations govern or which may require OMB approval. The M/OAA Director has overall responsibility for the Agency's assistance policies, including the approval of Acquisition & Assistance Policy Directives (AAPDs) and Procurement Executive Bulletins (PEBs).

c. The **Agency Liaison**

- Reviews information for the Federal Assistance Listings (Assistance Listings) for completeness and accuracy and forwards the information to the Office of

Management and Budget (OMB) for entry into the available listings maintained by the General Services Administration (GSA);

- Updates Assistance Listings entries annually;
- Submits an annual crosswalk that references program transactions occurring during the year, such as additions, deletions, consolidations of programs, and changes to program titles;
- Assigns Assistance Listing numbers; and
- Prepares the Assistance Listing entry describing the Agency's general program description.

NOTE: The Chief of the Strategic Planning and Performance Division of the Bureau for Policy and Program Coordination (PPC/SPP/SPA) was serving as the Agency Liaison (see **303.3.5.1**). However, this office has been superseded by the establishment of the Office of the Director of Foreign Assistance. Details of the liaison function will be revised. For further information, contact PPC and M/OAA.

d. The **Agreement Officer (AO)** has legal responsibility for the award. Therefore, only the AO can take action on behalf of USAID to enter into, amend, or terminate an award. The AO is authorized this responsibility either by a warrant issued by the Director, M/OAA, or through a delegation by virtue of his or her position provided by:

- The Mission Director or other principal officer of a USAID overseas mission (see [ADS 103](#)),
- The Assistant to the Administrator for the Bureau for Humanitarian Assistance (AtA/BHA), or
- The directors of BHA offices, as re-delegated by the AtA/BHA (see [ADS 103.3.15](#)).

e. Prior to award, **the Activity Planner** (also referred to as Planner) ensures that an anticipated award reflects the project design and planning documentation prepared in accordance with [ADS 201](#) and [ADS 300](#) and supports the assistance objectives. The Planner:

- Ensures adequate notice and time is provided to the AO to compete and award an assistance instrument by using an annual A&A plan or by obtaining the AO's consent;

- Justifies an exception to eligibility, in accordance with this chapter and as directed by the AO, if eligibility is to be restricted;
- Provides the Agency Liaison with an annual update on the information in the Federal Assistance Listings for which the Planner is responsible (see **303.3.5.1**);
- Complies with [22 CFR 216, Environmental Procedures](#), requirements during the design process;
- Manages the merit review of applications on behalf of the AO;
- Carries out elements of the pre-award survey and provides a technical analysis of specific costs when asked by the AO;
- Advises the AO whether an application is responsive to the published announcement and otherwise complies with established USAID Development Objectives;
- Determines the expected level of cost sharing, in accordance with specific program requirements and **303.3.10**;
- Processes all necessary request documentation for the AO to consider in awarding a grant or cooperative agreement to a selected applicant. This documentation includes advice on the programmatic aspects of the application, including the applicant's program description with clearly established goals that are realistic, measurable, and represent the highest objective that the recipient can be expected to achieve and for which the recipient will be held accountable;
- Helps the AO determine the potential recipient's level of technical and managerial competence; and
- Performs other duties, as requested by the AO, to ensure prudent management of assistance funds.

f. After award, the **Agreement Officer's Representative (AOR)**, as designated in writing by the AO, provides programmatic and administrative oversight of the assistance instrument. This authority is not re-delegable other than as specified in the AO's designation letter. The AOR ensures that USAID exercises prudent management over the award and monitors the recipient's progress in achieving the objectives of the program description. The AOR:

- Maintains contact, including through site visits and liaison, with the recipient;

- Reviews and analyzes reports and monitors reporting requirements (see [ADS 540](#));
- Verifies timely performance;
- Ensures compliance with the terms and conditions of the award;
- Carries out all responsibilities in the schedule of the award as delegated by the AO and as noted under the “Substantial Involvement” section of Cooperative Agreements;
- Monitors the recipient's financial reports to ensure that the recipient makes progress toward meeting the required cost sharing, when applicable;
- Notifies the AO promptly of any developments that could have a significant impact on the recipient’s performance;
- Prepares internal documents to support amendments to the award;
- Assists the AO in the review of proposed Branding Strategies and Marking Plans and monitors the execution of approved Marking Plans;
- Ensures all mitigative environmental measures and conditions in the award are implemented throughout the life of the award and that timely amendments are undertaken as needed with the relevant Bureau environmental officer approval in writing (see [ADS 204, Environmental Procedures](#));
- Monitors classified recipients' compliance with the security specifications included in their grants and cooperative agreements, and notifies the AO and the Office of Security of any problems or suspected noncompliance with those requirements (see [ADS 545, Information Systems Security](#), [ADS 565, Physical Security Programs \(Domestic\)](#), and [ADS 567, Classified Contracts and Awards Under USAID’s National Industrial Security Program](#));
- Evaluates the recipient’s program effectiveness at the end of the program, and produces a final report on the award for the AO; and
- Performs other duties, as requested or delegated by the AO, to ensure prudent management of assistance funds.

g. The **Office of the General Counsel (GC)** or the **cognizant Resident Legal Officer (RLO)** makes the final legal determinations on behalf of the Agency. USAID staff must refer all contacts from an applicant’s or a recipient’s lawyer to GC or the RLO. Staff must also consult GC or the RLO on significant policy matters.

h. Assistant Administrators approve termination of awards based on the decision that continued assistance would not be in the national interest of the United States. The use of the term Assistant Administrator throughout this chapter refers to both an Assistant Administrator and an Assistant to the Administrator.

i. The Assistant Administrator, Bureau for Management, or designee, makes the final decision on any appeals brought under [2 CFR 700.15](#), or the Mandatory Standard Provision entitled “Disputes and Appeals” when it involves non U.S. organizations.

303.3 POLICY DIRECTIVES AND REQUIRED PROCEDURES

303.3.1 Policy Directives

Effective Date: 12/26/2014

[2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards](#), establishes the requirements that the federal government agencies must follow when administering grants and cooperative agreements to U.S. non-governmental organizations. [2 CFR 700](#) is the Agency’s regulatory implementation and supplement to [2 CFR 200](#). [2 CFR 200](#) and [2 CFR 700](#) do not directly apply to foreign organizations (non-U.S. non-governmental organizations). However, USAID applies some of these regulations to non-U.S. non-governmental organizations through this ADS chapter and [ADS 303mab, Standard Provisions for Non-U.S. Non-governmental Organizations](#).

303.3.2 Required Procedures

Effective Date: 12/26/2014

USAID executes all assistance awards in accordance with [2 CFR 200](#) and [2 CFR 700](#). Additionally, Agency policies on specific topics can be found in other sections of the Code of Federal Regulations (CFRs) and the ADS 300 Series. When it is necessary to implement timely changes prior to a formal revision of Agency assistance regulations and policy, the Director, M/OAA will issue [Acquisition and Assistance Policy Documents \(AAPDs\)](#). M/OAA uses [Procurement Executive Bulletins \(PEBs\)](#) to issue guidance, best practices, reminders, and answers to frequently asked questions.

303.3.3 Type of Assistance Instrument

Effective Date: 12/23/2019

Assistance (grants or cooperative agreements) is used when the principal purpose of the relationship between USAID and the recipient is to transfer anything of value to the recipient to carry out a public purpose of support or stimulation, as authorized by the [Foreign Assistance Act of 1961, as amended \(FAA\)](#). The AO is responsible for making the final decision on the selection of an acquisition or assistance instrument. For further guidance on the differences between assistance and acquisition (contracts), see

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Text highlighted in yellow indicates that the adjacent material is new or substantively revised.

ADS 304, Selecting Between Acquisition and Assistance Implementing Instruments.

During the Planning Phase, the Activity Planner and the Agreement Officer make a determination on the duration and type of assistance instrument (see **303.3.14** and **ADS 201, Program Cycle Operational Policy**).

303.3.4 Exceptions and Deviations

Effective Date: 05/18/2020

When it is necessary to achieve program objectives under an award or when special circumstances make it in the best interests of the U.S. Government, USAID may pursue deviations or exceptions from:

- **2 CFR 200**;
- **2 CFR 700**;
- The policy directives and required procedures of this chapter;
- **ADS 303maa, Standard Provisions for U.S. Non-governmental Organizations**;
- **ADS 303mab, Standard Provisions for Non-U.S. Non-governmental Organizations**; or
- **ADS 303mat, Standard Provisions for Fixed Amount Awards to Nongovernmental Organizations**.

a. Approving Officials

- (1) **Awards to U.S. organizations**. Consistent with **2 CFR 700.4, Exceptions**, only the Assistant Administrator, Bureau for Management, or designee as delegated in Agency policy, may approve an individual exception to **2 CFR 200** (no case-by-case exceptions may be granted to the provisions of Subpart F—Audit Requirements), and may approve individual or class exceptions to **2 CFR 700** for USAID program specific assistance regulations (other than those which implement statutory and executive order requirements). The Office of Management and Budget (OMB) must approve any class exceptions to **2 CFR 200**, other than those which implement statutory and executive order requirements. The Director, M/OAA must approve individual and class deviations from the requirements of this chapter.

- (2) Awards to Non-U.S. organizations. The Mission Director with program responsibility for the assistance award may approve deviations on a case-by-case basis for an individual award. The Director, M/OAA, must approve all class deviations for assistance awards to non-U.S. organizations.

b. Procedure

- (1) The AO or the Planner/AOR may initiate a deviation request through an action memorandum to the appropriate approving official noted in **303.3.4(a)**.
- (2) The AO must clear the deviation request before it is submitted to the approving authority.
- (3) The AO or the Planner/AOR must consult with the Office of the General Counsel (GC) or the Resident Legal Officer (RLO) on all deviations. GC/A&A must clear the action memorandum before the AO or Planner/AOR submits it to the approving authority.
- (4) Before submitting the action memorandum, the requestor also must obtain written comments from M/OAA's Policy Division regarding the information provided to meet the requirements of **paragraph c.** of this section. M/OAA/P will respond within 10 working days. If more time is needed, M/OAA/P must alert the requestor and provide an estimate of when comments will be provided. The AO must maintain a copy of the comments submitted by M/OAA/P as part of the deviation request file.
- (5) If the deviation request involves the cost principles or the applicant's Negotiated Indirect Cost Rate Agreement, the AO must also obtain written comments from M/OAA's Contract Audit and Support Division (M/OAA/CAS), Overhead/Special Costs and Closeout Branch, before submitting the request to the approving official. M/OAA/CAS has 10 working days in which to respond. If more time is needed, M/OAA/CAS must alert the requestor and provide an estimate of when it will provide comments. If M/OAA/CAS does not provide comments within 10 working days or within the requested extension period, the requestor may treat the non-response as concurrence.
- (6) If the approving official does not approve the deviation request, the approving official should provide a written explanation to the requestor regarding why the request was not approved. If the requestor can revise the request to address the approving official's objections, the requestor may do so and resubmit the request. The approving official's denial of a deviation request may not be appealed.

- (7) The requestor must provide a copy of each approved deviation request to M/OAA/P, and the AO must retain the approved deviation in the award file.

c. Content of a Deviation Request

Each deviation request must

- (1) List the name of the recipient and identify the grants or cooperative agreements affected. Include the dollar value of each award;
- (2) Identify the provision, policy, or procedure from which a deviation is necessary;
- (3) Provide a full description of the deviation and the circumstances in which it will be used;
- (4) Detail the reasons supporting the request, including any background information that contributes to a fuller understanding of the sought deviation;
- (5) Describe the intended effect of the deviation; and
- (6) State whether a previous deviation from the same requirement had been requested and, if so, the circumstances of the request and whether the approving official approved or disapproved the request.

(For an example, see [ADS 303sac, Sample Action Memorandum for Deviation.](#))

303.3.5 Public Notice and Advertising

Effective Date: 11/19/2020

- a. USAID has a responsibility to notify the public of its funding priorities in assistance programs (**2 CFR 200.203-204**). The Agency generally fulfills this responsibility by announcing assistance programs in the Federal Assistance Listings maintained by the General Services Administration (GSA) at <https://beta.sam.gov/> and at [Grants.Gov](#).
- b. As Office of Management and Budget policy requires (see [Office of Federal Financial Management Policy Directive on Use of Grants.Gov](#)), USAID must synopsise and post all funding opportunities and application packages to the **Grants.Gov** site except:
 - (1) Assistance programs that are only published through an Development Objective Assistance Listing entry;

NOTE: USAID, at present, does not publish assistance programs solely through Assistance Listing entries;

- (2) Awards that USAID limits to non-U.S. organizations, and which will be for less than \$25,000; and
- (3) Awards for which eligibility is restricted to a single source in accordance with procedures in **303.3.6.5**.

[ADS 303mae, USAID Policy Guidance on Posting Grant Opportunities and Application Packages on Grants.Gov](#), provides specific instructions for posting synopses and application packages to the **Grants.Gov** Web site.

303.3.5.1 Federal Assistance Listings

Effective Date: 11/19/2020

Pub. L. 95-220, 31 U.S.C. 6104 established the **[Catalog of Federal Domestic Assistance \(CFDA\)](#)** as the database for all Federal programs available to U.S. non-governmental organizations, individuals, educational institutions, and state and local governments. The CFDA database is now referred to as Federal Assistance Listings and is maintained in the System for Award Management (SAM) at <https://beta.sam.gov/>. An individual or organization can search this database, find assistance programs, determine if an assistance program matches the individual or organization's requirements, and determine if the individual or organization is eligible for the assistance program. The individual or organization may then contact the office that administers the program and find out how to apply.

Use of the Assistance Listings allows an individual or organization to find information in one location, instead of having to search through many different Federal Agency Web sites. All agencies of the U.S. Government, including USAID, must collect, coordinate, and submit information on all current Federal domestic assistance programs.

A Federal domestic assistance program is any program that provides assistance to a domestic profit or nonprofit corporation; institution or individual; a State or Territory; or, any county, city, or other local government subdivision. This includes programs that finance grants or cooperative agreements to U.S. recipients for activities abroad. It does not include programs that finance grants or cooperative agreements to non-U.S. recipients for activities abroad or for the acquisition or recruitment of personnel.

USAID satisfies the requirements of the Federal Program Information Act (Pub. L. 95-220) by publishing a general entry about its programs in the Assistance Listings. This information must also be published in **[Grants.Gov](#)** and issued as a Notice of Funding Opportunity.

If the Activity Planner wishes to submit an entry into the Assistance Listings database, the Activity Planner should send the information through the cognizant Bureau program office to the Agency Liaison.

303.3.5.2 Notice of Funding Opportunity

Effective Date: 12/23/2019

USAID primarily uses two types of Notices of Funding Opportunity (NOFO), a Request for Applications (RFA) and an Annual Program Statement (APS).

- a. An RFA is used when the intent is to provide assistance for an activity or methodology that supports or is in keeping with USAID's program objectives.

2 CFR 200.204 recommends that AOs make all NOFOs available for receipt of applications for at least 60 calendar days. AOs should provide longer response periods for sizeable activities or more detailed applications used to ensure high quality applications. An AO should not make an NOFO available for less than 30 days unless there are exigent circumstances supported by a written determination by the AO (see **2 CFR 200 Subpart C**).

- b. An APS is used when USAID intends to support a variety of creative approaches towards developing methodologies to assess and implement development objective activities.

When used, USAID will publish an APS at least once a year, either with an open-ended response time or a closing date of at least six months after issuance.

303.3.5.3 Notice of Funding Opportunity Format

Effective Date: 10/30/2020

When issuing a NOFO, including an RFA or an APS, the AO must follow the established format in [Appendix I to Part 200 – Full Text of Notice of Funding Opportunity](#).

AOs must generate the funding opportunity in GLAAS and use the mandatory Notice of Funding Opportunity Guidance and Template for Assistance to ensure that all regulatory and Agency-specific requirements are captured in the NOFO (see <https://pages.usaid.gov/M/OAA/aa-mandatory-templates>).

303.3.5.4 Cancellation of Notice of Funding Opportunity

Effective Date: 07/22/2015

The cancellation of a Notice of Funding Opportunity (NOFO) costs the U.S. Government and applicants' time, effort, and money. USAID should cancel NOFOs only when cancellation is in the public interest. For example:

- (1) When the specific programmatic or focus areas are no longer within the Agency's mission or objectives.
- (2) When amendments to the NOFO would be of such magnitude that a new NOFO is desirable.

If USAID cancels a NOFO, USAID will return any applications it has received unopened and will issue a notice of cancellation, either posted electronically as a general notice or sent to all prospective applicants, or both. USAID staff must purge any electronic applications for a cancelled NOFO from primary and backup data storage systems.

The notice of cancellation must:

- (1) Identify the solicitation number and provide the title or the subject matter,
- (2) Briefly explain the reason why USAID cancelled the NOFO, and
- (3) Assure prospective applicants that they will be given an opportunity to apply for any subsequent or future NOFOs for the program, if appropriate.

The AO must document the:

- (1) Circumstances and rationale for the cancellation;
- (2) Applications received, returned, and purged; and
- (3) Cancellation notice and NOFO issuance dates.

303.3.5.5 Unsolicited Concept Papers and Applications

Effective Date: 06/01/2006

The [Guide to USAID's Assistance Application Process and to Submitting Unsolicited Assistance Applications](#) provides guidance for submitting unsolicited concept papers and applications.

303.3.6 Eligibility

Effective Date: 12/26/2014

In accordance with the Federal Grant and Cooperative Agreement Act, USAID encourages competition in the award of grants and cooperative agreements to identify and fund the programs that best achieve Agency objectives.

The Agreement Officer (AO) guarantees the integrity of the competitive process by ensuring overall fairness and consideration of all eligible applications. The AO also has

the ultimate authority to make award decisions for grants and cooperative agreements on behalf of USAID.

The AO must not limit eligibility when awarding grants and cooperative agreements, unless USAID authorizes a restriction on eligibility in accordance with **303.3.6.4**. 2 CFR 200 requires that the Agency publish an announcement seeking applications from all eligible and qualified entities (see **303.3.5**).

303.3.6.1 Eligibility Requirements

Effective Date: 11/19/2020

The AO verifies that a Notice of Funding Opportunity (NOFO) (including an Annual Program Statement (APS)) correctly identifies applicant eligibility requirements and essential program qualifications in accordance with the following standards:

- a. Authorizing legislation and governing program requirements specify eligibility requirements for individual grant programs. Generally, and in compliance with the [Foreign Assistance Act of 1961, as amended](#), USAID may provide assistance to any U.S. or non-U.S. organization, individual, non-profit, or for-profit entity. When specific program requirements restrict eligibility (for example, Title XII Collaborative Research Support Programs), USAID must identify the restriction in the Assistance Listing, NOFO, or other appropriate notice.
- b. **Merit Review Criteria.** The Planner must propose the merit review criteria for selecting an applicant. However, if the AO determines that the criteria is so restrictive that it severely limits the pool of potential applicants, the AO may request that the Planner change the criteria to broaden the pool of applicants.
- c. **Multi-tiered Review.** The Planner, with the approval of the AO, may establish a solicitation and review system with two or more tiers. The AO may request potential applicants to submit an executive summary or concept paper. The AO may also request corresponding budget information at their discretion. After reviewing these submissions, the Selection Committee selects the best submissions and conducts a second level solicitation and review with the selected applicants and uses more specific merit review criteria. The AO may conduct additional levels of solicitation and review only if the second level does not adequately identify applicants for the activities to be funded. Section C or Section E of the NOFO must explain the intended multi-tiered review/eligibility process so that potential applicants know what to expect at each phase of the review process.

303.3.6.2 Merit Review Criteria

Effective Date: 01/19/2021

- a. The Planner must develop the merit review criteria. The criteria must include the programmatic factors or priorities that affect eligibility for selection. The number of criteria should be limited to three or four factors. The review criteria in an announcement must provide as much information as practical to allow potential applicants to judge whether it is in their best interest to incur costs to apply for the award. The criteria must address the importance of the programmatic and administrative elements, but must not be unduly restrictive. It is not necessary to quantify the relative weight of the criteria, but the announcement must identify the relative importance of the criteria. The Planner must obtain the AO's approval of the criteria before the AO publishes the Notice of Funding Opportunity (NOFO).
- b. **No Requirement for Prior USAID Experience.** NOFO documents for the award of USAID assistance instruments must not require prior USAID experience.
- c. **Gender issues.** USAID must address gender issues in all USAID-funded activities (see [ADS 205](#)). In NOFOs (including those for Leader with Associate Awards), the Agreement Officer must ensure that the NOFO:
- Integrates gender issues into the solicitation (unless a rationale was provided by the Activity Planner for not addressing gender in the project or activity) in accordance with [ADS 205](#). When USAID directs applicants to incorporate gender issues into their applications, the NOFO must state the requirements in the different performance components, e.g., Program Description, key personnel qualifications, if applicable, and monitoring and evaluation requirements.
 - Integrates gender issues into the programmatic selection criteria (e.g., technical understanding and approach, monitoring and evaluation, personnel, etc.) that correspond to the performance requirements stated above, unless an approved rationale for not incorporating gender issues has been included in the NOFO.

