



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

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**Functional Series 300 – Acquisition and Assistance
ADS 303 – Grants and Cooperative Agreements to Non-Governmental
Organizations**

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

303.1 OVERVIEW

Effective Date: 06/01/2006

This chapter contains the Agency's internal guidance, policies, and standards for the award and administration of USAID grants and cooperative agreements to institutions of higher education, hospitals, other non-profit, non-governmental organizations, and commercial organizations.

Generally, USAID may provide assistance to any U.S. or non-U.S organization, individual, non-profit, or for-profit entity. Authorizing legislation (including the Foreign Assistance Act of 1961, as amended), other statutes, government-wide directives and regulations, and governing program requirements specify the eligibility requirements for individual assistance programs.

303.2 PRIMARY RESPONSIBILITIES

Effective Date: 06/01/2006

a. The **Bureau for Management, Office of Acquisition and Assistance (M/OAA)** is responsible for developing and interpreting 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 [Office of Management and Budget \(OMB\) Circular A-110](#), USAID's implementing regulation ([22 CFR Part 226](#)), and OMB Circulars establishing Cost Principles ([A-122](#) and [A-21](#)) and Audit responsibilities ([A-133](#)).

b. The **M/OAA Director** is responsible for coordinating all matters that OMB Circulars or USAID Regulations govern or which may require OMB approval. As the Assistance Executive, the M/OAA Director may accomplish the following:

- Authorize limited competition, in accordance with **303.3.6.5**,
- Make the final decision on choice of instrument in the event of a dispute between the requesting official and the Agreement Officer, in accordance with [ADS 304](#), and
- Make the final decision on any appeals brought under [22 CFR 226.90](#), or, for non-US organizations, under the Standard Provision entitled "Disputes".

c. **Agency Liaison.** 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 to the Catalog for Federal Domestic Assistance (CFDA) (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

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further information contact PPC and OAA. The Agency Liaison has the following responsibilities:

- Reviewing catalog entries for completeness and accuracy and forwarding the information to the Office of Management and Budget (OMB) for entry into the CFDA by the General Services Administration (GSA).
- Updating CFDA entries annually.
- Submitting an annual consolidated crosswalk referencing program transactions occurring during the year, such as additions, deletions, consolidations of programs, or changes to program titles.
- Assigning CFDA numbers.
- Preparing the entry describing the Agency's general program description.

d. The Agreement Officer has legal responsibility for the award. Therefore, only the Agreement Officer can take action on behalf of USAID to enter into, change, or terminate an award. The Agreement Officer is either authorized by a warrant issued by the Director, Office of Acquisition and Assistance, or receives the authority through a delegation by virtue of position:

- The Mission Director or other principal officer of a USAID field post (see [ADS 103.3.8.11](#)),
- The Assistant Administrator for the Bureau for Democracy, Conflict, and Humanitarian Assistance (DCHA/AA), and
- As re-delegated by the AA/DCHA, the Directors of DCHA Offices (see [ADS 103.3.15](#)).

For information regarding added assistance authorities for Mission Directors, see the mandatory reference document, [Guidelines for Expanded Assistance Authority for Mission Directors](#).

The Agreement Officer is responsible for ensuring that USAID exercises prudent management over assistance funds by accomplishing the following:

- Determines the appropriate type of instrument to be used, in accordance with [ADS 304](#).
- Interprets USAID's assistance policies and procedures. When there is doubt or controversy as to the interpretation or application of law or policy, the Agreement Officer should consult with the Office of the General Counsel (GC) or the Regional Legal Advisor (RLA).

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- Coordinates with the Strategic Objective (SO) Team, applicants, and recipients to ensure consistency of interpretation.
- Guarantees the integrity of the competitive process by approving a CFDA entry, Request for Application, or Annual Program Statement before publication; and ensure that the source selection documentation complies with USAID policy directives and required procedures.
- Ensures that the applicant completes and updates Representations and Certifications as necessary.
- Determines a potential recipient's responsibility and management competence in carrying out a planned activity.
- Negotiates costs in the financial plan of the award, in accordance with OMB and USAID standards.
- Authorizes pre-award costs. The Agreement Officer may authorize recipients to incur pre-award costs 90 calendar days prior to award or more than 90 calendar days, with the Agreement Officer's prior approval. This authorization must state that all pre-award costs are incurred at the recipient's risk and that USAID is under no obligation to reimburse such costs if, for any reason, the recipient does not receive an award, or if the award is less than anticipated and inadequate to cover such costs.
- Develops an instrument that details the results that the recipient plans to achieve and captures all understandings between USAID and the recipient.
- Ensures that the award does not include any restrictions that go beyond the provisions of the applicable OMB Circulars, 22 CFR Part 226, or applicable Standard Provisions, unless the applicable official designated in **303.3.4** has approved a deviation.
- Ensures that the award contains all the appropriate terms and conditions necessary for proper administration and implementation of the program, including all reporting requirements. See [ADS 540.2](#) for the AO's responsibilities for development experience material and required reports.
- Processes necessary deviations.
- Processes requests for exceptions to the branding policy and ensure compliance with [22 CFR 226](#), branding requirements, for assistance as implemented through Agency policy and procedures.

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- Executes the award, and maintain contact with the responsible SO team, the Activity Manager, the designated Cognizant Technical Officer (CTO), and the recipient for proper award administration, including monitoring reporting requirements. (See [ADS 540.3.2.3 and ADS 540.3.2.6](#)). The Agreement Officer is the mandatory control point of record for all official communications and contacts with the recipient that may affect the award budget, the program description, or any terms and conditions of the award.
- Prepares and execute amendments to awards as necessary.
- Processes ratification actions as necessary.
- Initiates actions when disallowances, suspensions, or terminations are necessary.
- Processes after-the-fact approvals as defined at **303.3.18**.
- Maintains the official Agency files for each grant or cooperative agreement in accordance with the guidelines provided on file documentation (see **PEB 2005-06**, File Standardization Pilot – available on the USAID Intranet only).
- Carries out all other responsibilities as further detailed in this chapter and [22 CFR 226](#).

e. The Activity Manager is responsible for ensuring that USAID exercises prudent management over assistance funds before award by accomplishing the following:

- Ensures adequate time to compete and award an assistance instrument and give the Agreement Officer sufficient notice by using an annual procurement plan or by obtaining the Agreement Officer's consent.
- Prepares competitive announcements or justify an exception to competition, in accordance with this chapter and as directed by the Agreement Officer.
- Provides the Agency Liaison with an annual update of the information in any CFDA entry for which the Activity Manager is responsible (see **303.3.4.1** on CFDA entries).
- Complies with [22 CFR 216](#) – Environmental Procedures requirements during the design process.

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- Manages the technical evaluation of applications on behalf of the Agreement Officer, including performing a past performance review of the applicant.
- Carries out elements of a pre-award survey, and provide technical analysis of specific costs, when asked by the Agreement Officer.
- Advises the Agreement Officer as to whether an application is responsive to a published USAID competitive notice or is otherwise in keeping with established USAID Strategic Objectives.
- Determines the expected level of cost-sharing, in accordance with specific program requirements and **303.3.10**.
- Processes all necessary USAID documentation to request that the Agreement Officer consider awarding a grant or cooperative agreement to a selected applicant. This documentation includes advice on the technical and professional aspects of the application and provides a Program Description with clearly established goals that are realistic, measurable, and represent the highest objective that the recipient can expect to achieve and for which it will be held accountable.
- Helps the Agreement Officer determine the potential recipient's level of technical and managerial competence.
- Performs other duties, as requested by the Agreement Officer, for ensuring prudent management of assistance funds.

f. The Cognizant Technical Officer (CTO) is the person designated, in writing, by the Agreement Officer to administer certain aspects of the assistance instrument after USAID awards it. This authority is not redelegable other than as specified in the AO's designation letter. The CTO is responsible for ensuring that USAID exercises prudent management of assistance awards and for making the achievement of program objectives easier by monitoring and evaluating the recipient and its performance during the award by accomplishing the following:

- Maintains contact, including site visits and liaison, with the recipient;
- Reviews and analyzes reports and verify timely performance, including monitoring reporting requirements. (See [ADS 540.3.2.3](#) and [ADS 540.3.2.6](#));
- Ensures compliance with the terms and conditions of the award;
- Carries out all responsibilities as delegated by the Agreement Officer in the Schedule of the award, or as noted under the "Substantial Involvement" section of Cooperative Agreements;

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- Monitors the recipient's financial reports to ensure that the recipient is making progress toward meeting the required cost sharing, when applicable;
- Notifies the Agreement Officer 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 Agreement Officer in the review of proposed Branding Strategy and Marking Plans and monitor 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 and the relevant Bureau Environmental Officer approves them in writing. (see [ADS 204](#)).
- Monitors classified recipients' compliance with the security specifications included in their grants and cooperative agreements, and notify the AO and SEC of any problems or suspected non-compliance with these requirements (see [ADS 545](#), [ADS 565](#), and [ADS 567](#)).
- Evaluates the recipient's program effectiveness at the end of the program and submit a final report to the Agreement Officer and the Activity Manager; and
- Performs other duties, as requested or delegated by the Agreement Officer, for ensuring prudent management of assistance funds.

g. The Office of the General Counsel (GC) is responsible for interpreting laws on behalf of USAID. GC or the cognizant Regional Legal Advisor (RLA) makes the final legal determination on behalf of the Agency. USAID staff must refer all contacts from a potential recipient or recipient's lawyer to GC or the RLA and consult GC or the RLA on significant policy matters.

h. Assistant Administrators are responsible for approving terminations, based on the decision that continued assistance would not be in the national interest of the United States.

i. The Recipient is responsible for carrying out the program, in accordance with the terms and conditions of the award and all applicable laws and regulations.

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303.3 POLICY DIRECTIVES AND REQUIRED PROCEDURES

Effective Date: 06/01/2006

303.3.1 Policy Directives

Effective Date: 06/01/2006

[OMB Circular A-110](#), “Uniform Administrative Requirements for Grants and Agreements Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,” is codified by USAID at [22 CFR 226](#), “Administration of Assistance Awards to U.S. Non-Governmental Organizations.” [22 CFR 226](#) sets forth requirements that USAID must follow in administering grants and cooperative agreements with U.S. non-governmental organizations. In addition, USAID policies applicable to U.S. Nongovernmental Recipients are expressed in the [Standard Provisions for U.S. Nongovernmental Organizations](#).

