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# **USAID Marking Initiative: The Legal Framework**



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## USAID's Framework Legislation

- 1961 Foreign Assistance Act (FAA), Section 641, requires all overseas programs be identified as American Aid
- USAID's new Standard Graphic Identity, with the tagline, "From The American People," does so almost literally



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## **Contractors, Grants and Cooperative Agreements**

- Regulations (AIDAR 752.7009) and Agency policy (ADS 320) currently require marking by contractors
- USAID is requiring contractors to follow new branding guidelines with all reasonable dispatch
- There currently is no marking requirement in our regulations (22 CFR Part 226) that cover administration of grants and cooperative agreements, or in Agency policy (ADS 320)



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## Public Rulemaking

- To fully align policy and law, FAA 641, and to ensure public participation in Agency rulemaking, USAID issued a notice of proposed rulemaking (a draft rule) in the *Federal Register*, December 20, 2004.
- That proposed rule amends 22 CFR Part 226 to require marking by recipients of grants and cooperative agreements
- The period for public comment closed February 3, 2005. USAID received just over 40 comments



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## Currently Reviewing Public Comments

- USAID is currently reviewing those comments as part of the process of preparing a final rule, which will include further explanations of our decisions
- During the review, we are prohibiting so called ‘ex parte contacts’ – discussions with non-Agency personnel on the substance of the rule -- to protect the integrity of the rulemaking process, especially the principle that the final rule, if any, will be based only on Agency expertise and on the public comments



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## Waivers Granted by Mission Director

- USAID wants to reassure all interested parties that as we move through the rulemaking process, we will continue to err on the side of safety
- We are providing that marking requirements may be waived by the USAID principal officer (Mission Director) for compelling safety, security, or political concerns or adverse reaction in the host country
- USAID wishes to thank its many partners who support the effort to ensure that the American People get credit for their generosity in providing foreign assistance.