If the program/project office provides the Agreement Officer with a procurement request for a program that does not include the requirements in [ADS 205](#) for either integrating gender issues in the Program Description or the rationale for why gender is not an issue for the particular assistance program it intends to fund, then the Agreement Officer must notify the program/project office that no further action will be taken on the request until it meets one of these requirements.

For technical assistance and additional guidance, consult the USAID Mission/Office or Bureau gender specialist or the Office of Gender Equality and Women's Empowerment **Hub** in the **Bureau for Development, Democracy, and Innovation (DDI)**.

- d. **Volunteers for Prosperity.** [Executive Order 13317](#) requires that an applicant's use of highly skilled U.S. volunteers be a review factor in the selection of applications for assistance activities to be implemented abroad under the following initiatives:
- The President's Emergency Plan for AIDS Relief (PEPFAR);
 - Digital Freedom Initiative;
 - Water for the Poor Initiative;
 - Trade for African Development and Enterprise Initiative;
 - Middle East Partnership Initiative; and
 - Other Presidential initiatives as identified in the future.
- e. **Environmental Concerns.** The Activity Planner must ensure that the requirements in [22 CFR 216](#) for an environmental impact assessment have been met, approved in writing by the relevant Bureau environmental officer, and are incorporated into the NOFO and award as necessary. When USAID directs applicants to address environmental concerns in an activity, the NOFO must state the requirement. [ADS 204](#) provides detailed guidance on environmental concerns, and [ADS 201](#) provides guidance on incorporating [ADS 204](#) into the planning, achieving, and learning processes.
- f. **Branding and Marking.** It is a Federal statutory and regulatory requirement (see [Section 641, Foreign Assistance Act of 1961, as amended](#), and [2 CFR 700.16](#)) that all overseas programs, projects, activities, public communications, and commodities that USAID partially or fully funds under an assistance award or subaward must be appropriately marked with the USAID identity. Under [2 CFR 700.16](#), USAID requires the submission of a Branding Strategy and a Marking Plan by the "apparently successful applicant." The apparently successful applicant's proposed Marking Plan may include a request for approval of one or more exceptions to the marking requirements in [2 CFR 700.16](#). The AO reviews and approves the apparently successful applicant's Branding Strategy and Marking Plan (including any requests for exceptions), consistent with the provisions "Branding Strategy," "Marking Plan," contained in [ADS 303mba, Pre-Award Terms](#), and "Marking and Public Communications Under USAID-funded Assistance" contained in [ADS 303maa, Standard Provisions for U.S. Nongovernmental Recipients](#) and [ADS 303mab, Standard Provisions for Non-U.S. Nongovernmental Organizations, 2 CFR 700.16](#), and [ADS 320, Branding and Marking](#).

Note that in contrast to “exceptions” to marking requirements, waivers to these requirements based on circumstances in the host country must be approved by the cognizant Mission Director or other USAID principal officer [see [2 CFR 700.16\(5\)](#)]. Any questions about the applicability of either the Standard Provisions or [2 CFR 700.16](#) may be directed to General Counsel/Acquisition & Assistance (GC/A&A), or USAID’s Senior Advisor on Brand Management.

- g. Climate Risk Management.** Climate risk management (CRM) is the process of assessing, addressing, and adaptively managing climate risks that may impact the ability of USAID to achieve its program objectives. Climate risks are defined as potential negative consequences due to changing climatic conditions. USAID Operating Units (OUs) must adhere to CRM requirements in project/activity design and implementation as required in [ADS 201mal](#), with limited exceptions described in Section 1 of the reference.

Accordingly, the OU must incorporate, as appropriate, the results of the climate risk assessment into the solicitation sections, Program Description and Selection Criteria, which the AO will then incorporate into the formal solicitation. Additionally, per [ADS 201mal](#), the climate risk assessment must be documented in the environmental compliance analysis. The [Climate Risk Management Resource Page](#) contains sample language that technical and program offices can use when creating assistance packages. Additionally, OUs may obtain support from the designated Climate Integration Lead (CIL) in each B/IO and Mission. The full list of CILs and their responsibilities is available on the [Climate Risk Management Resource Page](#).

303.3.6.3 **Reviewing Applications** Effective Date: 01/19/2021

- a.** At least two individuals (three or more is preferable) must be appointed to serve on each Selection Committee (SC) to review applications. The SC must review the applications using the review criteria stated in the Notice of Funding Opportunity (NOFO). The SC must keep selection information and applicant proprietary data confidential.
- b.** Committee members must possess the requisite technical knowledge or expertise to review the programmatic merits of the applications. The Agency may make exceptions with the approval of the AO.
- c.** Reviewers from other Federal Departments and Agencies are encouraged to participate on the SC whenever possible. Reviewers from outside the U.S. Government may also participate on the SC. USAID staff (direct hire and Personal Services Contract (PSC) employees) must comprise a majority of the members on the SC.

- d.** The AO must take steps to ensure that members of the SC, both USAID staff and outside reviewers, do not have conflicts of interest with the organizations whose applications are being reviewed. A conflict of interest includes situations when:
- The member of the SC works for or has any other financial interest (including being an unpaid member of a Board of Directors) in the organization that submits an application for the committee's review,
 - The member's spouse/partner or minor child works for or has any other financial interest (including being an unpaid member of a Board of Directors) in the organization that submits an application for the committee's review, and
 - An organization or entity in which an SC member serves as an officer, director, trustee, general partner, or employee, has a financial interest in an application under the committee's review. This includes situations where the SC member is negotiating for one of the positions listed here and is serving as an unpaid member of the organization or entity's Board of Directors.
 - An employee of an external organization (e.g., technical advisors in AIDS, child survival, infectious diseases, population, basic education) participates in the review of a potential competitor's application, which allows the SC access to financial or other data that may be competitively useful to the reviewer's organization.

The Planner and the SC must make all efforts to identify potential conflicts early in the review and selection process. Because resolution of conflicts of interest is fact driven and case specific, the Planner and SC must coordinate with the AO and the cognizant General Counsel or Resident Legal Officer on the issues.

- e.** When periodic reviews are specified, the Planner must collect the applications as they are received until the Agency can review a reasonable number in accordance with the provisions of the announcement. If the Planner and AO established a specific timeframe for the review of applications in the NOFO, for example, quarterly reviews, and only a small number of applications are received during that time, the AO may consider the applications received to be a reasonable number. The SC may also include applications it received in response to earlier notices in a periodic review.
- f.** For BHA programs, the AtA/BHA may authorize selection of a sole application received, if the director determines that it is not advisable to wait for more applications. The Activity Planner must provide a copy of such an authorization to the AO.

- g. When reviewing applications against a criterion related to gender issues, the Activity Planner must coordinate with **DDI's** Gender Equality and Women's Empowerment **Hub**.
- h. If an unsolicited application reasonably fits within an existing NOFO, the AO and Planner may include the application in a relevant review and selection under that NOFO. If it does not, the Planner must provide the AO with an approved written determination to restrict eligibility based on programmatic purposes under **303.3.6.5.d** before the AO can issue an award to the applicant.
- i. The same SC members should review all applications for each specific award. If this is not possible or if there are established procedures for review by separate SCs, the Planner must document the reason and the procedure and submit it to the AO for the agreement files.
- j. The AO must provide the SC with a written review plan that specifies the criteria and methodology for reviewing the applications consistent with the information published in the NOFO.
- k. The SC must prepare a written selection memorandum of each application as compared to the established review criteria.
- l. Templates and guides for the selection committee, cost application review, and award memorandum are available on USAID's internal website at: <https://pages.usaid.gov/M/OAA/assistance-templates>.
- m. The SC's narrative in the selection memorandum must detail each application's strengths and weaknesses relative to the review criteria. If the NOFO does not indicate the relative importance of the review criteria, then all criteria are equally weighted. If the NOFO assigned numerical values to the criteria, then the report must include a discussion of the numerical scoring, in addition to the narrative identifying strengths and weaknesses.
- n. The SC must also include a discussion of its review procedure in their review documentation.
- o. Upon completion of the SC's review, the Planner then must forward the selection memo to the AO, who must place a copy in the award file.
- p. AOs must ensure that the solicitation, selection, award, and administration of USAID grants and cooperative agreements follow all the requirements and guidance of [22 CFR 205, Participation By Religious Organizations In USAID Programs](#) (see **303.3.28**).

303.3.6.4 Eligibility and Preference for Maximum Competition

Effective Date: 11/19/2020

a. Applicability

Competition and the requirements regarding restricting eligibility in this ADS chapter do not apply to awards or amendments that:

- (1) Are not Federal financial assistance as defined in [2 CFR 200](#). This includes agreements with public international organizations (see [ADS 308](#)), bilateral development partners (see [ADS 350](#) and [ADS 351](#)), and awards or solicitations using other transaction authorities; or
- (2) Are entirely funded by non-appropriated funds (for example, gifts received by USAID from bilateral and multilateral donors, host governments, or the private sector).

b. Preference for Maximum Competition

Consistent with the Federal Grant and Cooperative Agreement Act of 1977, USAID encourages unrestricted competition in the award of discretionary grants and cooperative agreements. USAID expects unrestricted competition in the award of discretionary grants and cooperative agreements, unless otherwise restricted following the requirements and procedures of sections **303.3.6.4** and **303.3.6.5**.

Competition serves to identify and fund the activities that best achieve Agency objectives. As such, it is USAID policy to allow all eligible organizations to compete for assistance awards unless there is a strong programmatic rationale to restrict eligibility that outweighs the benefits of a competitive process.

Following the [Foreign Assistance Act of 1961, as amended](#), USAID may provide assistance to any U.S. or non-U.S. organization, individual, non-profit, or for-profit entity. When specific program requirements call for restricted eligibility, USAID must identify and describe the restriction in the Assistance Listing, NOFO, or other notice, as required by **303.3.5**.

The AO must protect the integrity of the competitive process by ensuring fair and impartial consideration of all applicants. The AO has the ultimate authority to make award decisions for grants and cooperative agreements on behalf of USAID.

303.3.6.5 Restricted and Unrestricted Eligibility

Effective Date: 11/19/2020

a. Unrestricted Eligibility

Unrestricted eligibility refers to a funding opportunity that is open to all entities.

b. Restricted Eligibility

Restricted eligibility refers to:

- A funding opportunity that is limited to a specific type of entity or otherwise narrows the pool of applicants that may compete for a grant or cooperative agreement;
- An award or other assistance action that is limited to one or a limited number of recipients;
- Amendments to extend an award, other than those authorized by [2 CFR 200.308\(e\)\(2\)](#);
- Amendments to increase the total estimated amount of the award; or
- Amendments that change the fundamental scope of the award objectives.

Eligibility must not be restricted for:

- Personal preference, for example, personal relationships with key personnel, the perceived burden of a competitive process, or other non-programmatic rationales;
- Avoidance of mobilization or demobilization costs;
- Lack of adequate planning; or
- Concerns about the availability of funds, such as expiring funds.

c. Restricted Eligibility Based on Pre-Approved Conditions

The Planner/AOR has the authority to make a determination to restrict eligibility based on one of the following pre-approved conditions. The determination does not need to be a separate document but may be described and approved in the Project Appraisal Document (PAD) (see [ADS 201](#)), equivalent activity approval document, Selection of Instrument memorandum, other assistance planning documentation, or by amendment to these documents. The cognizant RLO or GC Bureau or Independent Office backstop attorney must clear the determination.

- (1) Eligibility will be limited to local entities as statutorily defined (see full definition in **303.6**). This restriction cannot be used to restrict eligibility to a single organization and cannot be used to make awards in excess of \$5 million.

This pre-approved condition and the \$5 million award limit is provided by Section 7077 of Public Law 112-74, the Consolidated Appropriations Act, 2012 (P.L. 112-74), as amended by Section 7028 of the Consolidated Appropriations Act, 2014 (P.L. 113-76), is titled “Local Competition Authority.”

- (2) Eligibility will be limited to organizations that have received less than \$25 million in USAID funding, at any tier, over the past five years; or for global health awards the organization has received less than \$25 million in U.S. Government funding at any tier, over the past five years. This restriction cannot be used to restrict eligibility to a single organization.
- (3) The award is at or below the simplified acquisition threshold. This restriction should generally not be used to restrict eligibility to a single organization; however, if there are unique circumstances that support an award to a single organization then the Planner/AOR must document these circumstances in the appropriate planning documents and include them in the award file.
- (4) The award is an associate award under a Leader with Associate Award.
- (5) The award is for disaster relief, rehabilitation or reconstruction assistance provided under section 491 of the Foreign Assistance Act, and for emergency food aid under Title II of the Food for Peace Act. This restriction to eligibility may be made following the written determination by the AtA/BHA, in the Bureau for Democracy, Conflict and Humanitarian Assistance (DCHA) (see [ADS 103](#)), that unrestricted eligibility is impracticable for awards within their respective areas of responsibility on an award-by-award or disaster-by-disaster basis.
- (6) An award for which legislation includes a legally binding Congressional directive that specifies that USAID make an award to the particular organization. The determination must include a copy of the statute that identifies the awardee, as well as any information that supports the planned activity.
- (7) An award made under an Administrator-approved blanket determination or justification to restrict eligibility for an approved class of awards, for example, an Expedited Procedures Package, such as for PEPFAR, conflict-sensitive environments, or other circumstances the Administrator deems appropriate. The cognizant RLO or GC/A&A attorney must clear the determination (see [ADS 302mbo, Guidance for Use of the Authorities under Expedited Procedures Packages \(EPPs\)](#)).

The AO must verify that the planner’s/AOR’s determination is based on one of the above conditions and includes the relevant citation. The AO must place the planner’s/AOR’s determination including the AO’s verification in the award file in ASIST.

d. Restricted Eligibility Based On Programmatic Purposes

The cognizant Mission Director (MD), Assistant Administrator (AA), or Head of an Independent Office that reports directly to the Administrator has the authority to make a determination to restrict eligibility based on programmatic purposes. The determination does not need to be a separate document but may be described and approved in the Project Appraisal Document (PAD) (see [ADS 201](#)), equivalent activity approval document, Selection of Instrument memorandum, other assistance planning documentation, or an amendment to the document. The Planner/AOR is responsible for preparing the determination, which must provide the programmatic rationale for restricting eligibility consistent with this section, and support how the rationale outweighs USAID's policy preference for, and the benefits of, an unrestricted competitive process. The authority for the determination is not delegable. The cognizant RLO or GC Bureau or Independent Office backstop attorney must clear the determination.

For a determination to restrict eligibility for an award over \$10 million (\$20 million for Critical Priority Countries (CPCs)) to a single organization for programmatic purposes, the written determination must also describe the steps taken, including market research, outreach, and public notices, to identify alternatives including engaging with a broader cross-section of development partners as required by Agency policy. This determination must be described and approved in the Project Appraisal Document (PAD) (see [ADS 201](#)), equivalent activity approval document, or other assistance planning documentation.

(1) Some examples of programmatic rationales for restricting eligibility based on a written determination include:

- i.** Increasing the Agency's partner base by restricting eligibility to organizations that have not previously received a direct award from USAID;
- ii.** Developing the capability of a local entity or locally established entity by making a direct award to such entity that has previously only received subawards or grants under contract (for example, a transition award);
- iii.** Accessing specialized skills or experience through an award to an entity with exclusive or predominant capability based on proprietary resources, specialized facilities, or unique relationship with the national government or other institutions in the cooperating country or intended beneficiaries;
- iv.** Responding to a disaster, violent conflict, political crisis, or other emergency situation that requires an award to be made more rapidly than unrestricted competition can accommodate; or

- v. Developing a promising science and technology concept; or a unique, innovative, or proprietary solution addressing a pressing development challenge.
- e. Additionally, the Administrator must also approve the written determination for an award or amendment to a single organization as a follow-on with substantially the same program description as an existing award to that organization, where the amount of the award or amendment is \$40 million or above. If the award was approved under the SOAR process and the determination was included as a part of the SOAR package, then no further Administrator approval is required.
- f. If an award is extended beyond ten years from the original award date, the AOR must obtain the Administrator's approval for the extension (see **303.3.14**).
- g. The AO must file the final written determination in the award file in ASIST.
- h. The AO must publicize the NOFO on the government point of entry (GPE) (currently grants.gov) as required in 2 CFR 200 except when restricting eligibility to a single source in accordance with the procedures in this section (see **303.3.5**).

303.3.6.6 Late or Incomplete Submissions

Effective Date: 10/30/2020

USAID may review and consider late or incomplete award applications under a NOFO if:

- USAID's treatment of the material is consistent with the terms of the NOFO,
- All late applications are treated the same, and
- They are reviewed before any agreements are awarded under the NOFO.

The AO must consent in writing to the review of late or incomplete applications.

303.3.6.7 Conflicts of Interest

Effective Date: 08/30/2018

USAID staff (see [ADS 545](#)) are bound by U.S. regulations governing standards of ethical conduct, including conflicts of interest. Applicants for and recipients of federal assistance, must disclose to the Agreement Officer in writing any real or potential conflict of interest.

a. Conflicts of Interest for USAID Staff

USAID staff must recuse themselves from personal and substantial involvement in a particular matter that could affect their own direct or imputed financial interests, as defined in [18 USC 208](#); or create an appearance regarding their own interests or the interests of a person or entity with which they have a “covered relationship” as defined in [5 CFR 2635.502](#). In addition, USG staff may not misuse their position for the private gain of themselves, family, friends, or other associates, as defined in [5 CFR 2635.702](#) (see **303.3.6.3d** for Selection Committee conflicts of interest).

b. Applicant and Recipient Conflicts of Interest Requiring Disclosure to the Agreement Officer

Pre-award Conflicts of Interest. AOs must include the Conflict of Interest Pre-Award Term (August 2018) in all NOFOs. This term requires an applicant to notify USAID of any actual or potential conflict of interest that they are aware of that may provide the applicant with an unfair competitive advantage in competing for a financial assistance award.

The AO may not execute an award or may determine the applicant to be ineligible for the award, if the AO determines that a conflict of interest cannot be adequately resolved.

Post-award Conflicts of Interest. AOs must include the mandatory standard provision, “Conflict of Interest (August 2018)” in all solicitations and awards. This provision requires the recipient to disclose any conflict of interest, including organizational conflicts of interest, in the award, administration, or monitoring of subawards. The recipient must propose an approach for resolving the conflict of interest to the cognizant Agreement Officer within 10 calendar days of the discovery of the conflict of interest.

The AO must review all conflict of interest disclosures, both pre-award and post-award, and the applicant’s or recipient’s proposed resolution. The AO must determine if the mitigation is adequate. The AO must notify the recipient within 30 days of receipt of the recipient’s notice that the disclosures and measures proposed to resolve the conflict of interest are adequate or inadequate, unless the AO advises the recipient that a longer period is necessary.

303.3.7 The Award Decision Effective Date: 06/01/2006

The AO’s decision to fund or not to fund an award is final and not subject to review. Any information that may impact the AO’s decision must be directed to the AO.

303.3.7.1 Notification Effective Date: 06/01/2006

- a. Only the AO may notify the apparently successful awardee that they are being further considered for an award. It is essential that no one on the SC make any commitment, expressed or implied, to the selected applicant. Only the AO is authorized to make a commitment on behalf of USAID.
- b. USAID must individually notify each applicant in writing on the success of its application. Once USAID decides which applicant the Agency will consider for award, the AO or the Planner (if authority is delegated by the AO) must notify all unsuccessful applicants that they will not be considered further and briefly explain why USAID did not select their application. The letters must be approved by the AO before the Planner may send them.

303.3.7.2 Request for Additional Information

Effective Date: 12/26/2014

Within 10 working days after an applicant receives notice that USAID will not fund its application, the unsuccessful applicant may send a written request for additional information to the AO.

Additional information may be provided at the discretion of the AO. USAID may respond orally or in writing. The cognizant B/IO should respond to the request within 30 days after consultation with the AO or inform the applicant that more time is necessary. If responding orally, the AO or the technical representative from the B/IO must make a written summary of the response for the agreement file. The AO must be present at and lead any meeting. If responding in writing, the AO must approve any written communication before it is sent to the unsuccessful applicant.

USAID's responses must be limited to the Agency's interest in supporting the applicant's program as described in the application. Comparing one application to another is neither advisable nor helpful to the applicant. The Selection Committee (SC) chair and the AO should only give additional information that would be useful to the applicant in preparing future applications.