Although these regulations ([OMB Circular A-110](#) and [22 CFR 226](#)) do not directly apply to non-U.S. nongovernmental organizations, USAID applies it as a matter of policy to non-U.S. nongovernmental organizations to the extent practicable, as provided in this ADS Chapter and the [Standard Provisions for Non-U.S. Nongovernmental Organizations](#).

303.3.2 Required Procedures

Effective Date: 06/01/2006

USAID generally implements new requirements through [Acquisition and Assistance Policy Documents \(AAPDs\)](#), when it is necessary to implement a change prior to formal amendment of this chapter, 22 CFR 226 or the Standard Provisions. OAA generally promulgates guidance, best practices, reminders and frequently asked questions through **Procurement Executive Bulletins (PEBs)** (available on the USAID intranet only).

303.3.3 Type and Length of Assistance Instrument

Effective Date: 06/01/2006

A grant or cooperative agreement may be used only when the principal purpose of the transaction is the accomplishment of a public purpose of support or stimulation, authorized by the Foreign Assistance Act of 1961, as amended (FAA). For further guidance on the differences between assistance (that is, grants and cooperative agreements) and acquisition, see [ADS 304](#).

The Strategic Objective (SO) team makes a preliminary determination of the length and type of instrument, based on the purpose of the transaction and the intended nature of the relationship (see [ADS 201.3.4.3](#) and [ADS 201.3.7.8](#) for Strategic Objective timeframes). The team describes the purpose and proposed instrument in the programming and requesting documents. The Agreement Officer makes the final

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decision as to whether an award will be an acquisition instrument or an assistance instrument.

303.3.4 Deviations

Effective Date: 06/01/2006

When it is necessary to achieve program objectives under the award, or when special circumstances make such deviations clearly in the best interests of the Government, USAID may grant an exemption from

- [22 CFR 226](#),
- The policy directives and required procedures of this chapter,
- The [Standard Provisions for U.S. Nongovernmental Organizations](#), or
- The [Standard Provisions for Non-U.S. Nongovernmental Organizations](#).

Note: this does not apply to the requirements of 22 CFR 216, Environmental Procedures.

a. Approving Officials

(1) U.S. organizations. For grants and cooperative agreements to U.S. organizations, only the Director, Office of Acquisition and Assistance, may approve deviations. OMB must also approve any class deviations to 22 CFR 226, OMB Circular A-110, and any deviations to other OMB Circulars.

(2) Non-U.S. organizations. For grants and cooperative agreements to non-U.S. organizations, deviations to grants and cooperative agreements may be approved either by the Director, Office of Acquisition and Assistance; or by the Mission Director with program responsibility.

b. Procedure.

(1) The Agreement Officer or the Activity Manager may initiate a deviation request with an action memorandum to the appropriate approving official, as described in **303.3.4, paragraph a** above.

(2) The Agreement Officer must clear on all deviations prior to submitting the document to the approving authority.

(3) The Agreement Officer or Activity Manager must consult with GC or the Regional Legal Advisor on all deviations, and GC or RLA (as appropriate) clearance is required prior to submitting the document to the approving authority.

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(4) Before submitting the action memorandum to the approving official under paragraph a, the requestor must obtain written comments from the Bureau for Management, Office of Acquisition and Assistance, Policy Division (M/OAA/P). The request for M/OAA/P comments must contain at a minimum the information required in paragraph c of this section. M/OAA/P will generally respond within ten working days. If more time is needed, M/OAA/P will advise the requestor and provide an estimate of when comments will be provided; however, the package cannot be submitted for approval until the requestor receives a written response from M/OAA/P. The Agreement Officer must maintain a copy of the comments submitted by M/OAA/P as part of the deviation request files.

(5) If the deviation request involves the cost principles or the applicant's Negotiated Indirect Cost Rate Agreement, the Agreement Officer must also obtain written comments from the Bureau for Management, Office of Acquisition and Assistance, Contract Audit and Support Division, Overhead/Special Costs and Closeout Branch, (M/OAA/CAS) before submitting to the approving official. M/OAA/CAS has ten working days in which to respond. If they need more time, M/OAA/CAS will advise the requestor, and provide an estimate of when they will provide comments. If M/OAA/CAS does not provide comments within 10 working days or within any requested extension period(s) the requestor may treat the silence as concurrence.

(6) If the approving official does not approve the deviation request, the approving official should return the request to the requestor with a written explanation as to why the request was not approved. If the requestor can revise the request to respond to the approving official's objections, the requestor may do so, and resubmit the request. There is no appeal from the approving official's denial of a request for a deviation.

(7) The requestor must provide a copy of each approved deviation record to M/OAA/P and the Agreement Officer must retain the approved deviation in the award file. This applies to all approved deviations, including those by the Director, Office of Acquisition and Assistance, or by a Mission Director.

c. Contents of a Deviation Request. Each request for a deviation must contain at a minimum (see the [additional help, Sample Action Memorandum for Deviation](#)):

- (i) The name of the recipient(s) and identification of the grant(s) or cooperative agreement (s) affected, including the dollar value;
- (ii) Identification of the provision, policy, or procedure from which a deviation is necessary;
- (iii) A full description of the deviation and the circumstances in which it will be used;

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(iv) Detailed reasons supporting the request, including any pertinent background information that contributes to a fuller understanding of the deviation sought;

(v) A description of the intended effect of the deviation; and

(vi) A statement as to 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.

303.3.5 Public Notice and Advertising

Effective Date: 06/01/2006

a. USAID has a responsibility to notify the public of its intended funding priorities for assistance programs ([22 CFR 226.11\(b\)](#)). It generally fulfills this responsibility by announcing assistance programs in the [Catalog of Federal Domestic Assistance](#) and on [Grants.gov](#).

b. As OMB policy requires, (see the mandatory reference [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, with the following exceptions:

- Programs that only publish assistance programs through the publication of a CFDA entry by the SO Team. NOTE: USAID, at present, does not publish assistance programs solely through CFDA entries.;
- Awards that USAID limits to non-U.S. recipients, and will be less than \$25,000; or
- Non-competitive agreements authorized in accordance with **303.3.6.5(a), (b), (c), (h), (i) or (j)** that USAID will specifically direct to a known recipient.

Specific instructions for posting synopses and application packages to [Grants.gov](#) are contained in the internal mandatory reference document, entitled [USAID Policy Guidance on Posting Grant Opportunities and Application Packages on Grants.gov](#).

303.3.5.1 Catalog of Federal Domestic Assistance

Effective Date: 06/01/2006

The Federal Program Information Act, ([31 U.S.C. 6104](#)), and [OMB Circular A-89](#) established the CFDA as a database of all Federal programs available to U.S. non-governmental organizations, individuals, educational institutions, and state and local governments. An individual or organization can search this database to find assistance programs meeting its requirements and for which it is eligible. The individual or

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organization can then contact the office that administers the program and find out how to apply.

Use of the CFDA allows an individual or organization to find information in one location, instead of having to search through 26 different agency web sites. All agencies of the U.S. Government, including USAID, are required to collect, coordinate, and submit information on all current Federal domestic assistance programs and on new programs as they arise. See [Interim Update 03-05](#) and [Interim Update 04-05](#) for more information on CFDA processes and policy.

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

USAID satisfies the requirement to publicize its programs in the CFDA through a general entry that covers its general activities. These programs must also be published in Grants.gov and issued as Request for Applications or Annual Program Statements.

If the SO Team wishes to submit an entry, it should submit, through the Bureau program office to the Agency Liaison. The Program Officer must annually update the information USAID provides to the CFDA.

See **303.3.6.4** concerning review and evaluation of submissions in response to the CFDA.

303.3.5.2 Request for Applications

Effective Date: 06/01/2006

USAID uses a Request for Applications (RFA) when the intent is to provide assistance for an activity or methodology that supports or is in keeping with USAID's program objectives.

The minimum period for receipt of applications in response to an RFA is 30 days after the date USAID issues the RFA. USAID should provide longer periods for larger activities or more detailed applications to ensure the quality of the applications. If USAID cannot provide 30 days notice, the competition may proceed only with the express written approval of the Agreement Officer.

In cases where USAID will make multiple awards, the RFA may include a closing date of up to one year after issuance of the RFA, with provision for multiple reviews (**See 303.3.6.3**).

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The Request for Applications must, at a minimum, follow the format established by the Office of Federal Financial Management Policy Directive on Financial Assistance Program Announcements (See the external mandatory reference, [Office of Federal Financial Management; Policy Directive on Financial Assistance Program Announcements](#)).

a. Section I, Funding Opportunity Description, contains the full programmatic description of the funding opportunity. It must include the following:

(1) A general description of the proposed program, with an indication of the range of activities that might be involved, and the established goals of the activity, if any, which the applicant is expected to meet. The level of detail in the program description will depend on the requirements of the strategic objective;

(2) A statement identifying the authorizing legislation (generally the Foreign Assistance Act, as amended) and whether the award is subject to [22 CFR 226](#);

(3) Program eligibility requirements; and

(4) How the award will be administered. For U.S. organizations, the RFA must state that 22 CFR 226, OMB Circulars, and the Standard Provisions for U.S., Nongovernmental Recipients will be applicable. For non-U.S. organizations, the RFA must state that the Standard Provisions for Non-U.S., Nongovernmental Recipients will apply. USAID prefers that instead of attaching complete copies of 22 CFR 226 and the OMB Circulars to the RFA, the RFA direct applicants to the source where they may obtain copies (for example, indicate the name of the person they may contact, or the USAID homepage address on the Internet, or other Internet addresses). See the references section at the end of ADS 303 for links to these sites and documents;

b. Section II, Award Information, must provide sufficient information to help a potential applicant decide whether to submit an application. This section must include the following:

(1) An estimate of funds available, the number of awards USAID expects, and the range of expected amounts of individual awards;

(2) The anticipated start dates and performance periods; and

(3) Whether USAID will award a grant or cooperative agreement. If you expect to award a cooperative agreement, describe the intended substantial involvement (**See 303.3.11**)

c. Section III, Eligibility Information, must address considerations or factors that make an applicant or application eligible or ineligible for consideration. This section must include the following:

*An asterisk indicates that the adjacent information is new or substantively revised.

(1) Clear identification of the types of entities that may apply. If there are no restrictions, indicate that all potential applicants may apply, and if faith-based and community organizations are eligible, state this (see the Mandatory Provision “Certification of Faith-Based and Community Organizations”);

(2) A statement to the effect that USAID encourages applications from potential new partners;

(3) The cost sharing element and whether it is required or suggested, as applicable (**see 303.3.10**). If there is no cost sharing requirement, or if there are any special conditions regarding the types of costs that are acceptable as cost sharing (consistent with [22 CFR 226](#)), USAID must explicitly state these; and

(4) Any other minimum qualification requirements.

d. Section IV, Application and Submission Information, must include the following:

(1) A point of contact’s contact information, including name, title, address, e-mail address, and phone and fax numbers, where a potential applicant can get any materials they may need to apply or state that the RFA contains everything a potential applicant needs to apply.

(2) A statement that the applicant must submit the application using the SF-424 series, which includes the

- [SF-424, Application for Federal Assistance](#)
- [SF-424A, Budget Information - Nonconstruction Programs](#), and
- [SF-424B, Assurances - Nonconstruction Programs](#)

(3) The required certifications, as established at **303.3.8**;

(4) The required format for the application. In accordance with the regulations, ([5 CFR 1320](#)), promulgated under the Paperwork Reduction Act, USAID may require no more than the original and two copies of any application;

(5) The deadline for submission of application, how USAID makes the determination whether it has received an application in time, and consequences of late submission (**see 303.3.6.7**);

(6) Any funding restrictions when appropriate, such as limitations on allowable activities for the particular program, or limitations on direct costs, such as purchase of equipment. This section must also include whether the award will or will not allow the reimbursement of pre-award costs; and

*An asterisk indicates that the adjacent information is new or substantively revised.

(7) Other submission requirements. This might include the format of submission (paper or electronic), and where the applicant must submit the application. If USAID authorizes electronic submission, advise what the applicant should do in the event of system problems, and provide a point of contact in the event of technical difficulties.

e. Section V, Application Review Information, must include the following:

(1) The criteria and any subcriteria that USAID will use to evaluate applications, including an indication of their relative importance (**see 303.3.6.3**);

(2) A clear statement of how USAID will evaluate cost sharing as part of the review process (**see 303.3.10**). If USAID will consider cost sharing as more than just an eligibility factor (**see 303.3.5.2.c(3)**), do not use vague statements such as “cost sharing is encouraged,” and do not use cost sharing as a separate evaluation factor. If USAID evaluates it, include cost sharing as a sub-element of cost effectiveness.

(3) A description of the review and selection process. The RFA may indicate who will evaluate the applications (for example, USAID personnel, or USAID personnel and representatives from the Embassy, or host government, or private sector individuals) and who makes the final selection.

f. Section VI, Award and Administration Information, must contain the following:

(1) What a successful applicant can expect to receive following selection. State that a notice of award signed by the Agreement Officer is the authorizing document, whether USAID will provide it electronically and to whom USAID will provide it. USAID may include a description of the form and content of notifications to unsuccessful applicants, and whether debriefings will be considered.

(2) If the award will include any deviations from the standard provisions, a statement identifying the standard provision and the deviation; and

(3) General information on all reporting requirements.

g. Section VII, Agency Contacts must include points of contacts for questions while the funding opportunity is open. In addition to the name and address of the point of contact, USAID may establish an e-mail address for when the point of contact is not available.

h. Section VIII, Other Information, should include the following:

(1) A statement to the effect that USAID reserves the right to fund any or none of the applications submitted, and

(2) Any other relevant information.

*An asterisk indicates that the adjacent information is new or substantively revised.

303.3.5.3 Cancellation of Requests for Applications

Effective Date: 06/01/2006

- a.** The cancellation of a Request for Applications involves a loss of time, effort, and money spent by the Government and applicants. USAID should not cancel invitations unless cancellation is clearly in the public interest. For example:
- (1) Where there is no longer a program or project or where USAID is no longer supporting the program, or
 - (2) Where amendments to the RFA would be of such magnitude that a new RFA is desirable.
- b.** Applications that USAID has received will be returned unopened to the applicants and USAID will issue a notice of cancellation as either a general notice, posted electronically, or sent to all prospective applicants, or both, as appropriate. USAID will not view applications that it receives electronically, and USAID must purge them from primary and backup data storage systems.
- c.** The notice of cancellation must include the following:
- (1) Identify the RFA by number and short title or subject matter,
 - (2) Briefly explain the reason why USAID is canceling the invitation, and
 - (3) Where appropriate, assure prospective applicants that they will be given an opportunity to apply for any subsequent or future RFA for the program.
- d.** The Agreement Officer will document the following:
- (1) Circumstances and rationale for the cancellation,
 - (2) Applications received and returned or purged, and
 - (3) Cancellation notice date and issuance.

303.3.5.4 Annual Program Statement (APS)

Effective Date: 06/01/2006

USAID may use an Annual Program Statement (APS) to generate competition for new awards where USAID intends to support a variety of creative approaches by the non-governmental community to develop their own methodologies in assessing and/or implementing activities which are in keeping with strategic objectives. In this case, USAID may issue an APS instead of relying on unsolicited proposals.

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

a. The Annual Program Statement will contain, at a minimum:

(1) The specific statutory authority and program eligibility requirements, where applicable. USAID must state that the program is authorized in accordance with the Foreign Assistance Act;

(2) The activity objectives, including any areas of special interest and what information will be requested;

(3) A brief statement on how USAID will evaluate resulting applications, including how environmental soundness and compliance in design and implementation will be ensured when required by the 22 CFR 216 determination, and evaluation criteria, with an indication of their relative importance;

(4) An estimate of funds available, if appropriate, and the number of awards that USAID anticipates;

(5) Any cost sharing element, as applicable (**See the mandatory reference, [22 CFR 226.23](#)**);

(6) How USAID will administer the award. For U.S. organizations, state that 22 CFR 226, OMB Circulars, and the USAID Standard Provisions will be applicable. For non-U.S. Non-Governmental Organizations, state that the Standard Provisions for Non-U.S., Non-Governmental Organizations will apply. It is preferred that complete copies of these documents are not attached to the APS. Rather, note how applicants may receive copies (e.g., name or individual they may contact or the USAID homepage address on the Internet). See the references section at the end of this chapter for links to these sites and documents;

(7) A point of contact, including name, title, address, and phone number;

(8) A Statement that USAID reserves the right to fund any or none of the applications submitted;

(9) The required or suggested format for the application. In accordance with 5 CFR 1320, the Paperwork Reduction Act, only the original and two copies of any application will be required (**See [5 CFR 1320](#)**); and

(10) Any other relevant information.

*An asterisk indicates that the adjacent information is new or substantively revised.

303.3.5.5 Unsolicited Concept Papers and Applications

Effective Date: 06/01/2006

The mandatory reference, [Guide to USAID's Assistance Application Process and to Submitting Unsolicited Assistance Applications](#), gives guidance for submitting unsolicited concept papers or applications. USAID should encourage the general public to review it.

303.3.6 Competition

Effective Date: 06/01/2006

The Agreement Officer is the Agency official responsible for guaranteeing the integrity of the competitive process by ensuring overall fairness and consideration of all eligible applications. The Agreement Officer also has the ultimate authority for making award funding decisions on behalf of USAID, in keeping with the policy directives and required procedures of this chapter.

303.3.6.1 Competition Requirements

Effective Date: 06/01/2006

In keeping with the Federal Grant and Cooperative Agreement Act, USAID encourages competition in the award of grants and cooperative agreements so that it may identify and fund the best projects to achieve program objectives ([see 31 U.S.C. 6301](#)). Unless USAID authorizes an exception in accordance with [303.3.6.5](#), USAID policy is to award all grants and cooperative agreements competitively, seeking applications from all eligible and qualified entities. Competition requires that the following occur:

- USAID publishes an announcement in accordance with [303.3.5](#), and
- USAID conducts an impartial review and evaluation of all applications, as provided in [303.3.6.4](#), and makes a recommendation to the Agreement Officer for award.

303.3.6.2 Eligibility

Effective Date: 06/01/2006

The Agreement Officer is responsible for verifying that an RFA or 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 (CRSPs) or the program for expanding Minority Serving Institutions

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(MSIs)), USAID must cite the program in the CFDA, RFA, APS or other appropriate notice.

b. To be eligible for assistance under the Private Voluntary Organization grant program and other programs listed in [22 CFR 203.1](#), both U.S. Private Voluntary Organizations and International Private Voluntary Organizations must be registered with USAID, as required by [22 CFR 203](#). The registration requirement does not apply to local Private Voluntary Organizations.

c. Qualifications. The SO Team develops the minimum qualifications for applicant consideration. However, if the Agreement Officer determines that the criteria are so restrictive that they severely limit competition, the Agreement Officer may request the Activity Manager to broaden the criteria, or require the Activity Manager to process an exception to competition, as provided in 303.3.6.6, in order to make the planned award.

d. Multi-tiered Competition. The SO Team, with the approval of the Agreement Officer, may establish a two or more tiered competition system. The SO Team may ask potential applicants to submit an executive summary or concept paper and corresponding budget information. After it reviews and evaluates these submissions, it conducts a second level of competition, using more specific evaluation criteria, among a selection of the best applicants to the first competition and requesting more detailed applications. The SO team may conduct additional levels of competition only if the second level does not adequately identify activities to be funded. Section V of the RFA for this type of competition must explain the intended process so that potential applicants know what to expect at each phase.

303.3.6.3 Evaluation Criteria

Effective Date: 06/01/2006

The SO team is responsible for developing evaluation criteria used to evaluate applications. At a minimum, the criteria must include the following:

- Technical merits of the applications,
- Cost effectiveness and cost realism of the application,
- Past performance of the applicant, and
- Branding strategy and marketing plan.