If the applicant has questions about the program or about the programmatic review, the SC chair will provide constructive feedback that may assist the applicant when developing applications in the future. The SC chair may explain the basis for the decision and the strengths and weaknesses of the application in terms of the published review criteria. When the applicant has questions about process, accountability, and business considerations, the AO will respond. The SC chair and the AO will jointly respond when the applicant raises both types of questions.

303.3.8 Pre-Award Certifications, Assurances, Representations, and Other Statements of the Recipient and Pre-Award Terms

Effective Date: 05/18/2020

In addition to the certifications included in the [Standard Form 424](#), the AO must obtain the following certifications, assurances, and other statements from both U.S. and non-U.S. organizations (except as specified below) before making an award and as otherwise required by the regulations listed in this section. The AO must also incorporate the solicitation standard provisions and provide links to the applicable award standard provisions in all solicitations.

The AO may choose to request the applicant to submit the certifications either as part of the application or during negotiations. The AO should consider the administrative burden of requiring certifications as part of the application in light of potential delays in making the award while waiting for the certifications.

If the recipient submits any disclosure(s) regarding support to terrorists and the technical office/OU determines that the AO should move forward with an award, the technical office Director must submit a recommendation to the Director M/OAA for approval, with clearance by the cognizant Assistant General Counsel or RLO.

The required certifications, assurances, and other statements are:

- a. A signed copy of [ADS 303mav, Certifications, Assurances, Representations, and Other Statements of the Recipient](#), which includes:
 1. **Assurance of Compliance with Laws and Regulations Governing Nondiscrimination in Federally Assisted Programs** (This assurance applies to Non-U.S. organizations, if any part of the program will be undertaken in the U.S.);
 2. **Certification Regarding Lobbying** ([22 CFR 227](#));
 3. **Prohibition on Assistance to Drug Traffickers for Covered Countries and Individuals** ([ADS 206, Prohibition of Assistance to Drug Traffickers](#));
 4. **Certification Regarding Support to Terrorists**;
 5. **Certification Regarding Trafficking in Persons**; and
 6. **Certification of Recipient**
- b. Other certifications and statements found in [ADS 303mav, Certifications, Assurances, Representations, and Other Statements of the Recipient](#):
 1. A signed copy of **Key Individual Certification Narcotics Offenses and Drug Trafficking**, ([ADS 206.3.10](#)) when applicable;

2. A signed copy of **Participant Certification Narcotics Offenses and Drug Trafficking** ([ADS 206.3.10](#)) when applicable;
 3. A completed copy of **Representation by Organization Regarding a Delinquent Tax Liability or a Felony Criminal Conviction**;
 4. **Prohibition on Providing Federal Assistance to Entities that Require Certain Internal Confidentiality Agreements – Representation**
 5. **Other Statements of Recipients.**
- c. The pre-award terms found in [ADS 303mba. Pre-Award Terms](#) that must be incorporated into the solicitations are:
1. Branding Strategy – Assistance
 2. Marking Plan – Assistance
 3. Conscience Clause Implementation (Assistance)
 4. Conflict of Interest Pre-Award Term

303.3.9 Pre-Award Risk Assessment

Effective Date: 11/19/2020

The recommendation or selection of an application for award by a Planner or a Selection Committee does not in any way guarantee the award. The AO must evaluate the risks posed by applicants before making the award. The AO must evaluate risk in accordance with the principles established by USAID and the Office of Management and Budget (OMB). This includes a review of the applicant in the Federal Awardee Performance Integrity and Information Systems (FAPIS) available through the SAM at <https://beta.sam.gov/> (see **2 CFR 200.206**). The AO must also check the Agency Secure Image Storage and Tracking System (ASIST) for completed performance reviews to inform the risk assessment of the applicant.

Depending on the result of this pre-award risk assessment, the AO may either:

- Make the award,
- Deny the recommendation of the Planner and not execute the award, or
- Award with "specific conditions" (**2 CFR 200.208** and **303.3.9.2**).

A positive risk assessment means that the applicant possesses or has the ability to obtain the necessary management competence to plan and carry out the assistance program to be funded, and that the applicant will practice mutually agreed upon methods of accountability for funds and other assets provided by USAID.

History of Performance. Note that while an organization’s history of performance on USAID awards should be a factor in determining the level of risk, a history of receiving grants from USAID does not guarantee that there is no risk in providing funds to an organization. Changes in personnel, accounting practices, or financial status may affect an organization’s performance on a new award.

An applicant’s history of performance can serve as an indicator of the quality of its future performance. An applicant must provide a list of all its cost-reimbursement contracts, grants, or cooperative agreements involving similar or related programs during the past three years. The reference information for these awards must include the performance location, award number (if available), a brief description of the work performed, and a point of contact list with current telephone numbers. The Planner and AO determine whether to require this information as part of the initial application or later from the apparently successful applicant(s). Requiring the information at a later date may be appropriate when USAID is conducting a multi-tiered review (see **303.3.6.1.d**) (see [Best Practices for Collecting and Using Current and Past Performance Information](#)).

The Selection Committee chair must validate the applicant’s past performance reference information based on existing evaluations to the maximum extent possible, and make a reasonable, good faith effort to contact all references to verify or corroborate the following:

- How well an applicant performed,
- The relevancy of the work performed under the program,
- Instances of good performance,
- Instances of poor performance,
- Significant achievements,
- Significant problems, and
- Any indications of excellent or exceptional performance in the most critical areas.

The Selection Committee chair and the AO may use the Contractor Performance Assessment Reporting System (CPARS) if there is information available on the recipient in these systems, taking into account the differences between performance under acquisition and performance under assistance.

The Planner and the Selection Committee chair may contact references other than those provided in the application, if the NOFO states that it is allowed.

Additionally, before making an award or amending an award to add incremental funding, increase the total program amount, or extend the period of performance with additional cost, the AO must verify that the successful applicant/recipient:

- Does not have active exclusions in the System for Award Management (SAM) (beta.sam.gov);
- Does not appear on the Specially Designated Nationals (SDN) and Blocked Persons List maintained by the U.S. Treasury for the Office of Foreign Assets Control, sometimes referred to as the “OFAC List” (online at: <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>); and
- Is not listed in the United Nations Security designation list (online at: http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml).

Prior to providing approval for any subawards, the AO must obtain confirmation from the applicant/recipient that a risk assessment has been conducted for each proposed subrecipient(s) by name, including the applicant’s/recipient’s verification that the subrecipient(s):

- 1) Does not have active exclusions in the System for Award Management (SAM) (beta.sam.gov);
- 2) Does not appear on the Specially Designated Nationals (SDN) and Blocked Persons List maintained by the U.S. Treasury for the Office of Foreign Assets Control, sometimes referred to as the “OFAC List” (online at: <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>); and
- 3) Is not listed in the United Nations Security designation list (online at: http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml).

Pursuant to [2 CFR 780](#) and [2 CFR 180](#), the Assistant Administrator of the Bureau for Management, or designee, has the authority to grant an exception permitting an organization with active exclusions to receive federal assistance. However, such an exception can only be made in writing and must include a description of the unique circumstances that warrant deviation from the government-wide policy.

The AO must address the risk assessment of the prospective recipient and document all findings in the Negotiation Memorandum. The AO must also certify in the Global

Acquisition and Assistance System (GLAAS) that the applicant is not listed as actively excluded in SAM.gov as suspended, debarred, or proposed for debarment.

When awarding a Fixed Amount Award, the following are to be used instead of those specified in this section:

- The procedures in **303.3.25**;
- [ADS 303saj, Fixed Amount Award to Non-Governmental Organizations](#); and
- [ADS 303mak, Fixed Amount Award Entity Eligibility Checklist](#).

For all other assistance awards, the following is specific guidance by category for assessing risk:

CATEGORY A: U.S. ORGANIZATIONS THAT HAVE BEEN RECIPIENTS OR CONTRACTORS UNDER USAID OR OTHER U.S. GOVERNMENT (USG) ACQUISITION OR ASSISTANCE INSTRUMENTS

When a U.S. organization has previously received a positive risk assessment by USAID or another USG Agency, the AO may rely on:

- A **Single Audit** or similar audit maintained by M/OAA/Contract Audit and Support Division, Contract Audit Management;
- A signed copy of the applicable statutory and regulatory certifications required in **303.3.8**;
- The quality of the applicant's history of performance on similar USAID projects, including compliance with the terms and conditions of the funding agreement; or
- Other information as necessary, including formal pre-award surveys (see **303.3.8**, **303.3.5.2**, **303.3.9.1** and **303.3.25**).

CATEGORY B: NON-U.S. ORGANIZATIONS THAT HAVE BEEN RECIPIENTS OR CONTRACTORS UNDER USAID OR OTHER U.S. GOVERNMENT (USG) ACQUISITION OR ASSISTANCE INSTRUMENTS

To make a risk assessment for a non-U.S. organization that has previously received a positive risk assessment by USAID or another USG Agency, the AO may rely on:

- Audits performed in accordance with [ADS 591, Financial Audits of USAID Contractors, Grantees, and Host Government Entities 591.3.4.2](#);

- A signed copy of the applicable statutory and regulatory certifications required in **303.3.8**;
- The quality of the applicant's history of performance on similar USAID projects, including compliance with the terms and conditions of the funding agreement; or
- Other information as necessary and appropriate, including pre-award surveys, (see **303.3.8**, **303.3.5.2**, **303.3.9.1** and **303.3.25**).

CATEGORY C: ORGANIZATIONS NEW TO USAID OR ORGANIZATIONS WITH OUTSTANDING AUDIT FINDINGS

If a criteria found in **303.3.9.1**, applies to the selected or recommended applicant, the AO must perform a survey in conformance with that provision before making a risk assessment decision. The survey must be considered when making the decision. At a minimum, the risk assessment for such an applicant will be based on the same considerations as in categories **a** or **b** of this section, depending on whether it is a U.S. or non-U.S. organization. Additionally, the AO must obtain the following information from these applicants, when appropriate:

- Copies of audited financial statements for the last three years, which a Certified Public Accountant or other auditor satisfactory to USAID has performed;
- Projected budget, cash flow, and organization charts; and
- Copies of applicable policies and procedures (e.g., accounting, purchasing, property management, personnel).

303.3.9.1 Pre-Award Surveys

Effective Date: 11/19/2020

- a. Pre-Award Survey Requirements.** For all assistance awards, if any of the following criteria apply, the AO must establish and convene a formal survey team to conduct an examination that will help inform the Pre-Award Risk Assessment (see **303.3.9**):
- (1) The AO or Planner is uncertain about the prospective recipient's capacity to perform financially or programmatically.
 - (2) The prospective recipient has never had a USAID grant, cooperative agreement, or contract. This requirement does not apply to Fixed Amount Awards.

- (3) The prospective recipient has not received an award from any Federal agency within the last five years. This requirement does not apply to Fixed Amount Awards.
 - (4) The AO has knowledge of deficiencies in the applicant's annual audit (**Single Audit** or equivalent).
 - (5) The AO determines it to be in the best interest of the U.S. Government.
- b. Contents of the Pre-Award Survey.** The survey team examines the applicant's systems to determine whether the prospective recipient has the necessary organization, experience, accounting and operational controls, and technical skills in order to achieve the objectives of the program, or whether specific conditions will be needed.
- (1) For a U.S. organization, the AO must ensure that the applicant can meet the requirements of the award, including **2 CFR 200** and the applicable cost principles. The AO or the AO's representative must conduct a detailed analysis that addresses whether:
 - i. The applicant's accounting, recordkeeping, and overall financial management systems meet the standards in **2 CFR 200.300-309 and 2 CFR 200.334-338**.
 - ii. The applicant's system of internal controls is reasonable in accordance with applicable cost principles. This includes the segregation of duties, handling of cash, contracting procedures, and personnel and travel policies.
 - iii. The applicant's property management system, if applicable, meets the property standards in **2 CFR 200.310-316**.
 - iv. The applicant meets the requirements in [2 CFR 200.331-333](#) for the administration and monitoring of subawards.
 - v. The applicant's procurement system, if procurement is significant to the award, meets the standards set forth in **2 CFR 200.317-327**.
 - (2) For a non-U.S. organization, the AO must ensure that the applicant can meet the requirements of [ADS 303mab, Standard Provisions for Non-U.S. Nongovernmental Organizations](#) as part of the risk assessment. For local non-U.S. organizations, the pre-award survey team must either use [ADS 303sam, Non-U.S. Organization Pre-Award Survey Guidelines and Support](#) or conduct a detailed analysis in accordance with locally-established or award-specific criteria that achieve the same objectives as the **NUPAS**. For additional guidance regarding local non-

U.S. organizations pre-award surveys, risk assessments, and specific conditions (see [ADS 303sam, NUPAS Guidelines and Support](#)).

- (3) For Fixed Amount Awards, the AO must use the [ADS 303mak, Fixed Amount Award Entity Eligibility Checklist](#) to ensure the intended recipient will be able to comply with [ADS 303mat, Standard Provisions for Fixed Amount Awards to Nongovernmental Organizations](#).
- c. **Composition of the Pre-Award Survey Team.** When assembling a formal survey team, the AO must ensure appropriate expertise.
- (1) A typical team consists of:
- i. A technical office team member,
 - ii. The AO, or the AO's representative,
 - iii. A financial officer from the Bureau for Management, Office of the Chief Financial Officer, or the Mission or regional controller's office, and
 - iv. A representative from M/OAA/Contract Audit and Support Division, Contract Audit Management Branch (for Washington-based awards), if possible.
- (2) Depending on the capacity of the Operating Unit to assemble the above team, the survey may be conducted in whole or in part by a local accounting firm approved by the cognizant Regional Inspector General as long as the Scope of Work for such work includes conflict of interest restrictions prohibiting the firm from providing capacity development to entities it surveys.
- (3) The survey team reviews the applicant's systems against the standards discussed in paragraph b of this section and submits its findings to the AO for review, consideration, and informing the risk assessment.
- d. **Risk Assessment Decision.** Before the award of any grant or cooperative agreement, the AO must:
- (1) Review the proposed project description and budget to ensure that they adequately describe the objectives of the project, the activities funded by USAID that will achieve the objectives, and a monitoring system to measure the project's progress. The Planner advises the AO on the professional and technical experience and competence of the applicant and the conformity of the application to USAID criteria.

- (2) Make a written final determination of the applicant's risk in the Memorandum of Negotiation. If the determination is positive, the AO must state in the memorandum that the applicant:
- i. Has adequate financial resources or the ability to obtain such resources, as required during the performance of the award.
 - ii. Has the ability to meet the award terms and conditions, considering all existing prospective recipient commitments, both non-governmental and governmental.
 - iii. Has a satisfactory record of performance. Generally, relevant unsatisfactory performance in the past is enough to justify a finding of non-responsibility, unless there is clear evidence of subsequent satisfactory performance or the applicant has taken adequate corrective measures to assure that it will be able to perform its functions satisfactorily.
 - iv. Has a satisfactory record of business integrity.
 - v. Is otherwise qualified to receive an award under applicable laws and regulations.

303.3.9.2 Specific Conditions

Effective Date: 11/19/2020

It is the AO's responsibility to minimize the risk to USAID posed by high risk organizations. If, after conducting a comprehensive risk assessment of a potential recipient, the AO is unable to make a positive risk determination, the AO may either deny the Planner's recommendation and not make the award or award with "specific conditions" (high risk) (see [2 CFR 200.208](#)). The AO, however, may consider this choice only if it appears likely that the potential recipient can correct its deficiencies within a reasonable period of time. Because regulation authorizes "specific conditions," a deviation is not needed.

- a. **Means to Minimize Risk.** When the AO makes an award, the AO may consider requiring any of the following specific conditions:
- (1) Requiring payments as reimbursements rather than advance payments;
 - (2) Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given performance period;
 - (3) Requiring additional, more detailed financial reports;
 - (4) Requiring additional project monitoring, which can include site visits;

- (5) Establishing additional prior approvals; or
- (6) Requiring the recipient to obtain technical or management assistance.

When the AO determines that more Federal oversight is necessary, the AO may:

- Issue a contract to a third party to provide technical assistance to the recipient,
- Require the recipient to contract for technical assistance, or
- Have USAID staff provide technical assistance directly to the recipient.

b. The AO must notify the successful applicant of:

- (1) The nature of the additional requirements;
- (2) The reason why the additional requirements are being imposed;
- (3) The nature of the action needed to remove the additional requirement, if applicable;
- (4) The time allowed for completing the actions if applicable; and
- (5) The method for requesting reconsideration of the additional requirements imposed.

Any specific conditions must be promptly removed once the conditions that prompted them have been corrected.

c. Non-U.S. NGO Recipients

Because **2 CFR 200** is not legally applicable to awards to non-U.S. organizations, as a matter of USAID policy, the standards in this ADS section must be used for making awards to non-U.S. recipients with specific conditions. Where deficiencies or weaknesses are identified by the pre-award survey under **303.3.9.1b(2)** and cannot be corrected prior to award, the AO may make an award upon an affirmative risk assessment determination that is contingent upon one or more specific conditions in the award. Such specific conditions must mitigate the risks posed by the deficiencies or weaknesses identified by the NUPAS and require the recipient to correct the reported deficiencies. Specific conditions for non-U.S. recipients may be of limited duration or may cover the entire period of the award. For additional guidance on specific conditions for non-U.S. recipients, see the NUPAS Guidelines and Support. Additionally, when

specific conditions are used with non-U.S. recipients, the following requirements apply:

- (1) The specific conditions must contain language subjecting the recipient to a follow-up review/survey within a reasonable time after award to verify compliance with the conditions;
- (2) The continuation of award performance must be predicated on the recipient correcting the reported inadequacies within the timeframe identified in the award;
- (3) The Negotiation Memorandum must document in the risk determination section the rationale for including each specific condition;
- (4) The specific condition(s) must specify in the award document:
 - i. The nature of the additional requirements,
 - ii. The nature of the corrective action needed,
 - iii. The time allowed for completing the corrective actions; and
- (5) The cognizant Operating Unit must develop and carry out a plan for monitoring and supporting the recipient in satisfying any specific conditions.

Whenever possible, specific conditions must be for as limited a time period as necessary to mitigate the identified risks and not for the life of the award.

For specific conditions that do not cover the entire award period, once the specific condition has been satisfied and its conditions have been fully met, the Agreement Officer must remove the specific condition by formal amendment to the award. For specific conditions that cover the entire period of the award, the specific condition must clearly state that it covers the entire period of the award or must identify clearly the timeframe(s) or milestones at which the inclusion of the specific may be reconsidered, amended or removed.

303.3.10 Cost Share and Program Income

Effective Date: 08/18/2020

“Cost share” refers to the resources a recipient contributes to the total cost of an agreement. Cost share becomes a condition of an award when it is part of the approved award budget. The cost share must be verifiable from the recipient’s records; for U.S. organizations it is subject to the requirements of [2 CFR 200.306](#), and for non-U.S. organizations it is subject to the Standard Provision, “Cost Share”; and can be audited. Costs that are unallowable in accordance with the applicable cost principles at

the time of the award cannot be accepted as cost share. If a recipient does not meet its cost share requirement, the AO may apply the difference in actual cost share amount from the agreed upon amount to reduce the amount of USAID funding for the following funding period, require the recipient to refund the difference to USAID when this award expires or is terminated, or reduce the amount of cost share required under the award.

303.3.10.1 Cost Share Determination

Effective Date: 10/30/2020

Although there is no general legislative requirement that recipients of grants or cooperative agreements must cost share, cost sharing is an important element of the USAID-recipient relationship. When used, its application should be flexible, case-specific, and used to support or contribute to the achievement of results. USAID should use cost sharing after considering whether it is appropriate for the recipient organization in the particular circumstances, in particular, the programmatic and technical context. There is no set formula for cost sharing. There is not a suggested numeric reference point. Cost sharing should be based on the needs or purpose of the activity. Examples of when cost sharing may be appropriate include:

- When there is a programmatic rationale for cost sharing, such as helping to ensure that the recipient will build its organizational capacity for mobilizing resources. For example, when building fundraising capability is an objective of an activity, it would be appropriate to require the recipient to meet specific private financing targets as a condition of USAID funding.
- When it is critical that the activity continues after USAID assistance ends, cost sharing requirements can ensure that the recipient establishes adequate alternate sources of funding.
- When an award supports an activity initiated by the recipient or an unsolicited application. Because most USAID funding is reserved for development priorities the Agency has already established, only limited funding may be available for even the best of other programs. USAID may only be able to partially fund these other activities.
- To otherwise give the recipient a financial stake in the success of a program.

In all of these cases, the AO should discuss the amount and terms of cost sharing with potential recipients prior to award (see [ADS 200saf, Guidance on Consultation and Avoidance of Unfair Competitive Advantage](#)).

The Activity Planner must determine the appropriate cost share for individual grants and cooperative agreements. The Planner must include this determination in the financial analysis of the program prior to issuance of a Notice of Funding Opportunity (NOFO), including an APS). In the case of awards solicited with unrestricted eligibility, the Planner and AO are encouraged to communicate with a broad range of potential

applicants regarding appropriate cost sharing prior to issuance of the NOFO. Even after USAID issues a NOFO, it may be appropriate to consider special circumstances and change the cost share requirement. In the case of restricted eligibility awards, the AO may wish to discuss or negotiate the cost share with the applicant, especially those who submit unsolicited applications.

USAID may not use a set formula in determining the level of cost share. The Planner should take several considerations into account when making cost share decisions. For example, it might be difficult for a recipient to meet a cost share requirement during an activity with a short timeframe. A specific program may be risky and discourages potential recipients from providing meaningful contributions. Eligibility may be limited to indigenous organizations with limited resources.

The Planner must write a memorandum to the AO documenting the factors that were considered when determining the amount of cost share.

USAID may require cost sharing regardless of the type of organization, whether non-profit (U.S. and international private voluntary organizations, local nongovernmental organizations, universities, foundations, and others) or commercial organizations, including for-profit businesses. In the case of a non-U.S. recipient, it is important to be flexible when establishing cost sharing requirements.

If an activity generates program income, the AO may approve use of program income to finance the non-Federal cost-share of an award (see also [2 CFR 200.307](#) and the standard provision “Program Income”).

303.3.10.2 Cost Sharing in NOFOs

Effective Date: 11/19/2020

If USAID makes a determination to require cost sharing in an award, it must state the requirements in the announcement. If USAID issues a NOFO and the Planner decides that the amount of cost share required should be changed, the Planner must provide an adequate justification and request the AO to amend the NOFO document, as applicable. Applications that do not meet the minimum cost share requirement, when applicable, are not eligible for award consideration (see **303.3.5.2c** and **303.3.5.2e**)

In accordance with **2 CFR 200.306**, cost sharing cannot be used as a separate factor during the merit review of applications. However, cost sharing may be considered in the merit review only if the funding announcement specifically addresses how it will be considered, e.g., assigning a certain number of additional points to applicants who offer cost sharing, or using cost sharing to break ties among applications with equivalent scores after evaluation against all other factors. Note that excessive reliance on cost sharing during the merit review may unfairly favor larger, better-funded organizations.

303.3.10.3 Meeting Cost Sharing Requirements

Effective Date: 12/26/2014

As part of the analysis of the applicant's proposed budget, the AO must review the applicant's proposed cost share contributions for cost realism. The AO must verify that the proposed contributions meet the standards set in [2 CFR 200.306](#) for U.S. organizations or the Standard Provision "Cost Share" for non-U.S. organizations. USAID does not apply its source and nationality requirements or the restricted goods provision established in the Standard Provision "USAID Eligibility Rules for Commodities and Services" to cost share contributions.

In the award budget, cost share must be expressed as a dollar figure rather than a percentage to assist in monitoring the amount. Cost sharing applies throughout the life of an agreement, and the AOR must monitor the recipient's financial reports to ensure that the recipient is making progress toward meeting the required cost share. If it appears that the recipient is not making adequate progress, the AOR must bring this to the attention of the AO. The AO then must initiate discussions with the recipient to resolve the issue. The AO has the authority to reduce the amount of USAID incremental funding in the following funding period or to reduce the amount of the agreement by the difference between the expended amount and what the recipient agreed to provide. If the award has expired or been terminated, the AO may request the recipient to refund the difference to USAID.

In-kind contributions are allowable as cost share in accordance with [2 CFR 200.306](#) for U.S. organizations and in accordance with the Standard Provision, "Cost Share" for non-U.S. organizations. This includes things such as volunteer time; valuation of donated supplies, equipment, and other property; and use of unrecovered indirect costs.

303.3.10.4 Program Income

Effective Date: 08/04/2020

[2 CFR 200](#) defines program income as gross income earned by a recipient that is directly generated by an activity under an award or earned as a result of the award during the period of performance. [2 CFR 200.307\(a\)](#) encourages non-Federal entities to earn program income to defray program costs where appropriate.

If program income is anticipated, the AO determines the most appropriate use of such program income and must state in the award how it will be used. [2 CFR 200.307\(e\)](#) specifies at least three approaches that an AO may use:

- 1) Deduction - Program income may be deducted from total allowable costs to determine net allowable costs. When using the deductive approach, the AO must use program income for current costs, and the total award amount must be reduced by the amount of program income earned, rather than increasing the funds committed to the project.

- 2) Addition - Program income may be added to the award, increasing the total amount of the award. Program income must be used for the purposes and under the conditions of the award. The AO must not allow the use of the additive approach to program income if the applicant or recipient has:
- An inadequate or deficient cost accounting system, or is otherwise unable to adequately report or account for program income;
 - A history of frequent, large annual unobligated balances on previous awards; or
 - Requested multiple extensions of the final budget period of the project period.

If the AO determines that any of the above circumstances apply, the AO must not approve the additive approach but may consider another approach. The AO should also consider additional specific conditions, as specified in [2 CFR 200.207](#).

- 3) Cost-sharing - Program income may be used to meet any cost-sharing requirement of the award. When using this approach, the total amount of the award remains the same.

The AO must insert the applicable Standard Provision, "Program Income" in awards to both U.S. and non-U.S. NGOs.

303.3.11 Cooperative Agreements and Substantial Involvement

Effective Date: 12/23/2019

- a. When making an assistance award, the AO must select, in accordance with [ADS 304](#), either a grant or a cooperative agreement as the appropriate implementing instrument. The [Office of Management and Budget Final Guidance on Implementation of the Federal Grant and Cooperative Agreement Act of 1977](#), prescribes that Agencies "should limit their involvement in assisted activities to the minimum consistent with program requirements." Therefore, the AO must be satisfied that USAID's proposed involvement in an assistance activity is reasonable and necessary.

A cooperative agreement, as distinguished from a grant, provides for substantial involvement between the Federal awarding Agency and the recipient in carrying out the activity contemplated by the Federal award ([31 U.S.C. 6302-6305](#)).

[OMB's Final Guidance](#) also states that substantial involvement is a relative, rather than an absolute concept. Use of a cooperative agreement is primarily

based on programmatic factors. USAID always has some administrative involvement in both grants and cooperative agreements for purposes such as monitoring performance, conducting site visits, reviewing reports, or providing approvals, such as those required by 2 CFR 200.308 and 2 CFR 700.16. “Substantial involvement” means involvement between USAID and the recipient that goes beyond such normal award administration and technical assistance ([2 CFR 200](#)).

In determining whether an award will need substantial USAID involvement, the AO must evaluate the type of overall relationship expected between USAID and the recipient and must not consider a single aspect or proposed involvement.

- b.** The following are elements of the determination of substantial involvement:
- 1.** When a cooperative agreement is the selected award type, the Activity Planner must describe the substantial involvement anticipated during the performance of the award in the Selection of Instrument Memorandum. The DOT/PDT/PM or Planner must consult with the AO and describe USAID's interests so that the award adequately reflects the level of substantial involvement necessary. Additionally, the SOI Memorandum must directly and specifically tie each area of substantial involvement to an activity or activities in the program description to the AO's satisfaction. The AO must concur that the proposed involvement in an assistance activity is programmatically reasonable and necessary before deciding that a cooperative agreement is the appropriate instrument for the activity.
 - 2.** The Notice of Funding Opportunity must describe the “substantial involvement” that USAID expects to have or should provide the reference to where the potential applicant can find that information.
- c.** Factors applicable to both grants and cooperative agreements not considered substantial involvement during performance include the following:
- Agency approval of recipient plans prior to award;
 - Normal exercise of Federal stewardship responsibilities during the project period such as site visits, performance reporting, financial reporting, and audit to ensure the recipient accomplishes the objectives, terms, and conditions of the award;
 - Unanticipated Agency involvement to correct deficiencies in project or financial performance from the terms of the assistance instrument;
 - General statutory requirements understood in advance of the award, such as civil rights, environmental protection, and provision for the handicapped;

- Agency review of performance after completion; and
- General administrative requirements, such as those included in [2 CFR 200](#).

d. The difference between technical assistance and substantial involvement:

The Agency may provide technical assistance, guidance, or advice to the recipient during the period of the award to enhance collaboration or engagement with the recipient. Such technical assistance, guidance, or advice is not considered substantial involvement when:

- USAID provides it at the request of the recipient;
- The recipient is not required to follow it; or
- The recipient is required to follow it, but USAID provides it prior to the start of the award, and the recipient understands this prior to the award of the instrument, for example, when more frequent reporting is required, as allowed by 2 CFR 200.328 and 2 CFR 200.329.

e. The examples of substantial involvement below are a guide, not a checklist. The AO must determine the appropriate level of substantial involvement based on the programmatic requirements of the award and include only those elements of substantial involvement as needed. Examples of potential areas of substantial involvement during performance include the following:

1. The Agency's approval of the recipient's implementation plans during performance. USAID generally only requires approval of implementation plans annually; however, where changed contexts or new information require a pivot in the activity, USAID may consider changes to an implementation plan. If the AO has delegated authority to the AOR to approve implementation plans, the AOR must review the agreement's terms and conditions to ensure the AOR does not approve inadvertent changes to them.
2. The Agency's ability to immediately halt an activity if the recipient does not meet detailed performance specifications (for example, construction specifications). These would be provisions that go beyond the suspension remedies of the Federal Government for noncompliance as stated in 2 CFR 200, including non-performance. The award must state that the AO may immediately halt an activity when identified specifications are not met. The award must include the identified specifications when executed. The AO and Recipient must sign a

bilateral amendment for any material changes to the specifications in the award.

3. The Agency's review and approval of one stage of work, before work can begin on a subsequent stage during the period covered by the cooperative agreement.
4. The Agency's review and approval of substantive provisions of proposed subawards or contracts (see definitions in 2 CFR 200). These would be provisions that go beyond existing policies on Federal review of recipient procurement standards and sole source procurement. [2 CFR 200.308](#) already requires the recipient to obtain the AO's prior approval for the subaward, transfer, or contracting out of any work under an award. This is generally limited to approving work by a third party under the agreement. If USAID wishes to reserve any further approval rights for subawards or contracts that go beyond existing policies on Federal review of grantee procurement standards, it must specifically state such Agency involvement in the substantial involvement provision of the agreement.
5. The Agency's involvement in the selection of key recipient personnel. This does not include provisions in assistance instruments for the participation of a named Principal Investigator for research projects.
6. The Agency and recipient collaboration or joint participation, such as when the recipient's successful accomplishment of program objectives would benefit from USAID's technical knowledge. There should be sufficient reason for the Agency's involvement and the involvement should be specifically tailored to support identified elements in the program description. Additionally, if the program will establish an advisory committee that provides advice to the recipient, USAID may participate as a member of this committee as well. Advisory committees must only deal with programmatic or technical issues, and not routine administrative matters.
7. Agency monitoring to permit specific kinds of direction or redirection of the work because of the interrelationships with other projects or activities. All such direction or redirection must be within the program description budget, and other terms and conditions of the award.
8. Direct agency *operational involvement* or *participation* to ensure compliance with statutory requirements such as civil rights, environmental protection, and provisions for the handicapped that exceeds the Agency's role that is normally part of the general statutory requirements understood in advance of the award.

9. Highly prescriptive Agency requirements established *prior to award* that limit the recipient's discretion with respect to the scope of services offered, organizational structure, staffing, mode of operation, and other management processes, coupled with close monitoring or operational involvement during performance over and above the normal exercise of Federal stewardship responsibilities to ensure compliance with these requirements.
- f. Only the AO may change or amend the program description, period of the award, total estimated amount or budget, and other terms and conditions of the award; however, the AO may delegate certain elements of substantial involvement to the AOR (see mandatory reference [ADS 303mai, Model Letters and Procedures for Designating the Agreement Officer's Representative \(AOR\) for Cooperative Agreements and Grants.](#))

303.3.12 Negotiation of the Award

Effective Date: 11/19/2020

- a. **Review of Proposed Award Budget.** The AO must review the apparently successful applicant's budget to ensure that costs, including cost sharing, are in compliance with OMB's and USAID's policies. The recipient must justify in advance the proposed costs for each element of the program. If the recipient expects to earn program income during the award period, the schedule of the award must specifically state how the income will be applied. (The definition of program income is located in **2 CFR 200** and income application suggestions can be found in **2 CFR 200.307**.)

When reviewing costs, the AO must review the cost breakdown; and evaluate and analyze specific elements of costs for reasonableness and allowability of costs in the budget, and the allowability of the costs under the applicable cost principles. The review of the proposed budget helps the AO determine:

- (1) The extent of the prospective recipient's understanding of the financial aspects of the program and the recipient's ability to perform the grant activities within the amount requested;
- (2) Whether the applicant's plans will achieve the program objectives with reasonable economy and efficiency; and
- (3) Any special conditions relating to costs that are in the award.

The AO must determine the level of the cost review based on the nature of the program, the amount and type of costs involved, and past experience with the applicant. For example, if an assistance award contains construction, then the AO must complete a detailed cost analysis for the construction component. AOs may use the templates found internally at

<https://pages.usaid.gov/M/OAA/assistance-templates> to document cost review findings.

The AO may request M/OAA/Contract Audit and Support Division (CAS) assistance when reviewing the proposed budget. M/OAA/CAS could address whether the apparently successful applicant's budget is fair and reasonable for the proposed program, and whether the application is consistent with the Agency's cost accounting policies, procedures, and practices. This includes ensuring that the apparently successful applicant's indirect cost rates are consistent with any Negotiated Indirect Cost Rate Agreements (NICRA).

If the apparently successful applicant does not have a current negotiated indirect cost rate, the recipient may choose to charge a de minimis rate of 10% of modified total direct costs (see 2 CFR 200.414(f)). If the prospective applicant chooses the de minimis rate, the AO must incorporate the 10% indirect cost rate in the award budget and the recipient must follow the requirements in 2 CFR 200.414(f).

The AO must negotiate with the applicant to resolve any issues related to proposed costs that do not comply with USAID policies before executing the award.

- b. File documentation.** The [Agency Secure Image and Storage Tracking \(ASIST\) System](https://pages.usaid.gov/M/OAA/assistance-resources) is the Agency's official electronic repository for all Acquisition & Assistance (A&A) award documentation. A&A staff must file all documentation relating to an award, from pre-solicitation through close out, in ASIST. AORs must also maintain their award administration files in ASIST. The requirements and procedures for filing award documents in ASIST, as well as standards for file documentation by award type are available internally at <https://pages.usaid.gov/M/OAA/assistance-resources>. The ASIST guidelines also contain guidance for maintaining older awards in the paper-based format. The AO must document the negotiation process for a new assistance award or an amendment of an existing award, along with other pre-award determinations in a Memorandum of Negotiation. AOs may use the applicable templates found internally at <https://pages.usaid.gov/M/OAA/assistance-templates>. The Memorandum of Negotiations must be included in the award file together with all applicable supporting documentation.

ADS 511, Essential Records Program requires that all essential records also be maintained in hard copy format. Most assistance awards will not meet the requirements of essential records. If the cognizant B/IO or Mission identifies the award as an essential record, in accordance with the procedures and criteria in ADS 511, AOs and AORs must also maintain the award and AOR files in hard copy. The Agency's Essential Records Program is managed by the Bureau for

Management, Office of Management Services, Information and Records Division (M/MS/IRD).

303.3.13 The Award Process and Elements of an Award

Effective Date: 12/23/2019

Before making an award, the AO must ensure that:

- The program description clearly identifies the purpose of the program, contains an implementation plan that specifically identifies each element of the program, and specifies the duration of the assistance instrument.
- All elements of the award – including items in the schedule such as period of performance, award amount, place of performance, and program description – clearly and coherently express the specific understandings of both parties.
- The Branding Strategy and Marking Plan meet regulatory and USAID policy requirements. If the Administrator has provided a written determination for use of an additional or substitute logo or seal and tagline representing a presidential initiative or other high level interagency federal initiative, the AO must identify the alternate branding to be used in the award (see [2 CFR 700.16](#) or, for non-U.S. organizations, see the provision entitled “Marking and Public Communications Under USAID-Funded Assistance”).
- All representations and certifications are completed and current.
- All “specific conditions” are identified (see **303.3.9.2**).
- The award complies with all CFRs and Executive Orders in the mandatory references (**303.4**), the Standard Provisions, other ADS chapters, and other USAID guidance, as appropriate.

To avoid ambiguities and ensure the recipient’s agreement , the AO must include in the award document all mandatory standard provisions and only those “Required as Applicable” standard provisions that are intended to be a term and condition of the award. The AO must determine which “Required as Applicable” standard provisions to include in the award using the guidance found in Applicability Statements of each “Required as Applicable” standard provision and the applicable mandatory references and additional help documents included with this chapter.

Before the award is signed, the AO must ensure that all of the elements of a legally binding agreement are present. These are:

- Competent parties,
- Proper subject matter,

- Sufficient consideration,
- Mutual understanding, and
- Agreement on the terms of the assistance instrument.

The AO's signature serves to obligate funds under a grant or cooperative agreement (see [ADS 621, Obligations](#)), as long as the AO accepts the recipient's application without substantial modification or negotiates any changes with the applicant. The AO will provide a copy of the grant or cooperative agreement to the recipient to ensure it agrees with the terms and conditions of the award. If the AO makes any substantive change to the program description or the budget or adds terms to the agreement that were not addressed during negotiations, such as a Substantial Involvement Understanding or "specific conditions" (see [2 CFR 200.207](#) and [303.3.9.2](#) and [303.3.11](#)), the AO must obtain the applicant's agreement to the changes or additional terms before obligating funds.

Prior to signing a grant or cooperative agreement, the AO must ensure that the entire award or amendment package is processed and generated in GLAAS, available only internally at <https://pages.usaid.gov/M/OAA/assistance-resources>. The negotiation memorandum must be documented accordingly. When the award is signed by all relevant parties, the AO or negotiator must upload a scanned copy of the fully executed award into the Agency Secure Image and Storage Tracking System (ASIST).

303.3.14 Duration of Assistance Awards

Effective Date: 05/18/2020

The period of performance of an assistance award must not be for more than five years at any one time, and not more than ten years from the original award date. For a total period of performance greater than ten years, the AO must prepare a written determination with a strong programmatic rationale to support the extended period of performance. The cognizant Mission Director (MD), Assistant Administrator (AA), or Head of an Independent Office, and the cognizant RLO or GC Bureau or Independent Office backstop attorney must clear the determination. Extensions other than those authorized by [2 CFR 200.308\(e\)\(2\)](#) are subject to the eligibility requirements of section [303.3.6.5](#).

303.3.15 Designation of the Agreement Officer's Representative (AOR)

Effective Date: 08/01/2019

An Agreement Officer's Representative (AOR) assists in the programmatic monitoring or administration of an award. The AOR designation is specific to a particular individual for the specified award. This authority is independent of any other roles, responsibilities, and duties the designee may fulfill in his or her technical capacity.

The AO must designate an AOR (and alternate, if applicable) for each grant or cooperative agreement as early in the award process as practical. The AO may not finalize an award until after they have signed the AOR designation letter in accordance with [ADS 303mai, Model Letters and Procedures for Designating the Agreement Officer's Representative \(AOR\) for Cooperative Agreements and Grants](#) and received the signed AOR acknowledgement.

The Operating Unit (OU) must nominate an AOR as early in the planning process as possible. At the time of the award, the AO must identify the AOR by name in the Schedule of the award and enter the AOR's name in the Global Acquisition and Assistance System (GLAAS). When the award is executed, the AO must distribute the signed designation letter to the recipient, the paying office, the AOR and alternate, and other relevant parties. The signed designation letter must also be maintained in the award file.

In the event the AOR changes during the period of the award, the AO must re-issue the designation letter to the new AOR and receive the new AOR's acknowledgement. The AO must prepare a unilateral amendment in GLAAS to update the AOR designation, provide a copy of the signed designation letter along with the amendment to the recipient, the paying office and other relevant parties, and maintain a signed copy in the award file.

Before the AO designates the AOR and alternate AOR, the selected individuals must provide:

- Proof of a current certification in the [Federal Acquisition Institute Training Application System \(FAITAS\)](#);
- Proof of completion of the Agency specific training; and, if applicable
- Proof of completion of the required 40 hours of continuous learning.

a. Eligibility and Appointment

(1) In order to be eligible for designation as an AOR or an alternate AOR, the appointee must:

- Have a direct employee – employer relationship with the U.S. Government that allows him or her to perform inherently governmental functions. AOR eligibility is not based on the program which brought the individual into the Agency, (e.g. Fellows or Participating Agency Service Agreements (PASA), but on the individual's employment status). They must work for USAID as a(n):
 - Direct hire employee,

- Employee of another U.S. Government agency through an interagency agreement or on detail, or
- PSC (U.S. citizen or national, Foreign Service National or Third Country National).
- Be AOR certified through the Agency's mandatory training and certification program specified in paragraph b of this section.
- Possess experience commensurate with the responsibilities to be delegated.