The evaluation criteria in an announcement must give as much information as practical to allow potential applicants to judge whether it is in their best interest to incur costs to apply for an award. The criteria must address the importance of the technical and/or 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

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relative importance of the criteria. The Activity Manager must get the Agreement Officer's approval of the criteria before USAID publishes it in the RFA or APS.

a. Past performance. An applicant's past performance can serve as an indicator of the quality of its future performance. An applicant must provide a list of all contracts, grants, or cooperative agreements involving similar or related programs during the three years before the application. Reference information must include the location, award numbers if available; a brief description of work performed; and points of contact with current telephone numbers. The Activity Manager determines whether to require this information as part of the initial application, or to require it later from a limited number of applicants who have the best chance of being selected for an award. Requiring the information at a later date may be appropriate where USAID is conducting a "prequalification" competition (see 303.3.6.2.d). In any event, the Activity Manager must obtain past performance information before selection, and make that information part of the written evaluation that the Activity Manager forwards to the Agreement Officer. See **information on the [use of Past Performance at: http://www.acqnet.gov/Library/OFPP/ BestPractices/pastpeformguide.htm](http://www.acqnet.gov/Library/OFPP/BestPractices/pastpeformguide.htm)**

(1) **Evaluating Past Performance.** The Activity Manager and Technical Evaluation Committee defined in 303.3.6.4 are responsible for evaluating an applicant's past performance. The Activity Manager and Technical Evaluation Committee will validate an applicant's past performance reference information by relying on existing evaluations to the maximum extent possible; and making a reasonable, good faith effort to contact all references to obtain verification or corroboration on the following evaluation criteria:

- How well an applicant performed,
- The relevancy of that the program work,
- 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 Activity Manager and Technical Evaluation Committee may contact references other than those provided in the application if the RFA or APS states that other references may be contacted.

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(2) Assessing how recent and relevant the past performance information is;

(3) Evaluating the past performance of the team, consortia, or joint venture members and proposed subaward organizations, along with the applicant's past performance; and

(3) Including an analysis and rationale for the conclusions reached regarding an applicant's past performance.

(4) The Technical Evaluation Committee may use the Contractor Performance System (CPS) and the Past Performance Information Retrieval System (PPIRS) if there is information available on the recipient in these systems, taking into account the differences between performance under acquisition and performance under assistance.

b. No Requirement for Prior USAID Experience. RFA and APS documents for award of USAID assistance instruments must not contain minimum qualification or evaluation criteria/selective factors requiring "prior USAID experience."

c. Gender issues. USAID must address gender issues in all USAID-funded activities (**see [ADS 201.3.12.6](#)**). USAID must include a statement outlining gender issues or a rationale for not including such a statement in the competitive RFA or APS, in accordance with **[ADS 201.3.12.6](#)**. The Approving Official (**see [ADS 201.3.12.16](#)**) determines the appropriateness of the statement or the rationale as part of the pre-obligation requirements. If the SO team decides that it should not incorporate gender issues, it must document the decision. When USAID directs applicants to incorporate gender issues into the activity, the RFA or APS must state the requirement.

When developing specific criteria for evaluating an applicant's plan to incorporate gender issues, the SO team must consult, to the extent necessary, with the Bureau for Economic Growth, Agriculture and Trade, Office of Women in Development (EGAT/WID). EGAT/WID will provide the SO team with guidance on structuring the criteria to evaluate the plan's positive impacts on the socio-economic status of women, varying impacts on men and women, and methods for measuring these impacts.

d. Volunteers for Prosperity. Executive Order 13317, signed by the President on September 25, 2003 (**[Executive Order 13317](#)**), requires that an applicant's use of highly skilled United States volunteers be an evaluation factor in the selection of applications for assistance activities to be implemented abroad under these initiatives:

- Emergency Plan for AIDS Relief,
- Digital Freedom Initiative,
- Water for the Poor Initiative,

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- Trade for African Development and Enterprise Initiative,
- Middle East Partnership Initiative, and
- Other Presidential Initiatives that will be identified in the future.

e. Environmental Concerns. The Activity Manager must ensure that the requirements for environmental impact assessment in [22 CFR 216](#) have been met, approved in writing by the relevant Bureau Environmental Officer and are incorporated in the RFA, APS and award, as needed. When USAID directs applicants to address environmental concerns in the activity, the RFA or APS must state the requirement. [ADS 204](#) contains detailed guidance on environmental concerns and [ADS 201](#), [ADS 202](#), and [ADS 203](#) contain additional guidance on incorporating [ADS 204](#) into planning, achieving and learning processes.

f. Branding and Marking. It is a federal statutory and regulatory requirement that all USAID programs, projects, activities, public communications, and commodities that USAID partially or fully funds under a USAID grant or cooperative agreement or other assistance award or subaward, must be marked appropriately overseas with the USAID Identity. See Section 641, Foreign Assistance Act of 1961, as amended; [22 CFR 226.91](#). Under the regulation, USAID requires the submission of a Branding Strategy and a Marking Plan, but only by the “apparent successful applicant,” as defined in the regulation. The apparent successful applicant’s proposed Marking Plan may include a request for approval of one or more exceptions to marking requirements established in [22 CFR 226.91](#). The AO is responsible for evaluating and approving the Branding Strategy and a Marking Plan (including any request for exceptions) of the apparently successful applicant, consistent with the provisions “Branding Strategy,” “Marking Plan,” and “Marking of USAID-funded Assistance Awards” contained in [AAPD 05-11](#) and [in 22 CFR 226.91](#). See also [ADS 320](#). Please note that in contrast to “exceptions” to marking requirements, waivers based on circumstances in the host country must be approved by Mission Directors or other USAID Principal Officers, see [22 CFR 226.91\(j\)](#). Please contact OAA/Policy, GC/A&A, or USAID’s Senior Advisor on Brand Management if you have any questions about the applicability of either [AAPD 05-11](#) or [22 CFR 226.91](#).

303.3.6.4 Reviewing and Evaluating Applications

- a.** At least two people (three or more is preferable) will be appointed to a Technical Evaluation Committee to evaluate applications. The Technical Evaluation Committee must evaluate the applications using the stated evaluation criteria. The Technical Evaluation Committee must keep selection information and applicant proprietary data confidential.
- b.** Committee members must possess the requisite technical knowledge or expertise to evaluate the technical merit of the applications. USAID may make exceptions with the approval of the Agreement Officer.

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c. When necessary, other Federal agencies and non-governmental evaluators may participate in reviewing and evaluating applications. USAID staff (including direct-hire, PSC, and PASA/RSSA direct-hire employees) must comprise a majority of the members on all technical evaluation committees.

d. The Agreement Officer must take steps to make sure that members of the committee who review and evaluate applications, either USAID staff or outside evaluators, do not have any conflicts of interest with regard to the organizations whose applications they will be reviewing. A conflict of interest would include situations where that person, his/her spouse/partner, minor child, or any organization or entity in which the person serves as officer, director, trustee, general partner or employee (including any organization with whom that person is negotiating about such a position), works for, or is negotiating to work for, or has any other financial interest (including being an unpaid member of a Board of Directors) in any organization that submits an application currently under the committee's review.

Another example would be if an employee of an outside organization (e.g. TAACS) participated in the review of a potential competitor's proposal and gained access to financial and/or other data that may be competitively useful to the reviewer's organization in future instances.

The SO Team must make all efforts to identify potential conflicts early in the competitive process. Since resolution of conflicts of interest is fact-driven and case-specific, the SO Team must coordinate with the Agreement Officer and the cognizant legal advisor in addressing these issues.

e. When periodic reviews are specified, the Activity Manager collects applications, as they are received, until USAID can review and evaluate a reasonable number in accordance with the provisions of the announcement. If the SO team established a specific time frame for review of applications in its notice, for example, quarterly reviews, and only one application was received during that time, it may consider that to be a reasonable number. The team may include applications it received in response to earlier notices in its review. For programs of the Office of Foreign Disaster Assistance (OFDA), the OFDA Director may authorize selection based on one application if the OFDA Director determines that it is not advisable to wait for more applications. The Activity Manager must provide a copy of this authorization to the Agreement Officer.

f. The Activity Manager must coordinate with EGAT/WID as necessary when evaluating applications against a criterion relating to gender issues.

g. If an unsolicited application reasonably fits an existing program, the SO team may include the application in the competition under the RFA, or APS. If it does not, an exception to competition under **303.3.6.5** is necessary before USAID can issue an award to the applicant.

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- h.** The same individuals should review all applications. If this is not possible, or if there are established procedures for review by various committees, the Activity Manager must document the reason and the procedure, and submit it to the Agreement Officer for the agreement files.
- i.** The Agreement Officer is responsible for providing the Technical Evaluation Committee with a written Evaluation Plan that specifies the criteria and methodology for evaluating the applications, consistent with what was published in the RFA, or APS document.
- j.** The Technical Evaluation Committee must prepare a written evaluation of each application, comparing it against the established criteria.
- k.** If USAID did not assign numerical values to the evaluation criteria, then the comparison will be entirely narrative. The narrative will explicate each application's strengths and weaknesses when compared to the evaluation criteria. If the RFA does not indicate the relative importance of the evaluation criteria, then all evaluation criteria will be equally weighted.
- l.** If USAID assigns numerical values to the criteria, the evaluation must include a discussion of the numerical scoring, and a narrative explicating each application's strengths and weaknesses when compared to the evaluation criteria. The committee must also include a discussion of the review procedure that it followed. The Activity manager must forward this written evaluation to the Agreement Officer, who must ensure that a copy is placed in the agreement file.
- m.** In accordance with [Executive Order 13279](#) of December 12, 2002, Equal Protection for the Laws for Faith-Based and Community Organizations, USAID is guided by the following principles:
- (1) The Federal Government must distribute Federal financial assistance for social service programs in the most effective and efficient manner possible;
 - (2) All eligible organizations, including faith-based and other community organizations, must be able to compete on an equal footing for Federal financial assistance used to support social service programs;
 - (3) No organization may be discriminated against on the basis of religious character or affiliation in the administration or distribution of Federal financial assistance;
 - (4) Faith-based organizations may not be required as a condition of federal assistance to sacrifice their independence, autonomy, expression, or religious character. Accordingly, a faith-based organization that applies for or participates in a USAID program may retain its independence and may continue to carry out its mission, including the definition, development, practice, and expression of its

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religious beliefs, provided that it does not use direct Federal financial assistance to support any inherently religious activities, such as worship, religious instruction, or proselytizing. 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 religious terms in its name, select its board members on a religious basis, and include religious references in its mission statements and other chartering or governing documents.

303.3.6.5 Exemptions from Competition Requirements

Effective Date: 06/01/2006

USAID does not require competition for the following categories of assistance awards, when the Activity Manager has prepared a justification based on one of the following exemptions:

a. Follow-on Assistance Agreements and Amendments. A follow-on assistance award is a new agreement subsequent to the completion of an existing agreement for either the same activity or to further develop an existing assistance relationship. USAID may implement it through an amendment to an original award or as an entirely separate award. This authority must not be used to extend an award made to U.S. organizations beyond 10 years of its original award date, unless an exception is approved by the Director, Office of Acquisition and Assistance, and, for awards to Non-U.S. organizations, an exception is approved by the Director, Office of Acquisition and Assistance or the Mission Director, for overseas awards. USAID must not use the follow-on exception to continue a relationship with a recipient that received a non-competitive award based on the Small Award exception.

The Activity Manager must justify, with specificity and in writing, why the benefits of continuing the assistance activity with the same recipient exceeds the benefits of a competitive process favored by the law and Agency policy. Amendments which require justifications are those which, for example, extend the life of the award and simultaneously either increase the total estimated amount of the award or change the program description. USAID does not require a justification if the amendment is strictly for administrative purposes (such as incremental funding, changes which do not require an increase to the total estimated amount of the award, or a substantive change to the program description).

USAID may not extend an award through the exercise of an option clause in the award. It is not appropriate for USAID to reserve the authority to unilaterally extend an assistance award at its discretion because this would not be consistent with the limited management role available to the Agency in establishing an assistance relationship (See [ADS 304](#)).

*An asterisk indicates that the adjacent information is new or substantively revised.

b. Unsolicited applications. USAID may make an award based on an unsolicited application, without the benefit of competition, where the application has the following characteristics:

- Clearly shows a unique, innovative, or proprietary program,
- Represents appropriate use of USAID funds to support or stimulate a public purpose, and
- Fits within an existing strategic objective.

To qualify as an unsolicited application, the applicant must submit it to USAID solely on the applicant's initiative, without prior formal or informal solicitation from USAID. The SO Team Leader or the Head of the Operating Unit must certify that

- USAID did not solicit the application;
- Based on a review by an appropriate technical specialist and an Agreement Officer, the application is considered unique, innovative, or proprietary;
- Funding the application would represent appropriate use of USAID funds to support or stimulate a public purpose; and
- It fits within a strategic objective.

A request by a potential recipient may also be considered under an open APS, if the terms of the proposed assistance fit within the scope of the published APS. This would be considered as having been competed under the APS and no justification would be required.

A request by a recipient to extend an on-going relationship may not be considered an unsolicited application. In that case, USAID must prepare a justification following the guidance for amendments and follow-on assistance awards. See the mandatory reference [Guide to USAID's Assistance Application Process and to Submitting Unsolicited Assistance Applications](#).

c. Exclusive or predominant capability. USAID does not require competition when it considers one recipient to have exclusive or predominant capability based on the following criteria:

- Proprietary capability,
- Specialized facilities or technical expertise,
- An existing unique relationship with the cooperating country or beneficiaries, or

*An asterisk indicates that the adjacent information is new or substantively revised.

- Participation in a Global Development Alliance.

The Activity Manager must describe in sufficient detail the uniqueness of the proposed recipient and how it applies to the supported activity. The justification must also describe what other options USAID explored. This exception may not be used to continue an ongoing relationship where the applicant developed the exclusive or predominant capability during performance of an award. In that case, the Activity Manager should prepare a justification following the guidance for amendments and follow-on agreement awards. It also may not be used to continue an ongoing relationship with a recipient that received a non-competitive award based on the Small Award exception.

d. Small Grant awards. Small awards are awards with an estimated total amount of \$100,000 or less and with a term of no more than one year. These awards may not be amended to either add funds beyond \$100,000 or extend the date beyond one year from the original date of the award. A justification must explain how the proposed award fits the exception.

e. Local Competition. Competition may be limited to local or regional (indigenous) organizations. If a competition is limited to local or regional organizations, U.S. organizations may not compete for award unless the program is re-advertised to provide all U.S. organizations with a fair opportunity to compete for award.

f. The Director of the Office of Acquisition and Assistance. The Director of the Office of Acquisition and Assistance may authorize limited competition among a select group of applicants when it is necessary for reasons of efficiency. The Agreement Officer must submit a justification that describes in sufficient detail what other options USAID explored, including any other exceptions, as well as the multiple review alternative, discussed at **303.3.6.4, paragraph e**.

g. New Entrants. When the anticipated total estimate of the grant is less than \$5,000,000, the Agreement Officer may limit competition to organizations that have received USAID direct assistance of less than \$500,000 during the past five years to foster a larger assistance base and expand the number and sustainability of development partners. The AO will consult with the Activity Manager on limiting competition and document the rationale for limiting the competition. The announcement will specify the eligibility restrictions.

h. Congressionally mandated programs. USAID will not compete a Congressional earmark that specifies an award to a particular organization. The award must be stated in legislation, and if so, the justification must include a copy of the statute specifically describing the award and any information supporting the planned activity, as requested by the Agreement Officer.

USAID may also use the exception if the award is based on language in a Conference Report, which clearly indicates that Congress intends an award to go to a particular

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recipient, or when both the House and Senate Committee reports indicate the Congressional intent. In this case, in addition to the approvals in **303.3.6.6**, GC or the cognizant RLA, and the Assistant Administrator for the Bureau for Legislative and Public Affairs must also approve the justification before it is submitted to the Agreement Officer.

i. Critical objectives of the Foreign Assistance Program. When no other exception applies, the cognizant Assistant Administrator (AA) or Office Director who reports directly to the Administrator may authorize an award after determining that the award is critical to the objectives of the foreign assistance program. The AA or Office Director must not re-delegate this authority. The justification must explain the circumstances that require using the exception and the responsible AA or Office Director who reports directly to the Administrator must approve it. The memorandum must also discuss what other options USAID explored and the justification may not be tied to any of the other exceptions. The approval of the responsible AA or Office Director who reports directly to the Administrator is final.

j. Associate Awards. USAID may make awards of Associate grants or cooperative agreements under a Leader with Associate instrument (**see 303.3.26**) without competition.

k. Other Exceptions. Specific blanket justifications for a particular purpose or period of time, for example, those for HIV/AIDS, Tsunami Relief and others, can be found in **Additional Help**.

303.3.6.6 Justifications for Exceptions to Competition

Effective Date: 06/01/2006

Excluding the Foreign Assistance Policy exception and Associate Awards, the Activity Manager must submit written justification for any exemption from competition (**303.3.6.5**) to the Agreement Officer for his/her review and approval. The Activity Manager must base the justification on only one of the authorized exceptions.

a. Non-competitive Awards in excess of \$5 million. For all non-competitive awards in excess of \$5 million, the cognizant GC or RLA must review, before the Activity Manager submits it to the AO, all justifications under ADS 303 that support a non-competitive award or award augmentation.

b. Non-competitive Awards in excess of \$10 million. Before a justification for any non-competitive award in excess of \$10 million is submitted to the Agreement Officer (AO), the Assistant Administrator (AA) must sign an Action Memorandum. The action memorandum must include a copy of the justification for non-competition as an attachment. The action memo must indicate that the AA has personally reviewed the proposed decision to ensure that there will be no negative public policy implications of such award, and has cleared the particular grant on this basis. Both the Director of the Office of Acquisition and Assistance (OAA/D) and the Assistant General Counsel for Acquisition and Assistance (GC/A&A) must review and clear the action memorandum.

*An asterisk indicates that the adjacent information is new or substantively revised.

They cannot delegate these approvals, but individuals serving as AA, OAA/D, or AGC in an "Acting" capacity may clear the action memorandum.

c. Amendment and Follow-on Awards in excess of \$20 million. If the non-competitive assistance award is in excess of \$20 million and is justified by the "Amendment and follow-on" exception, the Administrator or Deputy Administrator must approve the action memorandum. Review by the Administrator or Deputy is on the same basis as the approval outlined for AAs above. Both the Director of the Office of Acquisition and Assistance (OAA/D) and the GC must review and clear the action memorandum. These approvals may not be delegated, but may be fulfilled by one serving as AA, OAA/D, or GC in an "Acting" capacity. This includes amendments to Associate awards under Leader with Associate assistance instruments.

The Agreement Officer may return the justification to the Activity Manager if the AO is not satisfied with it. In such cases, the Agreement Officer must notify the Activity Manager in writing, explaining the reasons for rejection. The Activity Manager may appeal to the Director, Office of Acquisition and Assistance, who makes the final determination.

303.3.6.7 Late or Incomplete Submissions

Effective Date: 06/01/2006

USAID may review and consider for award applications submitted for an RFA or APS which are late or incomplete as long as the following is correct:

- Their treatment is consistent with the terms of the RFA or APS,
- All similarly late applications are treated the same, and
- They are evaluated before any agreements are awarded under the RFA or APS.

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

303.3.7 The Award Decision

Effective Date: 06/01/2006

The Agreement Officer's decision about the funding of an award is final and not subject to review. Any information that may impact the Agreement Officer's decision must be directed to the Agreement Officer.

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303.3.7.1 Notification

Effective Date: 06/01/2006

a. Only the Agreement Officer can notify the apparent awardee that they are being further considered. It is essential that no one on the evaluation team make any commitment, expressed or implied, to the selected applicant. Only the Agreement Officer is authorized to make a commitment on behalf of USAID.

b. USAID policy is to notify each applicant in writing on the success of its application. Once a decision is made as to which applicant(s) USAID will consider for award, the Agreement Officer or the Activity Manager (if authority is delegated by the Agreement Officer) must notify all unsuccessful applicants that they will not be considered further for an award. This notification must explain briefly why USAID did not select the application. The Activity Manager must obtain the Agreement Officer's approval of the letter before sending it out.

303.3.7.2 Request for Additional Information or Debriefings

Effective Date: 06/01/2006

Within 10 working days after the applicant receives notice that USAID will not fund its application for a competitive award, an unsuccessful applicant may send a written request for additional information to the USAID Bureau/Office that issued the RFA or APS.

Responses are to be limited to USAID's level of interest in supporting the organization's program as described in its application. Comparing one organization's application to another is generally neither advisable nor helpful to the applicant. USAID encourages the Technical Evaluation Committee Chairperson and the Agreement Officer to give additional information that would be useful to the applicant in preparing future applications.

Debriefings may be provided at the discretion of the Agreement Officer. The cognizant Bureau/Office has 30 days to respond to the concerns or inform the applicant that more time is necessary. USAID may, at its discretion, respond orally, in writing, or electronically. A CTO or Agreement Officer responding orally must make a written summary of the response for the agreement file. The USAID staff member must obtain the Agreement Officer's approval of all written communication before it is sent, and the Agreement Officer must be present at any debriefing and should lead any such debriefing.

When the applicant's issues are related to the program, the Cognizant Technical Officer or TEC chair will provide constructive feedback that can assist applicants to develop improved proposals in the future. The CTO will explain the basis for the decision and the strengths and weaknesses of the technical application in terms of the published evaluation and review criteria. When the issues are accountability/business

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considerations, the Agreement Officer will respond. The CTO and the Agreement Officer will respond jointly when the applicant raises both types of issues.