(2) Approvals for Designating an Uncertified AOR

An uncertified AOR is an individual who has never been certified or an AOR whose certification has expired as a result of not having completed the mandatory continuous learning requirements discussed in **303.3.15.b**. In exceptional circumstances, the AO may designate an uncertified AOR with a written recommendation from the Mission Director (MD) for Mission executed awards, or the Bureau Deputy Assistant Administrator (DAA) for USAID/W executed awards. The MD or DAA may recommend the designation of an uncertified individual as an AOR for a period of up to six months. The recommendation must be in writing and in accordance with the [USAID Federal Acquisition Professional Accreditation & Re-Certification Program Standard Operating Procedure \(SOP\)](#).

The request must include:

- A description of the compelling circumstances requiring the exception,
- Affirmation that the individual has completed the Phoenix Accruals online course, and
- Confirmation from the individual and the individual's supervisor that the individual will complete the AOR certification and Agency training requirements within six months.

Recommendations for extensions of the designation of an uncertified AOR beyond six months can only be approved by the Director of M/OAA. This extension may be for an additional six months not to exceed a cumulative period of one year. The AO may designate an uncertified AOR only upon receipt of the appropriate written approvals.

b. Certification and Training Requirements

The Office of Human Capital and Talent Management, Center for Professional Development (HCTM/CPD), in coordination with M/OAA, established a Contracting Officer's Representative (COR)/ Agreement Officer's Representative (AOR) certification program (see [ADS 458, Training and Career/Professional Development](#)). Additionally, certification requirements include the successful completion of the following courses or the predecessor course:

- Acquisition and Assistance (A&A) Management for COR/AORs course (A&A 104);
- Introduction to the Program Cycle (IPC);
- Web-based Phoenix Accruals online course;
- Web-based COR/AOR online course; and
- ASIST/GLAAS Filing Overview course.

M/OAA's Professional Development and Training Division (M/OAA/PDT) maintains a record of the qualifying predecessor courses.

In order to maintain the AOR certification, the AOR must complete 40 hours of continuous learning points (CLPs) every two years from the initial certification. If the AOR fails to complete the required CLPs the AOR's certification will lapse and the AOR will no longer have the authority to perform the functions of an AOR.

(1) Exceptions:

The following individuals may be designated as AORs without completion of the COR/AOR certification program:

- Warranted Contracting/Agreement Officers;
- Procurement Management Certification Program (PMCP) certified individuals; and
- Federal Acquisition Certification in Contracting (FAC-C) certified individuals.

However, the individuals must still complete the Web-based Phoenix Accruals online course, and be certified in FAITAS, before the AO can designate the individuals as AORs.

c. Issuing the AOR Designation Letter

AOs must use the Standardized Designation Letter, essentially as written, to appoint an AOR. AOs may tailor the letter in accordance with guidance provided in [ADS 303mai, Model Letters and Procedures for Designating the Agreement Officer's Representative \(AOR\) for Cooperative Agreements and Grants](#).

The AO may also designate an alternate AOR to perform AOR duties during the absence of the AOR. The alternate must meet the AOR certification requirements and be appointed by designation letter, preferably the same letter as the AOR.

d. Limitations on AOR Authorities

AOR authority does not include communicating with the recipient, either in writing or verbally, or otherwise committing to changes that affect the program, cost, period of performance, or other terms and conditions of the award. Only an AO has the authority to take such actions. The Standardized Designation Letter further states the specific limitations of the AOR designation.

AORs may enlist the assistance of others to:

- Conduct fact finding;
- Provide analyses or interpretations of programmatic requirements; and
- Make recommendations, among other assistance that may be sought.

However, the AOR remains accountable for the delegated responsibilities and is the only person authorized to carry out the functions described in the AOR designation letter.

The AOR is not authorized to further delegate this authority. If neither the AOR nor the alternate is available to perform their duties, the AOR must direct the recipient to the AO for guidance. No other individuals are authorized to approve recipient payment requests or perform other AOR functions.

e. Revocation of an AOR Designation

The AOR designation is effective for the duration of the award unless otherwise specified; is subsequently revoked by the AO; or the AOR's certification expires for failure to complete the required continuous learning points. AOs have the authority to revoke a designation letter in writing at any time if an individual's performance as an AOR is unsatisfactory. AOs must revoke a designation letter and appoint a new AOR if the AOR:

- Is assigned to a new post or position unrelated to the award,

- Fails to maintain the AOR certification by completing the required continuous learning points every two years after the initial AOR certification, or
- Has not completed the certification program within the time specified for AORs who are designated under the exceptional circumstances listed in **303.3.15.a.(2)**.

In the event that the AOR's certification expires the AOR must inform the AO of the expiration. The AOR must not continue to perform AOR duties, even if the AO has not formally revoked the AOR's designation, as it may result in unauthorized commitments as the AOR will be acting without authority. The AOR will be held accountable and must accept responsibility for any unauthorized action and must assist the AO in processing all documentation required to formalize the commitment.

303.3.16 Congressional Award Notice System

Effective Date: 02/20/2009

The Congressional Award Notice System requires the AO to notify the Bureau for Legislative and Public Affairs (LPA) when they make certain awards to U.S. organizations.

- a. AOs must follow the notice procedures in [ADS 302man, Congressional Award Notice](#). This requires the AO to provide notice to LPA AFTER signing but BEFORE releasing, or allowing to be released, an announcement of the awards listed below. This restriction on announcing the award applies to notifying the awardee that the award has been signed. For further details, see Section II, Other Considerations of that same document.
- b. Types of awards that require notice include the following:
 - (1) Awards of any value to an organization that has not previously received an award from USAID.
 - (2) Any award with which there was Congressional correspondence during the pre-award stage. The Bureau for Legislative and Public Affairs (LPA) will alert the AO that such correspondence has occurred, and the AO will flag the award as falling under these notice criteria and procedures.
 - (3) Any award for a particular program or geographic region that the operating unit or LPA identifies as being of particular interest to Congress, the Agency, or the general public; for example, earthquake relief in Haiti or the international HIV/AIDS program. LPA will coordinate with its liaison in the operating unit to identify these awards and will alert the operating unit, the AO, or both of them at the earliest opportunity before the award decision.

- (4) Grants, cooperative agreements, and any amendment to them with a total estimated amount or increase in the total estimated amount of US \$500,000 or more, respectively. Amendments providing only incremental funding (and involving no increase to the award amount) are not included.

303.3.17 Distribution of Awards

Effective Date: 06/01/2006

Generally, distribution of awards is at the discretion of the AO. At the minimum, a copy of the agreement document and all amendments to the award must be part of the official award file and provided to the:

- Recipient,
- AOR,
- Office responsible for payment under the agreement, and
- Accounting station, if it is different from the office responsible for payment.

If payment is by letter of credit, the AO must immediately send a scanned copy of the award and any amendment by email to the Bureau for Management, Office of the Chief Financial Officer, Cash Management and Payment Division (M/CFO/CMP) at the Letter of Credit Activity mailbox: **loc@usaid.gov**. Because the funds are obligated when the AO signs the award, the AO should not obtain the recipient's signature before sending the award to M/CFO/CMP. The AO must provide M/CFO/CMP with the signed award letter or amendment cover page, accounting and appropriation data, and the schedule. The AO must send the award or amendment to M/CFO/CMP within 10 business days after signing it.

303.3.18 Award Administration

Effective Date: 10/30/2020

Award administration includes all interactions concerning the award between USAID officials and the recipient from the time the award is made until the end of USAID support. The specific nature and extent of award administration varies from award to award in the normal exercise of Federal responsibilities. It ranges from reviewing and analyzing performance reports and performing site visits to specific elements of substantial involvement by USAID under a cooperative agreement.

The Agency's role in administration is limited to measuring and evaluating the recipient's progress and any appropriate substantial involvement. The Agency and its representatives must not control or try to control the recipient's or any subrecipient's day-to-day management of the program.

- a. **Administrative Duties.** The AOR and the AO share in the oversight of an assistance award. It is essential that they work as a team in order to administer the grant or cooperative agreement effectively. While there is a clear division of responsibility between the functions, AO and AOR functions are closely related and cannot be performed in isolation from each other. Both the AO and AOR's actions must be limited to monitoring the recipient's progress in achieving the objectives of the program description and verifying that the activities being funded by USAID conform to the terms and conditions of the award.

Within 45 calendar days of the completion date of the award, the AOR must review the recipient's performance by completing the mandatory [Performance Review](#) template. Once completed, the AOR must submit the performance review to the AO for review (see [Performance Review](#) for additional procedures).

The AO, and AOR as delegated, provide oversight of the financial management aspects of the award through reviews of reports, correspondence, site visits, or other appropriate means. When necessary, the AO will request or arrange for special audits. The AO is responsible for all award suspensions and terminations, except for terminations based on national interest, which the Assistant Administrator has authority over.

If program income is anticipated to be earned under the award, it should be addressed in Section D of the NOFO (RFA or APS) and documented in the award. As part of an AOR's financial management responsibilities, the AOR is responsible for monitoring program income throughout the life of the award. (See **2 CFR 200.307** or, for non-U.S. organizations, see the provision "Program Income.")

The AO should give a post-award orientation to the recipient and AOR to clarify the roles and responsibilities of the USAID officials who will administer the award. The AO may delegate specific authority to the AOR and must notify the recipient in writing of the delegation, either in the schedule of the award or by letter. The AO must ensure that the award does not include administrative approvals that are in conflict with the regulations and policies of **2 CFR 200** and **2 CFR 700**, [ADS 303maa, Standard Provisions for U.S. Nongovernmental Organizations](#), and [ADS 303mab, Standard Provisions for Non-U.S. Nongovernmental Organizations](#). If the AOR becomes aware of any other administrative requirements imposed on the recipient, the AOR must immediately notify the AO.

The AO is the records custodian for all official communication that constitutes an amendment of the award. The AOR must keep the AO informed of the recipient's performance. The AOR must ensure that the AO receives copies of all performance and financial status reports, as appropriate. The AOR reviews all

performance and financial reports for adequacy and responsiveness. When reports are not on time, inadequate, or some other problem becomes apparent, the AOR advises the AO to take the necessary action.

The AOR must ensure that the recipient submits reports or deliverables under the award to the DEC. The types of documentation the recipient must submit are found in [ADS 540.3.2.5, Documentation Grantees Submit to the Development Experience Clearinghouse \(DEC\)](#). Documentation that is not considered development experience material is described in [ADS 540.3.2.6, Documentation Agency Contractors Must Not Submit](#). [ADS 540.3.2.11, Where to Submit Development Experience Documentation](#), provides the Web site and mailing address for submitting material. Additionally, the AOR must ensure that recipients submit data to the Development Data Library in accordance with [ADS 579](#).

When an amendment to the award is necessary, the AOR must prepare the necessary internal documentation to support the amendment and meet the satisfaction of the AO.

- b. Site Visits.** Site visits are an important part of effective award administration because they usually allow a more effective review of the project. Joint visits by the AO and the AOR are encouraged. When the AO or AOR makes a site visit, the AO or AOR must write a brief report highlighting the findings and file the report in the official award file in ASIST.
- c. Award Amendments and Programmatic Changes.**

Any amendments to the award must be made in accordance with [2 CFR 200](#).

1. Unilateral Amendments

An unilateral amendment means an “administrative change” by a written amendment that does not affect the substantive rights of the parties. Only the AO needs to sign a unilateral amendment. The AO may execute the following types of unilateral amendments without any further approvals:

- Incremental funding actions;
- An extension authorized by [2 CFR 200.308\(e\)\(2\)](#); and
- Other administrative changes, like changes to the AOR, award administration office, payment office, and other non-substantial changes.

2. Bilateral Amendments

Bilateral amendments are those that change the stated terms of the award and require the AO to amend the award. A bilateral amendment is an amendment signed by the AO and the recipient. Bilateral amendments reflect the agreement of the parties to change a term or terms of the award when it is in the mutual interest of both the Agency and the recipient. Bilateral amendments include changes that:

- Extend the period of the award beyond what is authorized in [2 CFR 200.308\(e\)\(2\)](#);
- Increase the Total Estimated Amount or revise the budget (subject to approval requirements of sections **303.3.6.4** and **303.3.6.5**);
- Alter the explicit purpose or objectives of the award; or
- Establish new or different program objectives.

3. Programmatic Changes

Not all programmatic changes affect the terms of the award itself or require amendments to it. As stated in the Program Cycle Principles in ADS 201.3.1.2, “USAID must be able to readily adapt programs in response to changes in context and new information.” The AOR is responsible for using Collaborating, Learning, and Adapting (CLA) approaches to maximize program results. As such, the AOR, as delegated by the AO, may approve revisions to the recipient’s implementation plan as formally requested by the recipient and when consistent with ADS 303.3.11’s guidance on technical assistance or substantial involvement. Such requests could arise through formal processes, such as annual or semi-annual work planning, or informal processes, such as “pause-and-reflect” opportunities.

Examples of revisions may include the following:

- Adding or changing the number or type of interventions, or discontinuing particular interventions described in the implementation plan that are no longer effective or critical to achieving the programmatic objective; and
- Adding or changing the geographic focus of particular interventions, provided that it is not outside the geographic scope defined in the award.

d. Terminations.

AOs must notify the Suspending and Debaring Official (SDO) and the Bureau for Management, Office of Management Policy, Budget, and Performance (M/MPBP), Compliance Division in writing at least five days prior to proceeding with a termination based on failure to comply with the terms and conditions of an

award. The AO must provide the following information to the SDO at **compliance@usaid.gov**:

- Recipient's name;
- DUNS No.;
- Full Street Address;
- Award number;
- Period of Performance;
- AO and AOR names;
- Award value; and
- Reason for termination.

303.3.19 Unauthorized Commitments and Expenditures Requiring Prior Approvals

Effective Date: 06/01/2006

- a. Unauthorized Commitments.** When a USAID official, who does not have the authority to do so, acts in a way that leads a recipient or potential recipient acting in good faith to believe that USAID has committed to make a specific award; change the amount of an existing award; or, revise an existing award budget, program description, or any of the terms and conditions of the award, the official has made an unauthorized commitment. It is against U.S. Government and USAID policy to enter into unauthorized commitments.

When the AO believes that an unauthorized commitment should be ratified and recommends payment, and the cognizant General Counsel or Resident Legal Officer concurs with the recommendation, the AO submits an action memorandum through the M/OAA/Evaluation Division to the Director, M/OAA, for ratification. The memorandum must show:

- Evidence that the grant would otherwise have been proper, if made by an appropriate AO;
- The AO reviewing the unauthorized commitment must determine the cost to be reasonable;
- The provided program has furthered USAID's objectives;

- The findings of facts essential to the situation, arranged chronologically with cross references to supporting enclosures;
- The nature of the unauthorized commitment and funds citation;
- Funds are available and were also available at the time the unauthorized commitment was made;
- The recommended disposition; and
- A written statement from the person who made the unauthorized commitment. This statement must detail how the mistake occurred, what training the individual has received from the AO on proper procedures since the incident, and what steps will be taken to prevent future unauthorized commitments.

Only the Director, M/OAA, has the authority to ratify unauthorized commitments.

- b. Expenditures Requiring Prior Approval.** Recipients must comply with prior approval requirements that are established in the agreement. Failure to comply with prior approval requirements generally causes USAID to deem the costs unallowable.

When it is in the best interest of the Federal Government and funds are available, the AO may review the facts and circumstances of the expenditure made without prior approval and approve the expense if the:

- Expenditures must be otherwise allocable, allowable, and reasonable.
- AO could have approved the expenditures at the time that they were made.
- AO has the authority to approve the same type of expenditure at the time of the request for approval.
- Approval promotes efficient implementation of USAID's program, or
- Facts and circumstances of the expenditure show that the recipient was not grossly negligent and did not intend to circumvent USAID requirements.

The recipient must submit a written request to the AO addressing the criteria set out above and the AO must make a written determination.

303.3.20 Controlling Language
Effective Date: 06/01/2006

It is USAID policy that English is the official language of all award documents because a translation may not convey the full meaning of the original. If an award or any supporting documents are provided in both English and a foreign language, each document must state that the English language version is the controlling version.

Source and Nationality Rules

- (1) **22 CFR 228** “Procurement of Commodities and Services Financed by USAID Federal Program Funds” is the regulation that governs the source and nationality of goods and services procured with USAID funds. This regulation applies to USAID-financed goods and services procured by a recipient and subrecipients (see the provision entitled “USAID Eligibility Rules for Goods and Services” in the Standard Provision for U.S. Nongovernmental Organizations and Standard Provisions for Non-U.S. Nongovernmental Organizations). **22 CFR 228** provides those circumstances to which Source and Nationality rules do not apply.
- (2) **22 CFR 228** does not apply to the selection and award of subawards as defined at **2 CFR 200**.

303.3.21 Subawards
Effective Date: 10/30/2020

a. Prior Approval of Subawards

Only the AO, or the AOR (if delegated the authority), may provide prior approval of subawards. The AO or the AOR is responsible for the requirements in this section a.

Prior to providing subaward approval (see 2 CFR 200.308(c)(6)), the AO (or AOR) must obtain confirmation from the recipient that a risk assessment has been conducted for the proposed subrecipient(s) by name, including the recipient’s verification that the subrecipient(s):

- 1) Does not have active exclusions in the System for Award Management (SAM) (www.sam.gov);
- 2) Does not appear on the Specially Designated Nationals (SDN) and Blocked Persons List maintained by the U.S. Treasury for the Office of Foreign Assets Control, sometimes referred to as the “OFAC List” (online at: <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>; and

- 3) Is not listed in the United Nations Security designation list (online at: http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml).

b. Subawards to PIOs and Partner Government Entities

If appropriate, a recipient may enter into a subaward with a Public International Organization (PIO), and in exceptional circumstances with a partner government entity (also known as a partner government implementing entity as defined in [ADS 220](#)).

Subawards that provide funds (excluding "in-kind" grants, technical assistance or other activities provided to or on behalf of the partner government entities) to partner government entities for activities to be implemented by the entity must meet the conditions, requirements, and approvals outlined in this section. The requirements in this section do not apply to subawards to a partner government entity solely for "in-kind" contributions, technical assistance, or other activities provided by the recipient to or on behalf of the partner government entity.

c. Approval of Subawards to Partner Government Entities

Prior to an AO approving a subaward that provides funds (excluding "in-kind" grants, technical assistance and other activities provided to or on behalf of the partner government entity) to a partner government entity for activities to be implemented by that entity, the AO must verify that these types of subawards have been approved either in:

- (1) The Project Appraisal Document (PAD) (or PAD amendment) ([ADS 201](#)); or
- (2) A Determination and Finding (D&F), as outlined below.
 - (a) If the Operating Unit (OU) has not addressed subawards to partner government entities in the PAD (or PAD Amendment), the OU must prepare a D&F that documents:
 - (i) How a subaward to a partner government entity is consistent with the decisions and results under the Public Financial Management Risk Assessment Framework (PFMRAF), if any (see [ADS 220](#));
 - (ii) How the subaward will contribute to sustainability other than in cases where immediate development results outweigh sustainability goals;

- (iii) That there are no alternative means to achieve the foreign assistance purpose other than through subawards to partner government entities; and
 - (iv) That any partner government subrecipient financial risks identified by the recipient will be mitigated or addressed in the subaward.
- (b) The D&F must be prepared by the OU and cleared by the RLO/GC, AO, and M/CFO/Mission Controller. The D&F must be approved by the Mission Director for subawards under Mission executed awards, and by the cognizant Pillar Bureau Assistant Administrator, in consultation with the relevant Regional AAs, for subawards under USAID/Washington executed awards. The OU must provide a copy of the signed D&F to the AO to be included in the award file.
- (c) The subaward must include language that captures the audit, monitoring, reporting, and oversight requirements in the recipient's award. This is not subject to deviation. The subaward must also include the appropriate flow down requirements from the prime award.
- (d) All D&Fs must be approved by the Bureau AA and the AA for Management. It is USAID policy to increase its direct assistance to partner governments to achieve sustainable development results. No prime award may contain subawards that provide funds to partner government entities unless a D&F as specified paragraph b.(2) above is approved by the cognizant Bureau AA (in consultation with relevant Pillar or Regional AAs, as applicable) and the AA for Management, prior to subaward approval by the AO. Before any subsequent subawards to partner government entities are made, the D&F must include a statement of the actions the OU will take to increase direct assistance to partner governments.

d. Applicable Standard Provisions

A U.S. recipient providing a subaward to a non-U.S. organization must use the Standard Provisions for a Non-U.S. Non-Governmental Organization. A non-U.S. recipient providing an award to a U.S. organization must use the Standard Provisions for U.S. Non-Governmental Organizations. For subawards to PIOs, the recipient must use the Standard Provisions for Cost-Type Awards to PIOs in [ADS 308, Awards to Public International Organizations](#).