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

Effective Date: 06/01/2006

In addition to the certifications that are included in the Standard Form 424, the Agreement Officer 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 may be required by the regulations which are listed in this section (See the additional help document, Certifications, Assurances, and Other Statements of the Recipient (May 2006)). The Agreement Officer may choose to ask that the applicant submit the certifications either as part of the application or during negotiations. The Agreement Officer should consider the administrative burden of requiring certifications from all applicants versus potential delays in making the award while waiting for certifications. The required certifications, assurances and other statements follow:

- a. For U.S. organizations, a signed copy of the mandatory reference, [Assurance of Compliance with Laws and Regulations Governing Nondiscrimination in Federally Assisted Programs](#). This certification applies to Non-U.S. organizations if any part of the program will be undertaken in the United States;
- b. A signed copy of the certification and disclosure forms for “Restrictions on Lobbying” (see [22 CFR 227](#));
- c. A signed copy of the “Prohibition on Assistance to Drug Traffickers” for covered assistance in covered countries, as detailed in [ADS 206.3.10](#);
- d. A signed copy of the Certification Regarding Terrorist Funding required by the Internal Mandatory Reference [AAPD 04-14](#);
- e. When applicable, a signed copy of “Key Individual Certification Narcotics Offenses and Drug Trafficking” (See [ADS 206](#));
- f. When applicable, a signed copy of “Participant Certification Narcotics Offenses and Drug Trafficking” (See [ADS 206](#));
- g. When the award will obligate FY 06 – FY 08 HIV/AIDS funds, a signed copy of “Certification of Compliance with the Standard Provisions entitled “Condoms” and “Prohibition on the Promotion or Advocacy of the Legalization or Practice of Prostitution or Sex Trafficking.” See [AAPD 05-04](#).
- h. All RFAs must include the **Survey on Ensuring Equal Opportunity for Applicants**; and

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i. All applicants must provide a Data Universal Numbering System (DUNS) Number (see [Federal Register Notice Use of a Universal Identifier by Grant Applicants](#)).

***303.3.9 Pre-Award Responsibility Determination**

Effective Date: 09/09/2008

The recommendation or selection of an application for award in accordance with **303.3.6** does not in any way guarantee an award. The AO must be fully satisfied that the applicant has the capacity to adequately perform in accordance with principles established by USAID and OMB. Depending on the result of the responsibility determination, the AO may

- Make an award,
- Deny the recommendation of the Activity Manager and not make the award, or
- Award with "Special Award Conditions" as detailed at [22 CFR 226.14](#) (see also **303.3.9.2**).

The AO is the only official authorized to make the final determination regarding whether an award should be made. See **PEB 2005-12** (available on the USAID intranet only).

After finishing the competitive selection or non-competitive recommendation of an application as described in **303.3.6**, the Technical Evaluation Committee or activity manager, as applicable, submits the application and all supporting information to the AO for negotiation and award. An award, whether to a U.S. or non-U.S. organization, may be made only after the AO makes a positive determination that the applicant possesses or has the ability to obtain the necessary management competence to plan and carry out the assistance program, and that it will practice mutually agreed upon methods of accountability for funds and other assets provided by USAID.

The AO must also verify that the applicant does not appear on the "[Excluded Parties List System](#)" as published by the General Services Administration (GSA) and has a record of business integrity. The AO must also verify that the applicant does not appear on the [Office of Foreign Assets Control \(OFAC\) List](#). The AO must address the responsibility of the prospective recipient in the Negotiation Memorandum (**See PEB 2005-12** on responsibility (available on the USAID intranet only)).

Before adding incremental funding, the AO must review the responsibility determination and verify that the applicant does not appear on the excluded party list system.

While an organization's past performance on earlier awards should be a factor in determining its responsibility, a history of receiving grants from USAID does not guarantee that an organization is responsible. Changes in personnel, accounting practices, or in an organization's financial status may affect its performance on a new award.

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a. US Organizations that have been recipients or contractors under USAID or other US Government (USG) acquisition or assistance instruments. In order to make a responsibility determination for a U.S. organization that has been previously determined responsible by USAID or another USG Agency, the AO may rely on the following information:

- A-133 or similar audits which are maintained by the Bureau for Management, Office of Acquisition and Assistance, Contract Audit and Support Division, (M/OAA/CAS) Contract Audit Management;
- A signed copy of the statutory and regulatory certifications in **303.3.8**;
- The quality of applicant's past performance on similar projects, including compliance with the terms and conditions of the funding agreement, as evaluated by the SO Team, in accordance with **303.3.6.2**;
- Other information as necessary, including formal pre-award surveys (see **303.3.8**, **303.3.5.2**, and **303.3.9.1**).

b. Non- US Organizations that have been recipients or contractors under USAID or other USG acquisition or assistance instruments. In order to make a responsibility determination for a non-U.S. organization that has been previously determined responsible by USAID or another USG Agency, the AO may rely on the following information

- Audits performed in accordance with [ADS 591.3.4.2](#);
- A signed copy of the applicable statutory and regulatory certifications in **303.3.8**;
- The quality of applicant's past performance on similar projects, including compliance with the terms and conditions of the funding agreement, as evaluated by the SO Team in accordance with **303.3.6.2**; and
- Other information as may be necessary, including pre-award surveys, if appropriate (see **303.3.8**, **303.3.5.2**, and **303.3.9.1**).

c. Responsibility determination for organizations new to USAID or organizations with outstanding audit findings. Before making any determination, if one of the criteria in **303.3.9.1** applies, the AO must perform a survey in conformance with that provision. At a minimum, the determination must be based on the same considerations as in paragraphs **a.** or **b.** of this section, depending on whether it is a U.S. or non-U.S. organization. The AO must obtain the following information from organizations that fit in this category, when appropriate:

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- Copies of the applicant's audited financial statements for the last three-year period, which a Certified Public Accountant or other auditor satisfactory to USAID has audited;
- Projected budget, cash flow, and organization charts; and
- Copies of applicable policies and procedures (for example, accounting, purchasing, property management, personnel), if the AO determines that they are necessary.

***303.3.9.1 Pre-Award Surveys**

Effective Date: 09/09/2008

a. Pre-Award Survey Requirements. The AO must conduct a survey to help make the responsibility determination (**see 303.3.9**) that the recipient has the necessary management competence to plan and carry out an assistance program. The AO must establish a formal survey team if any of the following criteria apply:

- The AO or Activity er is uncertain about the prospective recipient's capacity to perform financially or technically;
- The prospective recipient has never had a USAID grant, cooperative agreement, or contract before;
- The prospective recipient has not received an award from any other Federal agency in the last five years;
- The AO has knowledge of deficiencies in the applicant's A-133 (or equivalent) audit; or
- The AO determines it to be in the best interest of the Government.

b. Contents of the Pre-Award Survey. The Agreement Officer or the survey team's responsibility is to ensure that a recipient has the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them, in order to achieve the objectives of the program.

(1) For a U.S. organization, the AO applies the standards in [22 CFR 226–22 CFR 226.20 - 226.28](#) (Financial and Program Management); [22 CFR 226.30 - 226.37](#) (Property Standards); [22 CFR 226.40 - 226.49](#) (Procurement Standards); and [22 CFR 226.50 - 226.53](#) (Reports and Records).

To establish whether the potential recipient is responsible, the AO or a representative must conduct a detailed analysis of the applicant's systems that addresses whether

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- Its accounting, recordkeeping, and overall financial management systems meet the applicable standards in **22 CFR 226**;
- The applicant's system of internal controls, including segregation of duties, handling of cash, contracting procedures, personnel and travel policies, is reasonable and in accordance with applicable cost principles;
- The applicant's property management system, if applicable, meets the property standards in **22 CFR 226**;
- The applicant meets the responsibilities in [OMB Circular A-133](#) for the administration and monitoring of subawards; and
- The applicant's procurement system, if procurement is significant to the award, meets the standards set forth in **22 CFR 226**.

(2) For a non-U.S. applicant, although **22 CFR 226** does not directly apply, the AO must use the standards of **22 CFR 226** in determining whether a potential non-U.S. recipient is responsible.

c. Formal Pre-Award Survey Team guidelines. If the AO determines it is necessary that a formal survey team assess a prospective recipient's responsibility, the AO must assemble a team with appropriate expertise. A typical team would consist of:

- A member of the SO team,
- The Agreement Officer,
- The Financial Officer (Bureau for Management, Office of the Chief Financial Officer (M/CFO) or Mission or Regional Controller's Office) and
- If appropriate, one or more representatives of either the Bureau for Management, Office of Acquisition and Assistance, Contract Audit and Support Division, Contract Audit Management Branch (OAA/CAS), or the cognizant Regional Inspector General for Audit.

The AO may also request M/OAA/CAS input when specialized assistance in overhead issues or administrative policies is necessary. The survey team reviews the applicant's systems against the standards discussed in paragraph **b.** of this section. The survey team submits its findings to the AO for review and consideration. When findings are related to the prospective recipient's accounting system the use of an equivalent of a modified Standard Form-1408 is recommended to document about the survey findings and any required follow up review. It is the responsibility of the AO to make the final determination of the applicant's responsibility.

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d. Making the Responsibility Determination. Before the award of any grant or cooperative agreement, the AO must:

(1) Review the proposed program description and financial plan to ensure that they adequately describe the objectives of the program, the activities funded by USAID that will achieve the objectives, and a monitoring system to measure the recipient's success. The Activity Manager advises the AO on the professional and technical experience and competence of the applicant and the conformity of the applicant's program to USAID's program criteria.

(2) Make a written determination of the applicant's responsibility in the memorandum of negotiation stating the applicant

- Has adequate financial resources or the ability to obtain such resources, as required during the performance of the award.
- Has the ability to meet the award conditions, taking into consideration all existing prospective recipient commitments, both nongovernmental and governmental.
- 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 they will be able to perform satisfactorily.
- Has a satisfactory record of business integrity.
- Is otherwise qualified to receive an award under applicable laws and regulations.

303.3.10 Cost Sharing

Effective Date: 06/01/2006

303.3.10.1 Cost Sharing Determination

Effective Date: 06/01/2006

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 should be used to support or contribute to the achievement of results. USAID should base cost sharing on whether it is appropriate for the recipient organization in the particular circumstances. There is no set formula for cost sharing. A determination whether cost sharing will be appropriate for an activity should be based on technical and/or programmatic considerations. The policy does not contain a suggested numeric reference point. Cost sharing should be based on the needs or purpose of the activity. Examples of when cost-sharing might be appropriate are:

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- a. Where there is a programmatic rationale for cost sharing, such as helping to ensure that the recipient will build its organizational capacity for resource mobilization. For example, when building fundraising capability is an objective of a capacity building activity, it would be appropriate to require the recipient to meet certain targets as a condition of USAID funding;
- b. 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;
- c. When an award supports an activity initiated by the recipient, or is based on an unsolicited proposal. Since most funding is reserved for development priorities USAID has already established, only limited funding might be available for even the best of such applications. USAID may only be able to partially fund the activity; or
- d. To otherwise give the recipient a financial stake in the success of the program.

In all of these cases, the SO Team should discuss the amount and terms of cost sharing with potential recipients prior to award (**See the additional help documents, Legal and Policy Considerations When Involving Partners and Customers on Strategic Objective Teams and Other Consultations and Guidance On Consultation And Avoidance Of Unfair Competitive Advantage**).

The Activity Manager is responsible for determining the appropriate cost sharing for individual grants or cooperative agreements. The Activity Manager must include this determination in the financial analysis of the program prior to issuance of an RFA or APS. In the case of competitive awards, the Activity Manager is encouraged to communicate with a broad span of potential applicants regarding appropriate cost sharing prior to issuance of the RFA or APS. Even after USAID issues an RFA or APS, it may be appropriate to consider special circumstances and to change a cost sharing requirement. The Activity Manager may wish to discuss or negotiate cost sharing for non-competitive awards, including those based on unsolicited proposals, with the applicant.

The Activity Manager may not use a set formula in determining the level of cost sharing. The Activity Manager should take several considerations into account when making cost sharing decisions. For example, it might be difficult for a recipient to meet a cost sharing during an activity with a short timeframe. A specific program may require a level of risk that would discourage potential recipients from providing meaningful contributions. Competition may be limited to indigenous organizations with limited resources.

USAID should give consideration to the best uses of program income if the activity will generate income. In accordance with [22 CFR 226.24](#), with the approval of the Agreement Officer, USAID may use program income to finance the non-Federal cost

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sharing of the award. Or if, instead, making program income additive to USAID's contribution would help achieve objectives such as sustainability, this may accomplish the same ends without a cost sharing requirement.

USAID may require cost sharing regardless of the type of organization, whether non-profit (U.S. PVOs, international PVOs, local NGOs, 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 in establishing cost sharing requirements.

The Activity Manager must document in a memorandum to the Agreement Officer the factors that were considered in determining the amount of cost sharing.

303.3.10.2 Cost Sharing and Leveraging

Effective Date: 06/01/2006

Cost sharing becomes a condition of the award when it is made part of the approved award budget. Cost sharing must be verifiable from the recipient's records, is subject to the requirements of [22 CFR 226.23](#), and can be audited. If the recipient does not meet its cost sharing requirement, it can result in questioned costs.

"Leveraging" represents all of the non-USAID resources that are expected to be applied to a program. It may include cost sharing, but may also include resources that third-parties will bring to the program without necessarily providing them to the recipient. These parties can include the host government, private foundations, businesses or individuals. The recipient is not responsible for any leveraging in excess of the agreed-upon cost sharing.

For more information regarding leveraging and its application to Global Development Alliance activities, please refer to the **GDA home page**, available only to those with access to the USAID internal site, and [USAID Global Partnerships](#), which is available on USAID's public site.

303.3.10.3 Cost Sharing in RFAs and APSs

Effective Date: 06/01/2006

If USAID makes a determination to require cost sharing, it must state the requirements in the competitive announcement. If, after USAID issues an announcement the Activity Manager decides that the amount of cost sharing required should be changed, the Activity Manager, with adequate justification, may request the Agreement Officer to amend the RFA or APS document.

Applications that do not meet at least the minimum cost sharing requirement are not eligible for award consideration. Cost effectiveness is a required evaluation criterion in all competitive awards (**see 303.3.6.3**). Cost effectiveness includes cost sharing, when required. If an applicant proposes a higher than minimum cost sharing, USAID may consider this to be within the "cost effectiveness" evaluation criterion. You should not

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create a separate/additional evaluation criterion category for cost sharing because cost sharing is included within cost-effectiveness. Excessive reliance on cost sharing as an evaluation factor may unfairly favor larger, better-funded organizations in a competition.

303.3.10.4 Meeting Cost Sharing Requirements

Effective Date: 06/01/2006

Cost sharing applies to the life of the agreement, and the CTO should monitor the recipient's financial reports to ensure that the recipient is making progress toward meeting the required cost sharing. If it appears that the recipient is not making adequate progress, the CTO must bring this to the attention of the Agreement Officer. The Agreement Officer must initiate discussions with the recipient to resolve the issue. The Agreement Officer 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 Agreement Officer may request the recipient to refund the difference to USAID.

In-kind contributions are allowable as cost sharing, in accordance with [OMB Circular A-110](#) and [22 CFR 226.23](#). These include such things as volunteer time; valuation of donated supplies, equipment and other property; use of unrecovered indirect costs, etc.

As part of the analysis of the applicant's proposed budget, the Agreement Officer must review the applicant's proposed cost sharing contributions (e.g. categories or items) for cost realism and to verify that they meet the standards set in [22 CFR 226.23](#) for U.S. organizations, or the Standard Provision entitled "Cost sharing" for non-U.S. organizations. USAID's policy is not to apply its source, origin, and nationality requirements or the restricted goods provision established in the Standard Provision entitled "USAID Eligibility Rules for Goods and Services" to cost sharing contributions. The Agreement Officer may authorize the recipient to attribute cost sharing contributions from subrecipients to the prime award.

303.3.11 Substantial Involvement in Cooperative Agreements

Effective Date: 06/01/2006

USAID substantial involvement is limited to Cooperative Agreements. USAID cannot be substantially involved in grants.

The Agreement Officer must select the appropriate instrument, in accordance with [ADS 304](#). OMB policy on substantial involvement is that agencies "should limit their involvement in assisted activities to the minimum consistent with program requirements." The Agreement Officer must be satisfied that the proposed involvement by USAID is reasonable and necessary.

Anticipated substantial USAID involvement is a relative rather than an absolute concept. USAID always has some involvement in assistance awards, such as monitoring performance, reviewing reports, or providing approvals required by [22 CFR 226.25](#) and

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[22 CFR 226.91](#). These do not constitute substantial involvement. In determining whether an agreement should be a cooperative agreement rather than a grant, the Agreement Officer should not look at one single factor or proposed involvement. The Agreement Officer should evaluate the type of relationship expected between USAID and the recipient in making this determination. If USAID will have substantial involvement in identified elements of the recipient's program, a cooperative agreement is appropriate.

If the SO Team anticipates substantial Agency involvement during the performance of the award, the Cooperative Agreement must define this involvement in the Cooperative Agreement. Unless USAID authorizes a deviation in accordance with **303.3.4**, substantial involvement is limited to the elements listed below, and USAID must directly and specifically tie it to the Program Description. The SO team must consult with the Agreement Officer and describe USAID's interests to ensure that the award adequately reflects the level of USAID's necessary planned involvement. Furthermore, USAID must directly tie each substantial involvement to an activity in the Program Description, to the satisfaction of the Agreement Officer.

The intended purpose of CTO substantial involvement during the administration of an award is to help the recipient achieve the supported objectives of the agreement. The Agreement Officer may delegate the following approvals to the CTO, except for changes to the Program Description or the approved budget. Only the Agreement Officer may approve those changes, after review by the CTO.

a. Approval of the Recipient's Implementation Plans.

When, at the time of award, the Program Description does not establish a timeline for the planned achievement of milestones/outputs in sufficient detail, USAID may approve the plan at a later date. USAID does not require approval of these plans more often than annually. If the Agreement Officer has delegated authority to the CTO to approve Implementation Plans, the CTO should review the terms and conditions of the agreement to ensure that the CTO does not inadvertently approve a change to the terms and conditions of the agreement.

b. Approval of Specified Key Personnel.

USAID may designate as Key Personnel only positions that are essential to the successful implementation of the award. USAID's policy is to limit this to a reasonable number of positions, generally no more than five positions, or five percent of recipient employees working under the award, whichever is greater.

c. Agency and Recipient Collaboration or Joint Participation.

When the recipient's successful accomplishment of stated program objectives would benefit from USAID's technical knowledge, the Agreement Officer may authorize the joint participation of USAID and the recipient. When the Agreement Officer is satisfied

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that there is sufficient reason for Agency involvement and that the involvement is specifically tailored to support identified elements in the Program Description, appropriate levels of substantial involvement, such as the following, may be required:

(1) Collaborative involvement in selection of advisory committee members (If the program will establish an advisory committee that will provide advice to the recipient). USAID may also participate as a member of this type of committee. Advisory committees must only deal with technical or programmatic issues, and not routine administrative matters;

(2) Concurrence on the substantive provisions of the subawards. Note that [22 CFR 226.25](#) already requires the recipient to obtain the Agreement Officer's prior approval for the subaward, transfer or contracting out of any work under an award. This involvement is generally limited to approving work by a third-party under the agreement. If USAID wishes to reserve any further approval rights regarding subawards or contracts, it must clearly spell out USAID's involvement in the substantial involvement provision of the agreement.

(3) Approval of the recipient's monitoring and evaluation plans; and

(4) Agency monitoring to permit specified kinds of direction or redirection because of interrelationships with other projects. All such activities must be included in the Program Description and negotiated in the budget and made part of the award.

d. Agency authority to immediately halt a construction activity.

USAID may include a substantial involvement understanding in the award that states that the Agreement Officer may immediately halt a construction activity if identified specifications are not met. The Agreement Officer must attach the specifications to the award when USAID executes the award. USAID must treat material changes to the specifications as an amendment to the award.

303.3.12 Negotiation of the Award

Effective Date: 06/01/2006

a. Review of Proposed Grant Budget. The Agreement Officer must review the applicant's proposal to ensure that costs, including cost sharing, are in compliance with OMB and USAID 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 found at [22 CFR 226.2](#); application suggestions are found at [22 CFR 226.24](#)).