For subawards to partner government entities, in addition to the requirements in Section 303.3.21.a.(2)(c) above, the prime awardee must flow down the appropriate terms and conditions to meet the requirements of the prime award.

For additional information on standard terms and conditions relating to Government-to-Government agreements, see the Additional Help Documents found in ADS Chapters 220. When questions arise concerning the appropriate provisions for subawards, the AO must consult with the cognizant attorney in GC or the cognizant RLO. An approved deviation (**303.3.3**) is required before the recipient may deviate from the terms and conditions of its award from USAID; however no deviation will be authorized from the audit, monitoring, reporting, and oversight mandatory and applicable standard provisions and requirements in **303.3.21a(2)(c)**.

c. Defense Base Act Insurance

The Defense Base Act does not apply to grants and cooperative agreements nor to subawards under these instruments. Although the Defense Base Act rate does not apply to grants and cooperative agreements, recipients who desire to purchase DBA coverage may negotiate rates at the discretion of the insurance carrier (see [ADS 302sap, Guidelines for DBA Coverage for Direct and Host Country Contracts](#)).

Recipients must require contractors who are awarded procurement contracts under the assistance instruments to obtain Defense Base Act coverage for their employees performing services overseas.

303.3.22 The Role of the Agreement Officer in the Debt Collection Process

Effective Date: 08/22/2013

The Federal Claims Collection Act of 1966 and the [Debt Collection Improvement Act of 1996 \(DCIA\)](#) mandates that agencies comply with standard, Government-wide debt collection procedures and centralize the Government-wide collection of delinquent debt. USAID's policy on debt collection can be found in [22 CFR 213](#), Claims Collection; [2 CFR 200.346](#), Collection of Amounts Due; and [ADS 625, Accounts Receivable and Debt Collection](#) (see [ADS 303san, Agreement Officer's Role in Debt Collection](#) for additional guidance.

The AO is responsible for determining if a debt is owed by the recipient and the amount of the debt owed. Preferably, the amount of the debt will be determined by a negotiated settlement between the AO and the recipient. However, if the parties do not agree on the amount, the AO must unilaterally determine the amount of the debt (see [625.3.4.1 Claims Originating Under Acquisition and Assistance Instruments and 625.3.4.2 Claims Originating Under Financial Audit](#).) If the recipient disagrees with the AO's determination, see **303.3.23** below.

The AO must promptly issue a demand letter for payment of such debt. A proper written notice ensures the Agency has a legally enforceable debt. The initial demand letter must include the appropriate information and due process procedures contained in

22 CFR 213.9 – Written Notice. Even if the debt is or will be the subject of a bilateral amendment or the recipient has agreed to repay the debt, the AO must issue a demand letter as soon as the AO has determined that an actual debt is due. The AO must send a copy of each demand letter to the cognizant billing office immediately upon issuance, and request acknowledgement of receipt. Collection of the debt is the responsibility of the billing office (Mission Controller or M/CFO/WFS).

If the recipient requests approval of installment payments, see **22 CFR 213.19 Installment Payments** for relevant regulations and procedures.

303.3.23 Disputes and Appeals

Effective Date: 06/18/2012

2 CFR 700.15 and the **ADS 303mab, Standard Provision for Non-U.S. Nongovernmental Organizations** “Disputes and Appeals” establishes that the AO decides any dispute between the recipient as defined in 2 CFR 200, and USAID arising under the assistance award. The AO’s decision is final unless the recipient appeals the decision as outlined below.

303.3.23.1 Disputes

Effective Date: 06/01/2006

The AO must give the recipient a written final decision within sixty (60) calendar days of receiving notice from the recipient of a dispute. If the AO is not able to reach a final decision within that time, the AO must notify the recipient that the AOR requires more time to consider the dispute. The AO must place a copy of the final decision in the award files.

303.3.23.2 Appeals

Effective Date: 07/22/2015

If the recipient disagrees with the AO’s final decision, the recipient may appeal the AO’s decision to the Assistant Administrator, Bureau for Management, or designee. The appeal must be in writing and must be postmarked within thirty (30) calendar days of receipt of the AO’s final decision. The recipient must include all relevant and material evidence to support its position and must provide a copy of the appeal to the AO. If USAID has issued a Bill of Collection, the Bill of Collection may be suspended in accordance with **ADS 625** pending resolution of the appeal.

Immediately upon receiving an appeal, the Assistant Administrator, Bureau for Management, or designee, and the AO must forward the appeal to the Bureau for Management, Office of Management Policy, Budget, and Performance, Compliance Division (M/MPBP/Compliance) at **compliance@usaid.gov**. M/MPBP/Compliance will:

- Consult with other divisions within M/OAA as needed before preparing a recommendation for the deciding official; and
- Coordinate a review by GC/A&A and/or GC/LE.

Within sixty (60) calendar days of receiving the appeal, M/MPBP/Compliance must notify the recipient of the status (i.e., denied, approved, or more time is needed).

303.3.24 Types of Assistance Instruments

Effective Date: 11/19/2020

Agreement Officers must structure assistance awards in the manner that best achieves programmatic results while complying with regulation and policy. The AO has flexibility in determining the type of award instrument in accordance with the methods for structuring assistance awards found in [2 CFR 200](#), [2 CFR 700](#), and this ADS chapter, including:

- Renewal Awards;
- Simplified Grants;
- Fixed Amount Awards (see [2 CFR 200](#) for definition); and
- Leader with Associate Awards.

During the Planning Phase, the Agreement Officer and the Activity Planner make a determination on the duration and type of instrument (see [ADS 201, Program Cycle Operational Policy](#)). The Foreign Assistance Act of 1961, as amended (FAA), authorizes the Agency "... to make grants to make and perform agreements ... in furtherance of the purposes and within the limitations of the Act." The Federal Grants and Cooperative Agreements Act requires that a type of grant agreement must not be used to acquire property or services for the direct use or the direct benefit of the United States Government.

When the AO has determined that an award will be an assistance instrument, the AO must then determine whether it should be a grant or cooperative agreement (see [2 CFR 200](#) for the full definition of a cooperative agreement and a grant).

a. Renewal Awards

A renewal award (grant or cooperative agreement) allows a grant or cooperative agreement to adapt, within the five-year maximum period of performance, to changing contexts, lessons learned during implementation, and performance by related activities within a project that affect the overall effectiveness of the initial award. A renewal award provides a specific level of support for an initial specified period of time or an initial set of programmatic activities and milestones, with a statement of intent in the NOFO of the

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Text highlighted in yellow indicates that the adjacent material is new or substantively revised.

possibility of a subsequent award to provide additional support for the project for succeeding periods, activities, or milestones. The Agency may renew these awards provided funds are available, the results achieved warrant further support, and the recipient meets any other renewal conditions specified in the award. Renewal awards are also known as “continuation grants.” A renewal award allows for the continuation of an award beyond its initial period, but not to exceed the total period of performance specified in the original award. Renewal awards may also allow for the continuation of an award beyond initial activities or initial milestones. A renewal award requires the recipient to reapply at a specified point(s) during performance to continue the award. As part of the re-application, the Agency may revise the award and define further activities within the general program description of the award.

Determining whether a renewal award is appropriate

Use of a renewal award allows an activity to be approved for a multi-year period (up to five years), or for additional activities or milestones within the five-year period. This approach allows for adaptability of an activity, through redirection and establishment of new targets. However, this approach may be more labor intensive for both the Operating Unit and the recipient as the award has to be renewed for the additional period or activities. The AO should consider whether the benefits of this approach to a particular activity outweigh the additional administrative burden; for example, when performance targets cannot be established at the initial award but will be set on an annual basis. This approach may help the Agency and recipients to respond to contextual changes and lessons learned in, for example, highly fragile, high-risk, or conflict-sensitive environments.

Publicizing

The NOFO must establish the initial period of the award, describe the timeframe for the recipient to request renewal, and specify the period of performance covered by the initial period and all renewal periods. The NOFO and any resulting award must specify when the recipient must submit the renewal application(s). The NOFO and any resulting award must specify the process and criteria for renewal, and the content of the recipient’s request for renewal. [2 CFR 200 Appendix I](#), identifies Section B of the NOFO as the place to address whether applications for renewal of existing awards must be considered along with applications for new Federal awards.

Renewals

The AO may renew the award following the process and criteria established in the NOFO and the award. The AO must not renew the award on a non-competitive basis beyond a five-year period of performance or other renewal conditions without a restricted eligibility determination as required in **303.3.6.5**.

Renewals with limited competition

The AO may also renew an award by using a process for limited competition among a specified group of recipients. For example, the Agency may make the initial award to multiple recipients and the AO could provide for an award renewal only for the recipient(s) determined most successful in the initial award.

Timing of renewals

The Agency must not schedule renewals more frequently than annually, and the AO must designate a renewal timeframe that provides sufficient time for reviewing the renewal request prior to the scheduled expiration of the award period. The AO should generally not establish an initial award period of less than two years so the recipient has sufficient time to start up and achieve initial results; however, the initial award period will depend on the nature of the activity. If the Agency does not renew an award, the AO must allow sufficient time for the recipient to complete the program responsibly before expiration. The start date of the renewal period must be concurrent with the original expiration date to prevent a break in the activities or funding. If the renewal expands the award's activities, AO must renew the award to allow sufficient time for the successful completion of the expanded activities.

Process and criteria for renewal

The NOFO and any resulting award must include a statement that funding of any renewal period or expansion of activities is contingent on the following:

- Availability of funds;
- Satisfactory progress towards meeting the award objectives;
- Submittal of required reports; and
- Compliance with the terms and conditions of the award, including the conditions for renewal.

The AO may renew the award through an amendment for a subsequent period of performance or additional activities. The AO must require the recipient to submit a new [SF-424](#) and a new set of certifications, assurances, representations, and other statements (see **303.3.8, Pre-Award Certifications, Assurances, Representations, and Other Statements of the Recipient and Pre-Award Terms**) with the request for renewal or renewal application. The AO must also follow all other pre-award requirements prior to executing the renewal. The initial award and the renewal together must be consistent with **303.3.14**.

Before the AO can approve the renewal and amend the agreement, the AOR must review the renewal application(s) and document that:

- The recipient has met performance and progress in a satisfactory way and still merits support;
- Program activities are still relevant to the Agency's objectives;
- The renewal will support either the same work, or work that is within the programmatic activities of the current award or is closely related to the current programmatic activities;
- The renewal supports the same long-term goal, with new specific targets, milestones, outputs, or indicators; and
- The recipient meets the required risk-assessment requirements.

The cognizant AOR should discuss renewal applications with the recipient prior to submission.

b. Simplified Grants

A deviation is not required from the requirements of **2 CFR 200** or the policies of this chapter in order to use a simplified grant format for small awards on a cost reimbursement basis as described below. A grant using the simplified grant format generally does not include all of the standard provisions used for USAID grants. AOs must use the simplified grant format to apply the appropriate standard provisions. For Fixed Amount Awards, see **303.3.25**.

USAID may authorize advance payments if the conditions for advance payments in [ADS 636, Program Funded Advances](#) and **2 CFR 200** Subpart D apply.

The AO may use the simplified grant format, if the grant meets all of the following conditions:

1. The assistance instrument is a grant, not a cooperative agreement.
2. The total grant amount does not exceed the simplified acquisition threshold as defined in 2 CFR 200.
3. The recipient will not purchase any goods or services, except as authorized pursuant to [22 CFR 228](#) or [ADS 310, Source and Nationality Requirements for Procurement of Commodities and Services Financed by USAID](#) or any applicable waivers, and the recipient will not purchase any single item that has a useful life over one year and a cost of \$5,000 or more.
4. The recipient has signed pre-award certifications as required in **303.3.8**.

5. The grant requires the recipient to allow USAID access to its records for up to three years after the end date of the grant, and the recipient will refund USAID for any funds it receives for any costs that did not meet the terms and conditions of the grant.
6. The grant does not anticipate any subawards.
7. All costs under the grant are direct costs. This format is not authorized for awards that include indirect costs.
8. The grant must be included in any audit required by **2 CFR 200 Subpart F** or **ADS 591.3.2**.

303.3.25 Fixed Amount Awards to Non-Governmental Organizations

Effective Date: 11/19/2020

A fixed amount award is a type of grant or cooperative agreement in which USAID provides a specific level of support and for which the Agency does not base payment upon the actual costs incurred by the recipient. This type of Federal award reduces some of the administrative burden and record-keeping requirements for both the non-Federal entity and USAID. Accountability is based primarily on performance and results.

A fixed amount award is appropriate when 1) the program scope has measurable goals and objectives and 2) adequate cost, historical, or pricing data is available to establish a fixed amount award with assurance that the recipient will realize no increment above the actual cost.

Payments under fixed amount awards are based on meeting measurable goals and objectives. The payment structure may be set up in a variety of ways, including:

- (1) In several partial payments, the amounts of each agreed upon in advance, and the “milestone” or event triggering the payment also agreed upon in advance as specified in the award;
- (2) On a unit price basis for a defined unit or units, at a defined price, agreed to in advance of performance of the Federal award and specified in the Federal award; or,
- (3) In one payment at completion.

The AO must use the cost principles in 2 CFR 200 Subpart E as a guide when negotiating the award’s payment structure, including any milestones, to ensure that costs that make up the fixed amount do not include unallowable costs.

The AO may follow the guidance in [ADS 303saj, Fixed Amount Awards to Non-Governmental Organizations](#) for structuring payments to provide the recipient with the necessary financial liquidity for the performance of the activity.

USAID may also authorize advance payments when recipients meet the conditions for advance payments in [ADS 636, 2 CFR 200 Subpart D](#), and if providing liquidity through an initial financing payment or milestone is not sufficient to meet implementation requirements.

The procedures in this ADS section, [ADS 303saj, Fixed Amount Awards to Non-Governmental Organizations](#), and [ADS 303mak, Fixed Amount Award Entity Eligibility Checklist](#) must be used in lieu of those specified in **303.3.9**. The criteria in the section of the Checklist for pre-award financial review for advances, adequately address the conditions for advances in [ADS 636](#) and **2 CFR 200 Subpart D**.

Award closeout is accomplished by the AOR's acceptance of the final award requirement (or milestone) and approval of payment.

a. Factors for Determining the Use of a Fixed Amount Award

In order for an AO to use a fixed amount award, the following conditions apply:

- (1) The award complies with the conditions for fixed amounts awards found at 2 CFR 200.201.
- (2) The AO, technical office, and M/CFO (Washington) or Controller (overseas) have complied with the requirements of [ADS 303mak, Fixed Amount Award Entity Eligibility Checklist](#), including ensuring that the recipient has signed pre-award certifications, as specified in **ADS 303.3.8**.
- (3) The prospective recipient, technical office, and AO must be able to identify and measure programmatic accomplishments or results in establishing award milestones or other payment structure. For further guidance, see [ADS 303saj, Fixed Amount Awards to Non-Governmental Organizations](#).
- (4) The AO, with the advice of the technical office and M/CFO (Washington) or the Controller (overseas), must assess the risk factors that could prevent the proposed recipient from completing the activity or require a substantial revisions to the award's payment structure, including any milestones. The operating unit must not use the fixed amount award if an unacceptably high risk of failure or substantial changes in the award's payment structure are expected as the recipient implements its program. The AO and technical office must document the risk assessment and may use the guidance in [ADS 303saj, Fixed Amount Awards to Non-Governmental Organizations](#).

- (5) Adequate cost information must be available to allow the AO to determine and negotiate the fixed amount of the grant or cooperative agreement and payment structure. The fixed amount should include all reasonable costs, as determined by the AO. For further guidance concerning the cost information required and payment structuring, see [ADS 303saj, Fixed Amount Awards to Non-Governmental Organizations](#) and [ADS 303mak, Fixed Amount Award Entity Eligibility Checklist](#).
- (6) The AO must document the rationale for selecting the fixed amount award.
- (7) Generally, the duration of the fixed amount award must not exceed three years to ensure that the estimated costs are reasonable and that the recipient will realize no increment above actual cost. However, if a longer award is required, then the fixed amount award must be structured to follow the renewal award process in section **303.3.24.a**. This allows the award's payment structure, including any milestones and associated costs, to be revisited and amended for the renewal period.
- (8) The fixed amount award must not include the purchase of any real property.

b. Required Provisions for a Fixed Amount Awards

- (1) The AO must ensure that the fixed amount award includes all of the mandatory provisions from [ADS 303mat, Standard Provisions for Fixed Amount Awards to Nongovernmental Organizations](#). In addition, the AO must ensure the fixed amount award includes ONLY the applicable "Required, As Applicable" provisions from [ADS 303mat, Standard Provisions for Fixed Amount Awards to Nongovernmental Organizations](#).
- (2) The AO must use the [ADS 303sal, Sample Fixed Amount Award](#) as a template.

c. Amending the Payment Structure

With a fixed amount award, payment is not based on actual costs and the fixed amount is not subject to adjustment. However, the AO may amend the award's payment structure during the award's performance period, if the original payment structure or milestones are no longer feasible or appropriate due to circumstances beyond the control of the recipient. The AO may terminate the award if the AO concludes that multiple or substantial amendments indicate that continuing the award is no longer in the best interests of the Agency. For additional guidance, see [ADS 303saj, Fixed Amount Awards to Non-Governmental Organizations](#).

d. Substantial Involvement in Fixed Amount Cooperative Agreements

When substantial involvement is anticipated under a fixed amount cooperative agreement, the Planner and AO must select the areas of substantial involvement and include them in the NOFO (see section **303.3.11**).

Because fixed amount awards are based on measurable goals and objectives, the Planner and AO must exercise caution in selecting the appropriate areas of substantial involvement to ensure that the recipient can achieve the award's goals and objectives and meet the payment structure independent of the Agency's substantial involvement in the award.

e. Disposition of Equipment or Property

Recipients must not procure real property under a fixed amount award. Real property means land, including land improvements, structures and appurtenances thereto, but excludes movable machinery and equipment. Personal property is any tangible or intangible property other than real property.

Depending on the activities funded and any milestones established by the fixed amount award, a recipient may procure equipment or personal property in order to accomplish a milestone. The distinction between whether purchase of the equipment or personal property is a milestone or is one possible means by which the recipient may accomplish a milestone is important for certain aspects of the award. Unless a milestone is itself the purchase of the equipment or personal property, milestones must not list equipment or personal property a recipient may potentially purchase to accomplish the milestone, but the costs of such equipment or personal property may be included in the budget from which milestone payment amounts are estimated and negotiated. Regardless of whether the equipment or personal property is listed in or as a milestone, the fixed amount award must state that title to the equipment or personal property vests in the recipient upon acquisition with the condition that the recipient must use the equipment or personal property for the grant as long as it is needed for such.

If a milestone under a fixed amount award requires the recipient to procure equipment or personal property, and such requirement is specifically provided in the milestone, then:

- (1) The award must require that the purchase be in accordance with [22 CFR 228](#), [ADS 310](#), [ADS 312](#), [Eligibility of Commodities](#) and any applicable waivers,
- (2) The "Required, As Applicable" provisions from the [ADS 303mat](#), [Mandatory Standard Provisions for Fixed Amount Awards to Nongovernmental Organizations](#) applicable to the purchase of the

equipment or personal property must be included in the fixed amount award, and

- (3) The award must include disposition instructions for the equipment or property. For additional guidance, see [ADS 303saj, Fixed Amount Awards to Non-Governmental Organizations](#).

303.3.26 Leader with Associate Awards

Effective Date: 12/23/2019

A Leader with Associate (LWA) Award involves the issuance of a Leader Award that covers a specified worldwide activity. The Leader Award includes language that allows a Mission or other office to make one or more separate awards, called Associate Awards, to the Leader Award recipient without using restricted eligibility. The Associate Award must be within the terms and scope of the program description of the Leader Award and support a distinct local or regional activity.

Leader with Associate Awards must not be confused with Indefinite Delivery Indefinite Quantity (IDIQ) Contracts that are used in acquisition or any of the procedures used under an IDIQ. As examples, a Leader Award cannot be made without a program description and a budget with sufficient funds to carry out the program description in the Leader Award, and Associate Awards are not made using fair opportunity procedures.

a. Justification for Use of a Leader with Associate Instrument

The Selection of Instrument Memo provided by the OU in accordance with [ADS 304](#) must justify the use of an LWA and describe in detail why the proposed LWA is necessary and why a non-LWA grant or cooperative agreement will not achieve the program objectives. The justification in the memo must include one or more of the following:

- The specific, quantifiable, and demonstrable economies of scale or responsive timing to be achieved through use of the LWA,
- Whether any specific, identified needs in non-presence countries can best be addressed through an LWA, and
- How the LWA will achieve the Agency goal of centralizing knowledge or expertise or demonstrating global technical leadership in a specific technical area.

If the LWA has a combined ceiling (Leader and all Associate Awards) of \$75 million or more, the Choice of Instrument Memo's justification must also:

- Specify what specialized technical skills are required to plan and manage the activities that are not available in the field, or
- Demonstrate that an anticipated and frequent need to respond to compelling urgent programmatic requirements cannot be foreseen in terms of location, timing, or magnitude and can best be met through the use of a LWA.

If “buy-ins” (i.e. mission funding into the Leader or centrally managed Associate Awards) will be permitted under the LWA, the Choice of Instrument Memo must propose a ceiling on the size of individual “buy-ins.” This ceiling must also be included in the NOFO and the award. The memo must also include an analysis of why buy-ins are more advantageous to the Agency than individual Associate Awards. “Buy-ins” may be justified by a discussion of one or more of the following conditions:

- The highly technical or specialized nature of the program and the lack of field staff with the required expertise to plan or manage such activities, or
- An anticipated frequent need to respond to truly urgent programmatic requirements that cannot be foreseen in terms of location, timing, or magnitude, or
- Needs in non-presence countries

For any proposed individual buy-in ceiling in excess of \$1 million, the Planner must provide compelling justification in the Choice of Instrument Memo documenting why an individual associate award is not appropriate.

b. Competition of Leader Award

The AO must issue a Notice of Funding Opportunity (NOFO) for every Leader with Associate Award following the procedures in **303.3.5.2**. AOs must not award LWAs based on Annual Program Statements, unsolicited applications or with restricted eligibility, unless a deviation is authorized in accordance with the requirements of **303.3.4**. The RFA must state that the competition covers both the initial Leader Award and all subsequent Associate Awards, and specify a ceiling on the total amount of funding for all Associate Awards.

c. Total Amount and Funding

The AO must specify the Total Estimated Amount of the Leader Award and the ceiling on the cumulative total amount of funding for Associate Awards in the NOFO and the Leader Award. These amounts must not be exceeded without a determination to restrict eligibility, in accordance with **303.3.6.5**. Each Associate

Award must specify the total award amount for that instrument. Likewise, the NOFO must state that there is no guarantee regarding the number or amount of Associate Awards.

The NOFO and resulting Leader Award must state whether missions will be permitted to provide funding through “buy-ins” to the Leader Award or centrally-managed Associate Awards. If “buy-ins” will be permitted, a ceiling on individual “buy-ins” under the Leader or Associate Awards must be established within the terms of the Leader Award.

Leader and Associate Awards are separately obligated instruments. An obligation under the Leader Award is not transferable to Associate Awards (nor transferable from the Associate Awards to the Leader Award or other Associate Awards) without a deobligation and reobligation of funds in accordance with [ADS 621](#).

d. Pre-Award Requirements for Associate Awards

Once an AO selects a recipient pursuant to an NOFO for a Leader with Associate Award, the eligibility for any Associate Award issued within the terms and conditions of the Leader Award will be limited to the recipient of the Leader Award. The AO’s risk determination of the recipient for the Leader Award applies to Associate Awards. However, before awarding an Associate Award, the AO must verify that the applicant does not:

- Have active exclusions in SAM (www.sam.gov);
- Appear on the Specially Designated Nationals (SDN) and Blocked Persons List maintained by the U.S. Treasury for the Office of Foreign Assets Control, sometimes referred to as the “OFAC List” (online at: <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>); and
- Appear on the United Nations Security designation list (online at: http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml).

The AO for the Associate Award must not require additional documentation concerning the recipient’s financial or other management systems, unless there is reason to believe that the recipient does not meet the criteria in **303.3.9**.

The AO must obtain the required certifications (see **303.3.8**) prior to the execution of the Leader Award. Before the AO may award an Associate Award, the recipient must affirm that those certifications remain valid or provide new certifications (see [ADS 303mad, Affirmation of Certifications](#)).

USAID may issue more than one Leader Award for a program under the NOFO if the Bureau determines that it is appropriate. However, USAID must not compete Associate Awards among the different recipients of the Leader Awards.

The AO has the discretion to issue one or more Associate Awards to a Leader Award recipient or to issue more than one Associate Award under different Leader Awards for a program. When a Leader Award recipient works with a consortium or subrecipients, any Associate Awards under the Leader Award must be issued to the Leader Award recipient, not to any of the consortium or subrecipient members. The recipient of the Leader Award may make subawards to the consortium members as necessary for the program. The Leader Award must include a requirement for the recipient to provide a programmatic report, either semi-annually or annually, to the AOR that summarizes activities undertaken, progress made/results achieved, trends, or problems under both the Leader Award and all Associate Awards.

e. Length of Award

The period of performance for a Leader Award must not exceed five years. AOs may extend a Leader Award for up to a cumulative period of ten years for purposes of the Leader Award activities using a determination to restrict eligibility based on **303.3.6.5**. AOs may issue Associate Awards at any time during the period of performance of the Leader Award. The period of performance for an Associate Award must not exceed five years. AOs may extend individual Associate Awards for a cumulative period of up to ten years using a determination to restrict eligibility based on **303.3.6.5**, but not more than five years beyond the expiration of the Leader Award. AOs must not extend a Leader or Associate Award more than five years into the future at any given time.

USAID does not fund activities under the Leader Award after its expiration date. After completion of the activities under the Leader Award, if funds are available, the AOR may request that the recipient provides a report on lessons learned.

f. Procedures for Issuing an Associate Award

After the AO awards the Leader Award, the AO sends a copy of the award to all Missions, along with any necessary guidance or instructions regarding issuance of Associate Awards. AOs may issue Associate Awards for activities within the programmatic scope of the Leader Award. Leader Awards are also posted on the USAID Business and Acquisition and Assistance Intranet site (<https://pages.usaid.gov/M/OAA/assistance-resources>).

Before requesting the AO to issue an Associate Award, the Planner must consult with the AOR of the Leader Award. The AOR of the Leader Award must concur that the program description for an Associate Award is within the program

description and does not extend beyond the scope of the program area, project goal, project purpose, sub-purposes, outputs and overall results framework of the Leader Award. After receiving the AOR's concurrence, either the AO, or the Planner with the AO's consent, may request the Leader Award recipient to provide an application. The request includes a background statement; a brief program description outlining the area of activity; host country involvement; funding; any period limitation; and, description of why the activity falls under the Leader Award. The RFA for an Associate Award must request a response to the program description and an associated budget.

An SF-424 is not required. The Planner must review the application and provide comments to the AO responsible for the Associate Award. The AO issuing the Associate Award must ensure that the Associate Award is within the scope of the Leader Award when reviewing the recipient's proposed costs and negotiating the final award. The AO has the decision authority whether or not to award the Associate Award.

The AO may execute an Associate Award as a grant or a cooperative agreement, independent of whether the Leader Award is a grant or cooperative agreement. If an Associate cooperative agreement is selected, the AO must specify the terms of any substantial involvement in the award. Such substantial involvement must be consistent with the requirements of **303.3.11** and the program description for the particular Associate Award. The AO must use the standard grant or cooperative agreement award format for the Associate Award.

The AO must include appropriate language in the schedule of the Associate Award, requiring the recipient to provide copies of all program and financial reports to the AOR of the Associate Award with copies of all programmatic reports to the AOR of the Leader Award. The schedule of the Associate Award must also specify:

- The Authorized Geographic Code for procurement, if it is different from the Leader Award;
- Any cost sharing requirements; and
- Any additional standard provisions, such as Title to and Care of Property (Cooperating Country), that may not be included in the Leader Award, but are necessary to the Associate Award.

g. Amendments to Associate Awards

Amendments to associate awards may be restricted to the recipient of the Associate Award, only if the amendment does not extend beyond the scope of the program area, project goal, project purpose, sub-purposes, outputs and overall results framework, period of performance, total amount and other terms

and conditions of the Leader Award. If the amendment to the associate award extends beyond the areas listed in the preceding sentence then the amendment must comply with the requirements found in ADS 303.3.6.5.

Any proposed buy-in under a Leader or centrally-managed Associate Award must have a detailed description of the work to be done, its timing, and estimated cost/budget. All documentation must be submitted to the AO and the relevant Bureau by July 1 for the buy-in obligation to be completed by the end of the fiscal year.

h. File Documentation

The AO's file documentation for Associate Awards must include

- A copy of the Planner's consultation with the AOR for the Leader Award;
- The request for the recipient's application;
- The recipient's application with affirmation of certifications found in **303.3.8**;
- A Memorandum of Negotiation, including a cost review; and
- A copy of the final Associate Award (a copy must be sent to the AOR for the Leader Award) and a copy of the Leader Award.

303.3.27 Public-Private Partnerships

Effective Date: 01/19/2021

Public-Private Partnerships including Global Development Alliances (GDAs) awards and private sector engagements and other Global Development Lab instruments, provide resource leverage (see below) from sources outside USAID. Public-Private Partnerships may result in the award of a grant or cooperative agreement. The Planner should consult closely with the Office of Innovation and Development Alliances, Global Partnerships Division (IDEA/PS), the Assistance Executive, the Office of the General Counsel or RLO when developing the program description for these types of awards. Additional guidance may be found at the [GDA Web site](#) (available on the USAID internal website only).

Leveraging represents all of the non-USAID resources (excluding cost sharing) that are expected to be applied to a program. Leveraging is limited to awards that result from Public-Private Partnerships. Leveraging includes resources that third-parties bring to the program without necessarily providing them to the recipient of the USAID assistance award. These parties may include the host government, private foundations, businesses, or individuals. The recipient is not responsible for meeting the leveraging amounts/resources and leveraging is not subject to audit.

Assistance awards that result from Public-Private Partnerships may include cost sharing. If the award includes cost sharing, the recipient must meet the cost-sharing amount and requirements, and the cost-sharing is subject to audit.

For more information regarding leveraging, please refer to the [GDA home page](#) and [USAID Global Partnerships](#) (available on the USAID internal website only).

303.3.28 Participation of Faith-Based and Community Organizations

Effective Date: 12/23/2019

- a. In accordance with [Executive Order 13279, Equal Protection for the Laws for Faith-Based and Community Organizations](#), [Executive Order 13559, Fundamental Principles and Policymaking Criteria for Partnerships With Faith-Based and Other Neighborhood Organizations](#), and [22 CFR 205, Participation by Religious Organizations in USAID Programs](#), the following principles guide USAID on the participation of faith-based and community organizations in USAID-funded programs:
- (1) The Federal Government must distribute Federal financial assistance for social service programs in the most effective and efficient manner possible (see [Executive Order 13559](#)).
 - (2) All eligible organizations, including faith-based and other community organizations, must be able to apply on an equal footing for Federal financial assistance used to support social service programs and participate in any program for which they are eligible.
 - (a) USAID, recipients, and subrecipients who administer USAID funded programs, must not discriminate for or against an organization on the basis of the organization's religious character or affiliation [see [22 CFR 205.1\(a\)](#)]. USAID must not disqualify religious organizations from participating in USAID's programs because such organizations are motivated or influenced by religious faith to provide social services (see [22 CFR 205.1\(f\)](#)). Decisions about awards of USAID financial assistance must be free from political interference or even the appearance of such interference and must be made on the basis of merit, not on the basis of the religious affiliation of a recipient organization, or lack thereof (see [22 CFR 205.1\(j\)](#)). Additionally, when limiting eligibility using the local eligibility exception ([303.3.6.5](#)), USAID must not limit eligibility solely to either faith-based or secular organizations.
 - (b) All organizations, whether religious or secular, that participate in USAID programs, including through an award or subaward, must

carry out eligible activities in accordance with all program requirements and other applicable requirements governing the conduct of USAID-funded activities, including those prohibiting the use of direct financial assistance from USAID to engage in explicitly religious activities, including activities that involve overt religious content such as worship, religious instruction, prayer, or proselytization (see [22 CFR 205.1\(f\)](#)).

- (c) Faith-based organizations must not be required, as a condition of Federal assistance, to sacrifice their independence, autonomy, expression, or religious character. A faith-based organization that applies for or participates in USAID-funded programs or services, including through an award or subaward, may retain its independence and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, provided that it does not use direct financial assistance from USAID to support or engage in any explicitly religious activities. Among other things, faith-based organizations may use their facilities to provide social services supported by USAID, without removing or altering religious art, icons, scriptures, or other symbols from these facilities. In addition, a faith-based organization may retain authority over its internal governance and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its mission statements and other chartering or governing documents (see [22 CFR 205.1\(c\)](#)).
- (d) Organizations that receive direct financial assistance under any USAID program, including through an award or subaward, may not engage in explicitly religious activities as part of the programs or services funded by USAID. Explicitly religious activities must be offered separately, in time or location, from the programs or services funded with direct financial assistance from USAID, and participation must be voluntary for beneficiaries of the programs or services funded with such assistance [see [22 CFR 205.1\(b\)](#)].
- (e) USAID funds may not be used for activities that are not permitted by Establishment Clause jurisprudence or otherwise by law [see [22 CFR 205.1\(d\)](#)].
- (f) An organization that participates in programs funded by financial assistance from USAID, including through an award or subaward, must not, in providing services, discriminate against a program beneficiary or potential program beneficiary on the basis of religion

or religious belief, refusal to hold a religious belief, or a refusal to attend or participate in a religious practice [see [22 CFR 205.1\(e\)](#)].

- (g) A religious organization's exemption from the Federal prohibition on employment discrimination on the basis of religion, set forth in Sec. 702(a) of the Civil Rights Act of 1964, 42 U.S.C. 2000e–1, is not forfeited when the organization receives financial assistance from USAID [see [22 CFR 205.1\(g\)](#)].
- (h) Solicitations that require organizations to have nonprofit status will specifically so indicate in the eligibility section of a solicitation [see [22 CFR 205.1\(h\)](#)]. In USAID programs in which an applicant must show that it is a nonprofit organization, other than programs which are limited to registered Private and Voluntary Organizations, the applicant may do so using any of the following:
- Proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code;
 - A statement from a state taxing body or the state secretary of state certifying that the organization is a nonprofit organization operating within the state; and no part of its net earnings lawfully benefit any private shareholder or individual;
 - A certified copy of the applicant's certificate of incorporation or similar document that clearly establishes the nonprofit status of the applicant; or
 - Any item described in paragraphs (b)(1) through (3) of this section if that item applies to a state or national parent organization, together with a statement by the state or parent organization that the applicant is a local nonprofit affiliate.

b. The Secretary of State may waive the requirements of this section in whole or in part, on a case-by-case basis, where the Secretary determines that such waiver is necessary to further the national security or foreign policy interests of the United States [see [22 CFR 205.1\(i\)](#)].

c. **Clarification Regarding Proper Implementation and Use of Data**

[Executive Order 13559, Fundamental Principles and Policymaking Criteria for Partnerships With Faith-Based and Other Neighborhood Organizations](#) and [22 CFR 205, Participation by Religious Organizations in USAID](#)

Programs, call for equal opportunity for faith-based organizations. They do not provide for set-asides or evaluation preferences for faith-based organizations, and data collected is not to be used for purposes of funding decisions. The AO must not:

- Provide for set-asides, reservations, or evaluation preferences for faith based organizations in NOFOs.
 - Include participation of faith-based organizations as a specific evaluation factor or requirement for award. It may, however, be referred to as an example of one of the many types of organizations whose participation could potentially enhance the quality and impact of development assistance programs.
- d. AOs must ensure that the Mandatory Standard Provision, “Equal Participation by Faith-Based Organizations (June 2016),” is included in all solicitations and awards (see **303.4.2**).

303.3.29 Suspension and Debarment

Effective Date: 12/23/2019

In accordance with [2 CFR 780](#) and [2 CFR 180](#), the Suspending and Debaring Official (SDO) may suspend or debar individuals and entities from participating in government-funded grants, cooperative agreements and other assistance programs when such action is in the public interest.

- a. M/MPBP/Compliance, in consultation with GC/LE provides direct support and recommendations to the SDO in all matters relating to recipient disclosures, suspension, and debarment.
- b. AOs must notify M/MPBP/Compliance in writing at **compliance@usaid.gov** when they become aware of any of the causes of suspension or debarment, with regard to recipients and subrecipients, as specified in **2 CFR 780** and **2 CFR 180**.
- c. Upon receiving notification from the AO that a recipient may have engaged in actions that could lead to suspension or debarment, M/MPBP/Compliance, in consultation with GC/LE will:
 - Consult with other offices within USAID as required to prepare a recommendation for the SDO; and

- Coordinate suspension or debarment actions with the Interagency Suspension and Debarment Committee (ISDC) and/or the Office of Inspector General.
- d. When, in accordance with **2 CFR 780** and **2 CFR 180**, the SDO decides to initiate a suspension and /or debarment action, M/MPBP/Compliance, in consultation with GC/LE, will:
- Issue a written notice of suspension or proposed debarment action to the recipient and any affiliates involved; and
 - Enter the recipient’s exclusion information into the System for Award Management (SAM) at www.sam.gov.

303.3.30 Limitation on Construction under Assistance

Effective Date: 08/16/2013

The Agency’s infrastructure projects are increasingly a critical component of development programs. However, the limited management oversight the Agency can legally assert over recipients under assistance awards minimizes the Agency’s ability to ensure that the design and construction activities are carried out properly. As such, Operating Units and AOs must adhere to the Administrator-approved policy and procedures that limit the use of assistance awards to accomplish construction activities ([ADS 303maw, USAID Implementation of Construction Activities](#)).

Provision Limiting Construction Activities in Awards

AOs must include the Mandatory Standard Provision, “Limiting Construction Activities (August 2013)” in all solicitations and awards. If the assistance award permits construction activities based on the policy above (or as authorized by waiver), the AO must insert the description and location(s) of the specific construction activities under section **(d)** of the provision. If the award does not include construction activities, the AO must insert “Construction is not eligible for reimbursement under this award” in section **(d)** of the provision.

303.3.31 USAID Implementing Partner Notices (IPN) Portal for Assistance

Effective Date: 07/21/2014

- a. The USAID Implementing Partner Notices Portal for Assistance (also referred to as “IPN Portal”) streamlines USAID’s process of providing universal bilateral amendments for awards to recipients for their signature. The IPN Portal is also available to provide notices to USAID recipients who register with the IPN Portal. The IPN Portal posts proposed universal bilateral amendments for USAID awards, which can be accessed electronically by registered partners AOs and A&A specialists. The IPN Portal for Assistance is located at <https://sites.google.com/site/usaidipnforassistance/>.

- b. When necessary, the IPN Portal Administrator, as designated by the Director, M/OAA, will generate bilateral award amendments and notices, and post the amendments/notices to the IPN Portal. Examples of such amendments include required ADS 303 provision updates affecting all awards (or classes of awards to be specified in the amendment). The Portal Administrator will provide advance notice to AOs that an update is being prepared for posting in the IPN Portal.

This policy applies to all awards except:

- Associate Awards under LWAs,
- Awards to PIOs and bilateral development partners, and
- Interagency agreements.

IPN Portal amendments must not change the:

- Amount of obligated funds,
 - Total estimated award amount,
 - Program Description, or
 - Period of performance.
- c. Proposed bilateral amendments provided through the IPN Portal are not effective until the Recipient and the AO sign the amendment. Additional policy guidance and specific instructions for registering with the IPN Portal can be found in [ADS 303max, USAID Implementing Partner Notices \(IPN\) Portal](#). AOs and A&A specialists are responsible for registering with the IPN Portal, processing the IPN Portal amendments under their respective awards, and completing GLAAS requirements in accordance with this policy.
- d. AOs must insert the applicable provision “**USAID Implementing Partner Notices (IPN) Portal for Assistance (July 2014)**” from [ADS 303maa, Standard Provisions for U.S. Nongovernmental Recipients](#) or [ADS 303mab, Standard Provisions for Non-U.S. Nongovernmental Organizations](#), and [ADS 303mat, Standard Provisions for Fixed Amount Awards to Nongovernmental Organizations](#) in all solicitations and resulting awards.

303.3.32 Trafficking in Persons (TIP)

Effective Date: 12/23/2019

a. Requirements

The mandatory standard provision on trafficking in persons is included in [ADS 303maa, Standard Provisions for U.S. Nongovernmental Organizations](#), [ADS 303mab, Standard Provisions for Non-U.S. Nongovernmental Organizations](#), and [ADS 303mat, Standard Provisions for Fixed Amount Awards to NGOs](#). The provision ensures USAID compliance with various legislative requirements intended to ensure that U.S. Government acquisition and assistance actions are not tainted by trafficking in persons, such as the Trafficking Victims Protection Act of 2000 and Section 1704(a) of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239, enacted January 2, 2013). The provision reflects the U.S. Government's policy against human trafficking and lists specific trafficking in persons-related prohibitions and requirements that are mandatory for both U.S. and non-U.S. recipients.

b. Certification Requirement and Compliance Plan

If the estimated value of services required to be performed under the award outside of the United States exceeds \$500,000, additional trafficking-related requirements apply to the solicitation and award. Specifically, the Agreement Officer (AO) must require the applicant/recipient to certify that it has implemented a compliance plan to prevent trafficking.

1. The AO must require the apparently successful applicant to submit the certification "Certification Regarding to the Trafficking in Persons" before the award is made. The certification is included in [ADS 303mav, Certifications, Assurances, Representations and Other Statements of the Recipient](#).
2. The mandatory standard provision on trafficking in persons further requires the recipient to submit the certification annually during the award's period of performance.
3. Unless specifically requested by the AO, the recipient is not required to submit to the AO, the trafficking compliance plan required in the TIP standard provision.

c. Violations and Remedies

If an AO receives credible information from any source that the recipient, subrecipient, contractor; or any agent of the recipient, subrecipient, or contractor, is engaged in prohibited activities related to trafficking in persons (as defined by the mandatory standard provision on trafficking in persons), the AO must immediately notify both the Office of the Inspector General (OIG) and the Suspending and Debaring Official (SDO). The AO must also consult with the Labor Compliance Advisor at lca@usaid.gov. The AO may also direct the recipient to take specific steps to abate an alleged violation or enforce the

requirements of the recipient's compliance plan. If necessary, the OIG will conduct an investigation of the alleged offense.

Upon receipt of an IG report that provides support for the allegations, M/OAA will identify an agency official who will be responsible for expeditiously conducting an administrative proceeding, allowing the recipient an opportunity to respond to the report. After the proceeding, the authorized agency official will make a final determination as to whether the allegations are substantiated and will notify the AO and the Director, M/OAA. The AO, in consultation with the Director, M/OAA, will consider taking one or more of the following remedial actions:

1. Requiring the recipient to remove an employee from the performance of work under the award;
2. Requiring the recipient to terminate a contract or a subaward;
3. Suspending payments under the award until such a time as the recipient of the award has taken appropriate remedial action;
4. Terminating the award, in accordance with 2 CFR 200 and 2 CFR 700 for U.S. Organizations, or the Award Termination and Suspension Standard Provision for Non-U.S. Organizations; and/or
5. Referring the matter to the SDO.

The AO and the Director, M/OAA may consider whether the recipient had a compliance plan in place, and whether the recipient was in compliance with that plan at the time of the violation, as a mitigating factor in determining which remedies, if any, should apply. The AO and Director, M/OAA may consider the failure of the recipient to stop an alleged violation or enforce the requirements of the compliance plan when directed by the AO as an aggravating factor in determining which remedies, if any, should apply.

Whether or not the official authorized to conduct the administrative proceeding is the Suspending and Debarment Official, the Suspending and Debarment Official has the authority, at any time before or after the final determination as to whether the allegations are substantiated, to use the suspension and debarment procedures to suspend, propose for debarment, or debar the recipient, if appropriate, considering the factors above.

AOs must enter all substantiated allegations of trafficking in persons-related violations into the Federal Awardee Performance and Integrity Information System (FAPIIS). Immediately upon entering the information into FAPIIS, the AO must also transmit copies of all relevant documents to the Office of Management Policy, Budget, and Performance, Compliance Division at

compliance@usaid.gov, including a brief explanation of the actions taken and the date the information was posted in FAPIIS.

303.3.33 Prevention of Sexual Exploitation and Abuse

Effective Date: 06/07/2018

The mandatory standard provisions “Regulations Governing Employees” in [ADS 303maa, Standard Provisions for U.S. Nongovernmental Organizations](#) and “Recipient and Employee Conduct” in [ADS 303mab, Standard Provisions for Non-U.S. Nongovernmental Organizations](#), require that recipients meet internal control requirements and have a code of conduct for their employees that is consistent with the standards for UN employees in Section 3 of the United Nations Secretary-General’s Bulletin - Special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13). This requirement flows down to all subawards. As part of these requirements, the recipient is required to report employee misconduct to the Agreement Officer and the Mission Director. If the Agreement Officer is informed of such misconduct, the AO must immediately report the case to the OIG at:

Online: <https://oig.usaid.gov/content/oig-hotline>

Email: ig.hotline@usaid.gov

Mail: U.S. Agency for International Development
Office of Inspector General
P.O. Box 657
Washington, DC 20044-0657

Telephone: 1-800-230-6539 or 202-712-1023

Fax: 202-216-3801

303.3.34 Abortion Restrictions

Effective Date: 05/29/2020

USAID assistance awards are subject to statutory and policy abortion restrictions. To implement these restrictions, AOs must include the mandatory standard provision “Voluntary Population Planning Activities – Mandatory Requirements” in all assistance awards.

In addition to the restrictions that apply to all U.S. foreign assistance awards, certain restrictions apply only to U.S. global health assistance. The [Protecting Life in Global Health Assistance \(PLGHA\)](#) policy requires a non-U.S. NGO to agree, as a condition of receiving U.S. global health assistance, that the organization will not perform or actively promote abortion as a method of family planning or provide financial support to any other non-U.S. NGO that conducts such activities. The policy does not apply to

U.S. organizations; however, U.S. organizations are required to flow down the provision to non-U.S. NGO sub-recipients that receive global health assistance. The PLGHA policy is implemented in the required, as applicable, standard provision “Protecting Life in Global Health Assistance.” AOs must include this standard provision in all assistance awards receiving funding for global health assistance, as outlined in the applicability statement to the standard provision.

The standard provisions referenced in this section are located in [ADS 303maa](#), [ADS 303mab](#), and [ADS 303mat](#).

For more information on these statutory and policy restrictions, please see: <https://www.usaid.gov/global-health/legislative-policy-requirements>.

303.3.35 Information Technology and Telecommunication

303.3.35.1 Information Technology Under Assistance Awards

Effective Date: 08/18/2020

Agency staff must not procure IT and IT services for Agency use through an assistance award (see [ADS 509, Management and Oversight of Agency Information Technology Resources](#)). In accordance with the FGCAA and ADS 304, grants and cooperative agreements transfer a thing of value to the recipient to carry out a public purpose, unlike contracts, which are for the direct benefit or use of the Agency.

Activity Planners must not include IT and IT services for the Agency’s use or direct benefit in the program description for an assistance award. There are no exceptions, waivers, or deviations to this statutory prohibition. Additionally, AOs must ensure that the notice of funding opportunity and the resulting awards do not include IT and IT services for the Agency’s use or direct benefit.

When IT and IT services for Agency use are being obtained a contract must be used and Planners must consult [ADS 302](#) and [ADS 509](#) for requirements, including mandatory requirements for M/CIO approval.

303.3.35.2 Covered Telecommunication and Video Surveillance Equipment or Services

Effective Date: 08/18/2020

Effective August 13, 2020, a recipient may not procure covered telecommunication equipment or services for the implementation of their program using award funds.

2 CFR 200.216, applicable to US organizations, and the standard provision “Prohibition on Certain Telecommunication and Video Surveillance Services or Equipment” applicable to non-US NGOs, implement Section 889(b) of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year 2019 ([Pub. L. 115-232](#)) that prohibits

the use of award funds, including direct and indirect costs, cost share and program income, to procure covered telecommunication and video surveillance services or equipment. The statute covers certain telecommunications equipment and services produced or provided by Huawei Technologies Company or ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

Such covered telecommunication equipment or services must not be reimbursed to the recipient as a direct or indirect cost or accepted as part of cost share. Additionally, the recipient must not use any program income generated under the award to purchase covered telecommunication equipment or services.

303.4 MANDATORY REFERENCES

303.4.1 External Mandatory References

Effective Date: 11/19/2020

- a. [2 CFR 180, OMB Guidelines to Agencies on Governmentwide Debarment and Suspension \(Nonprocurement\)](#)
- b. [2 CFR 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards \(effective as of November 12, 2020\)](#)
- c. [2 CFR 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards \(effective as of August 13, 2020\)](#)
- d. [2 CFR 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards \(effective prior to August 13, 2020\)](#)
- e. [2 CFR 700, USAID Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards](#)
- f. [2 CFR 780, Non Procurement Debarment and Suspension](#)
- g. [5 CFR 1320, Controlling Paperwork Burdens on the Public](#)
- h. [22 CFR 203, Registration of Private Voluntary Organizations \(PVOs\)](#)
- i. [22 CFR 205, Participation by Religious Organizations in USAID Programs](#)
- j. [22 CFR 216, Environmental Procedures](#)
- k. [22 CFR 227, New Restrictions on Lobbying](#)

- l. [22 CFR 228, Procurement of Commodities and Services Financed by USAID Federal Program Funds](#)
- m. [31 USC 6301- 6308, Federal Grant and Cooperative Agreement Act](#)
- n. [System for Award Management](#)
- o. [Executive Order 13279, Equal Protection of the Laws for Faith-Based and Community Organizations](#)
- p. [Executive Order 13280, Responsibilities of the Department of Agriculture and the Agency for International Development With Respect to Faith-Based and Community Initiatives.](#)
- q. [Executive Order 13317, Volunteers for Prosperity](#)
- r. [Foreign Assistance Act of 1961, as amended](#)
- s. [OMB Final Guidance “Implementation of Federal Grant and Cooperative Agreement Act of 1977” \(43 FR 36860, August 18, 1978\)](#)
- t. [Paperwork Reduction Act](#)
- u. [Specially Designated Nationals \(SDN\) and Blocked Persons List](#)

303.4.2 Internal Mandatory References

Effective Date: 12/17/2020

- a. [Acquisition and Assistance Policy Bulletins \(AAPDs\)/Contract Information Bulletins \(CIBs\)](#)
- b. [ADS 103, Delegations of Authority](#)
- c. [ADS 201, Program Cycle Operational Policy](#)
- d. [ADS 204, Environmental Procedures](#)
- e. [ADS 206, Prohibition of Assistance to Drug Traffickers](#)
- f. [ADS 260, Geographic Codes](#)
- g. [ADS 300, Agency Acquisition and Assistance \(A&A\) Planning](#)
- h. [ADS 300mat, Guidance for Broad Agency Announcements](#)

- i. [ADS 302man, USAID Guidance on Congressional Award Notice System](#)
- j. [ADS 302mbo, Guidance for Use of the Authorities under the Expedited Procedures Packages \(EPPs\)](#)
- k. [ADS 303maa, Standard Provisions for U.S. Nongovernmental Organizations](#)
- l. [ADS 303mab, Standard Provisions for Non-U.S. Nongovernmental Organizations](#)
- m. [ADS 303mad, Affirmation of Certifications](#)
- n. [ADS 303mae, USAID Policy Guidance on Posting Grant Opportunities and Application Packages on Grants.Gov](#)
- o. [ADS 303mai, Model Letters and Procedures for Designating the Agreement Officer's Representative \(AOR\) for Cooperative Agreements and Grants](#)
- p. [ADS 303mak, Fixed Amount Award Entity Eligibility Checklist](#)
- q. [ADS 303mat, Standard Provisions for Fixed Amount Awards to Nongovernmental Organizations](#)
- r. [ADS 303mav, Certifications, Assurances, Representations and Other Statements of the Recipient](#)
- s. [ADS 303maw, USAID Implementation of Construction Activities](#)
- t. [ADS 303max, USAID Implementing Partner Notices \(IPN\) Portal](#)
- u. [ADS 303maz, USAID Policy Guidance on Exemptions to Assistance Reporting Under the Federal Funding Accountability and Transparency Act of 2006 \(FFATA\)](#)
- v. [ADS 303mba, Pre-Award Terms](#)
- w. [ADS 303mbb, Process for Transition Awards](#)
- x. [ADS 304, Choice of Implementation Instrument](#)
- y. [ADS 312, Eligibility of Commodities](#)
- z. [ADS 318, Intellectual Property Rights](#)
- aa. [ADS 320, Branding and Marking](#)

- ab. [ADS 350maa, Guidance on Funding Foreign Government Delegations to International Conferences](#)
- ac. [ADS 458, Training and Career/Professional Development](#)
- ad. [ADS 511, Essential Records Program](#)
- ae. [ADS 540, USAID Development Experience Information and Reference Services](#)
- af. [ADS 591, Financial Audits of USAID Contractors, Grantees, and Host Government Entities](#)
- ag. [ADS 625, Administrative Accounts Receivable](#)
- ah. [A.I.D. Partnership in International Development with Private and Voluntary Organizations \(Policy Paper\)](#)
- ai. [Guide to USAID's Assistance Application Process and to Submitting Unsolicited Assistance Applications](#)
- aj. Procurement and Assistance Procedures for the HIV/AIDS and Infectious Disease Initiatives (available on the USAID internal website only)
- ak. [Simplified Grant Format](#)

303.4.3 Mandatory Forms
Effective Date: 02/15/2012

- a. [SF-270, Request for Advance or Reimbursement](#)
- b. [SF-271, Outlay Report and Request for Reimbursement for Construction Programs](#)
- c. [SF-424, Application for Federal Assistance](#)
- d. [SF-424a, Budget Information, Non-Construction Programs](#)
- e. [SF-425, Federal Financial Report](#)
- f. [SF-425a, Federal Financial Report Attachment](#)

303.5 ADDITIONAL HELP
Effective Date: 07/22/2015

- a. [ADS 302sat, Guidance on Closeout Procedures for A&A Awards](#)
- b. [ADS 303sac, Sample Action Memorandum for Deviation](#)
- c. [ADS 303sae, Operational Security – General Information](#)
- d. [ADS 303sai, Profit Under USAID Assistance Instruments](#)
- e. [ADS 303saj, Fixed Amount Awards to Non-Governmental Organizations](#)
- f. [ADS 303sal, Fixed Amount Award Template](#)
- g. [ADS 303sam, Non-U.S. Organization Pre-Award Survey Guidelines and Support](#)
- h. [ADS 303san, Agreement Officer's Role in Debt Collection](#)
- i. [Cross Reference Index](#)
- j. [Policy Paper, Women in Development](#)
- k. [Procurement Executive Bulletins \(PEBs\)](#) *(Only available to USAID employees.)*
- l. [Procurement Reform Documentation Requirements for Non-Profit Recipients \(self-certification\)](#)

303.6 DEFINITIONS

Effective Date: 12/17/2020

Agreement Officer (see also Contracting Officer)

A person with the authority to (1) enter into, administer, terminate, and close out assistance agreements, and (2) make related determinations and findings on behalf of USAID. An Agreement Officer may only act within the scope of a duly authorized warrant or other valid delegation of authority. The term "Agreement Officer" includes persons warranted as "Grant Officers." It also includes certain authorized representatives of the Agreement Officer acting within the limits of their authority as delegated by the Agreement Officer. (**Chapter 303** and [304](#))

assistance

Financial support to accomplish a public purpose, including grants, cooperative agreements and other agreements in the form of money, or property in lieu of money, by the Federal Government to an eligible recipient. The term does not include technical assistance, the provision of services instead of money; other assistance in the form of

loans, loan guarantees, interest subsidies, or insurance; direct payments of any kind to individuals; or, contracts which are required to be entered into and administered under procurement laws and regulations. (**Chapter 303** and [304](#))

Assistance Executive

The Director, Office of Acquisition and Assistance (M/OAA/OD), or designee in USAID/W who

- Acts as the Agency's coordinator for all assistance matters (that is, financial assistance that provides support to a non-governmental entity to accomplish a public purpose), which may require OMB approval (such as deviations to OMB regulations);
- Makes the final determination of the choice of implementation instrument when there is disagreement between the contracting activity and the Development Objective team. (**Chapter 303** and [304](#))

award

A form of implementing mechanism through which USAID transfers funds to an implementing partner, generally selected through a competitive process resulting in a contract, grant, or cooperative agreement. (**Chapter [201](#) and [303](#)**)

leverage

Significant resources mobilized from non-U.S. Government sources. USAID seeks the mobilization of resources of other actors on a 1:2 or greater basis (i.e., 50 percent of the proposed value of the award). Leveraged resources may include grants/awards from non-U.S. Government organizations and other donor governments. (**Chapters [201](#), [303](#), [623](#)**)

Local Entity

Section 7077 of Public Law 112-74, the Consolidated Appropriations Act, 2012 (P.L. 112-74), as amended by Section 7028 of the Consolidated Appropriations Act, 2014 (P.L. 113-76), and included by reference in subsequent appropriations acts, is titled "Local Competition Authority" and provides as follows:

(a) Local Competition - Notwithstanding any other provision of law, the USAID Administrator may, with funds made available in this and prior Acts, award contracts and other acquisition instruments in which competition is limited to local entities if doing so would result in cost savings, develop local capacity, or enable the USAID Administrator to initiate a program or activity in appreciably less time than if competition were not so limited.

Provided, That the authority provided in this section may not be used to make awards in excess of \$5,000,000 and shall not exceed more than 10% of the funds made available to USAID under the Act for assistance programs.

Provided further, That such authority shall be available to support a pilot program with such funds:

Provided further, That the USAID Administrator shall consult with the Committees on Appropriations and relevant congressional committees on the results of such pilot program.

(b) For the purposes of this section, local entity means an individual, a corporation, a nonprofit organization, or another body of persons that—

(1) is legally organized under the laws of;

(2) has as its principal place of business or operations in;

(3) is majority owned by individuals who are citizens or lawful permanent residents of; and

(4) managed by a governing body the majority of who are citizens or lawful permanent residents of a country receiving assistance from funds appropriated under title III of this Act.

(c) For purposes of this section, “majority-owned’ and “-managed by” include, without limitation, beneficiary interests and the power, either directly or indirectly, whether exercised or exercisable, to control the election, appointment, or tenure of the organization's managers or a majority of the organization's governing body by any means.”

locally established partner (LEP)

A U.S. or international organization that works through locally-led operations and programming models. LEPs:

- Have maintained continuous operations in-country for at least five years and materially demonstrate a long-term presence in a country through adherence or alignment to the following:
 - Local staff should comprise at least 50% of office personnel,
 - Maintenance of a dedicated local office,
 - Registration with the appropriate local authorities,
 - A local bank account, and
 - A portfolio of locally-implemented programs.
- Have demonstrated links to the local community, including:
 - If the organization has a governing body or board of directors, then it must include a majority of local citizens;
 - A letter of support from a local organization to attest to its work; and

- Other criteria that an organization proposes to demonstrate its local roots.

(Chapters [201](#) and [303](#))

Non-U.S. Organization

A foreign organization as defined in **2 CFR 200. (Chapter 303)**

Planner

The designated person responsible for developing and maintaining a written Individual Acquisition Plan (IAP), or for the planning function in those acquisitions (FAR 7.101) or assistance actions not requiring a written plan. The Planner may be the Project Design Team Leader or Project Manager, or his or her designee (ADS 201), such as the intended Contracting Officer/Agreement Officer Representative (COR/AOR), who will work with the CO/AO in carrying out the planning function. Operating Units (OUs) must ensure that a Planner is identified for a particular procurement. Though OUs have the discretion to determine the appropriate individual based on the organizational structure and functions of the unit, the Planner must be an individual with sufficient authority in the OU to ensure that planning complies with this chapter, FAR acquisition planning requirements, and OMB/OFPP Policy Letter 11-01 Performance of Inherently Governmental and Critical Functions. (**Chapters [300](#), [302](#), [303](#)**)

recipient

An organization that receives direct financial assistance (a grant or cooperative agreement) to carry out an assistance program on behalf of USAID, in accordance with the terms and conditions of the award and all applicable laws and regulations. (**Chapters [303](#), [304](#), [305](#), [591](#)**)

transition award

A transition award is an assistance award to a local entity or locally established partner (collectively referred to as local subrecipients) that is or has been a subrecipient under a USAID assistance award. A transition award can only be made when the following conditions have been met:

- a) The recipient of the transition award is a local subrecipient that has not previously received a direct award from USAID;
- b) The initial award required the recipient to develop the capacity of the local subrecipient(s) to become more capable of receiving a direct award from USAID or other donors; and
- c) The initial award recipient recommended the local subrecipient for a potential transition award based on explicit criteria contained in the initial award. (**Chapter [303](#)**)

underutilized partner

An organization that has received less than \$25 million in direct or indirect awards from USAID over the past five years. (**Chapter 303**)

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