In performing a thorough cost analysis, the Agreement Officer will obtain cost breakdowns; verify cost data; evaluate specific elements of costs; and analyze data to determine the necessity, reasonableness, and allocability of the costs reflected in the

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budget and their allowability under the applicable cost principles. The cost analysis helps the Agreement Officer determine the following:

- (1) The extent of the prospective recipient's understanding of the financial aspects of the program and its 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 detail of required cost analysis depends on the programs and is determined by the Agreement Officer on the basis of the amount and type of costs involved, the nature of the program, and past experience with the applicant. The Agreement Officer may ask M/OAA/CAS for help in his/her cost/price analysis of a proposal. Besides addressing whether the proposal is fair and reasonable for the program proposed, M/OAA/CAS also provides an evaluation of whether the prospective recipient's proposal is consistent with its cost accounting practices, policies, and procedures. This includes ensuring that the prospective recipient's indirect cost rates are consistent with any Negotiated Indirect Cost Rate Agreements (NICRA).

The Agreement Officer must negotiate with the applicant to resolve any questions related to proposed costs that do not comply with these policies before award can be made.

b. Memorandum of Negotiation. The Agreement Officer must document the negotiation process for a new assistance agreement or a modification of an existing agreement, along with other pre-award determinations, in a Memorandum of Negotiation. The Memorandum of Negotiation must include the cost analysis. Guidelines for the filing procedures can be found in the additional help document, **PEB 2005-6** (available on USAID intranet only).

303.3.13 The Award Process

Effective Date: 06/01/2006

USAID's policy is to award a grant or cooperative agreement to support a specific or discrete program. The Agreement Officer must ensure that an award clearly defines the activities that make up the program USAID will support. The program description must clearly identify the purpose of the program, contain an implementation plan that specifically identifies each element of the program, and specify the duration of the assistance instrument. The Branding Strategy and Marking Plan must meet the regulatory and USAID policy requirements. All representations and certifications must be complete and current. The Agreement Officer must ensure that the Agency's role in administration is to measure and evaluate the recipient's progress and to be involved as appropriate. The Agency and its representatives will not control or try to control the recipient's or any subrecipient's day-to-day management of the program.

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303.3.14 Elements of an Award

Effective Date: 01/25/2007

The Agreement Officer must make sure that all of the elements of a legally binding agreement are present:

- Competent parties,
- Proper subject matter,
- Sufficient consideration,
- Mutual understanding, and
- Agreement on the terms of the Assistance Instrument.

All special award conditions, such as Branding requirements, cost sharing, environmental procedures required by 22 CFR 216, and pre-award representations and certifications, must be met. All elements of the award, including items in the Schedule such as period of performance, award amount, place of performance, and Program Description, must clearly and coherently express the specific understandings of both parties. The Program Description must have clearly established goals that are:

- Realistic,
- Measurable, and
- Represent the highest objective that the recipient can expect to materially affect and for which it will be held accountable.

The Agreement Officer must ensure that the award complies with applicable OMB Circulars, all CFRs and Executive Orders in the mandatory references **(303.4.1)**, USAID Standard Provisions, other ADS chapters, and other USAID guidance, as appropriate.

*The Agreement Officer should advise the SO team to check [ADS 540](#) while drafting the “Program Reporting” language in the Schedule of the award for detailed guidance on the submission of copies of reports and other information to USAID’s Development Experience Clearinghouse (DEC). (See [ADS 540.2, Primary Responsibilities](#), which describes the role of the Agreement Officer in supporting the Agency’s strategic plan to manage for results.

The schedule of the award may require detailed programmatic information under the “Program Reporting” section. The Activity Manager, along with the Agreement Officer, is responsible for describing, with as much specificity as possible, the programmatic

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information to be produced and the timing of its submission to the Development Experience Clearinghouse (DEC).

The types and frequency of financial and programmatic reports are strictly limited to those detailed in [22 CFR 226](#). Imposing the same reporting requirement on ten or more recipients, may have implications for the Paperwork Reduction Act ([5 CFR 1320](#)) and Agreement Officers should contact GC or the cognizant RLA for guidance.

Also, as noted at [22 CFR 226.51\(d\)\(1\)](#), the schedule may require output or unit cost data.

The Agreement Officer's signature serves to obligate funds under a grant or cooperative agreement (**see [ADS 621.3.4, paragraph b](#)**), as long as the Agreement Officer accepts the recipient's application without substantial modification, or negotiates any changes to the proposal with the applicant. The AO will provide a copy of the grant or cooperative agreement to the recipient to ensure its agreement with the terms and conditions of the award. If the Agreement Officer 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 Special Award Conditions (**see [22 CFR 226.14](#), [303.3.9.2](#), and [303.3.11](#)**), the Agreement Officer must obtain the applicant's agreement to the changes or additional terms before obligating funds.

Section 635(h) of the Foreign Assistance Act states that a grant or cooperative agreement may not extend at any time for more than five years. This means that the *current* period of performance may not be more than five years. While the initial award may not extend for more than five years from the effective date, USAID may extend the agreement during performance beyond the five year limit. For example, after the completion of the first year, subject to competition requirements, USAID may extend the award for one more year. Alternatively, prior to the end date of the award, it may be extended for up to five years from the date of the extension, subject to the competition requirements in **303.3.6.5**.

303.3.15 Congressional Award Notification System

Effective Date: 06/01/2006

The Congressional Award Notification System requires the AO to notify the Bureau for Legislative and Public Affairs (LPA) when they make certain awards to U.S. organizations. After the AO signs the award, but before releasing it or allowing it to be released, the AO must notify LPA as required in the internal mandatory reference [USAID Guidance on Congressional Award Notification System](#).

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303.3.16 Distribution of Awards

Effective Date: 06/01/2006

Generally, distribution of awards is at the discretion of the Agreement Officer. At the minimum, a copy of the agreement document and all modifications to the award must be provided to each of the following:

- The recipient,
- The official award file,
- The Cognizant Technical Officer,
- The office responsible for payment under the agreement, and
- The accounting station, if it is different than the office responsible for payment.

If payment is by letter of credit, the Agreement Officer must immediately send a copy of the award and any modification to the Bureau for Management, Office of the Chief Financial Officer, Cash Management and Payment Division (M/CFO/CMP). Since the funds are obligated when the AO signs the award, the Agreement Officer should not obtain the recipient's signature before sending the award to M/CFO/CMP. The Agreement Officer must provide M/CFO/CMP with the signed award letter or modification cover page, accounting and appropriation data, and the schedule. The Agreement Officer may send a scanned copy by e-mail at the FM/CMP Letter of Credit Activity mailbox, or a copy faxed to LOC Unit, M/CFO/CMP at (202) 216-3234. The Agreement Officer must send the award or modification to M/CFO/CMP no later than 10 business days after the AO's signing.

***303.3.17 Award Administration**

Effective Date: 09/09/2008

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

a. Administrative Duties. The CTO and the Agreement Officer 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 CTO functions are closely related and cannot be performed in isolation from each other.

The Agreement Officer provides oversight of the financial management aspects of the award through reviews of reports, correspondence, site visits, or other appropriate

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means. When necessary, the Agreement Officer will request or arrange for special audits. The Agreement Officer is responsible for all award suspension and termination actions, except for national interest terminations, which the AA determines.

The Agreement Officer should give a post-award orientation to the recipient and CTO to clarify the roles and responsibilities of the USAID officials who will administer the award. If the Agreement Officer delegates specific authority to the CTO, the Agreement Officer must notify the recipient in writing of the delegations, either in the Schedule of the Award or in a letter. The Agreement Officer must ensure that the award does not include administrative approvals that are in conflict with the regulations and policies of [22 CFR 226](#), the [Standard Provisions for U.S. Nongovernmental Recipients](#), and the [Standard Provisions for Non-U.S. Nongovernmental Recipients](#). If the CTO becomes aware of any other administrative requirements levied on the recipient, the CTO must immediately notify the Agreement Officer.

The Agreement Officer is the records custodian for all official communication that constitutes a modification of the award. The CTO will keep the Agreement Officer informed of the recipient's performance. The CTO must ensure that the Agreement Officer receives copies of all performance and financial status reports, as appropriate. The CTO is responsible for reviewing all performance and financial reports for adequacy and responsiveness. When reports are not received on time, are determined to be inadequate, or some other problem becomes apparent, the CTO will advise the Agreement Officer to take necessary action.

The CTO is responsible for ensuring the recipient submits reports or deliverables produced under the award to the Development Experience Clearinghouse (DEC). The types of documentation the recipient must submit is found in [ADS 540.3.2.5](#), Documentation Grantees Submit to the Development Experience Clearinghouse (DEC). Documentation which 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 website and mailing address for submitting material.

When a modification to the award is necessary, the CTO is responsible for preparing internal USAID documentation, to the satisfaction of the Agreement Officer, to support the modification.

b. Site Visits. Site visits are an important part of effective award management, since they usually allow a more effective review of the project, and may be made as needed. Joint visits by the Agreement Officer and the CTO are encouraged. When the Agreement Officer or CTO makes a site visit, the Agreement Officer or CTO must write a brief report highlighting findings, and put a copy in the official award file.

c. CTO Designation. The Agreement Officer designates the Cognizant Technical Officer for each grant or cooperative agreement using the standard CTO designation letter (**see the mandatory reference, Sample CTO Designation Letter – [Grants /](#)**

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Cooperative Agreements). The CTO designation letter defines the scope of authority of the CTO to carry out grant or cooperative agreement administration duties which would otherwise be the AO's responsibility. Other Agency regulations may hold CTOs accountable for duties and responsibilities that do not flow from the AO. USAID does not include such responsibilities in these letters. CTOs should direct any questions they have about these other responsibilities to the author office for that chapter or regulation, or to the author office's representative in the operating unit (for example, a CTO in a Mission should direct questions about the CTO's financial management duties in ADS 600 Series chapters to the Mission Controller). **(See also 303.2, Primary Responsibilities)**.

d. Eligibility. The CTO (and alternate) must be either a direct-hire Federal employee or a personal services contractor (PSC). Direct-hire Federal employees include the employees of any U.S. Government agency, and PSCs include U.S. Citizen and Foreign Service National (FSN) PSCs, and Technical Advisors in AIDS & Child Survival (TAACS), a type of PSC.

For additional guidance on TAACS, see Interim Updates to ADS 200, entitled "TAACS (Using Technical Advisors in AIDS & Child Survival Programs)" at <http://www.usaid.gov/policy/ads/200/200mat.pdf> and ADS 400, entitled "Appropriate Use and Funding of USAID's Non-Direct Hire Workforce" at <http://www.usaid.gov/policy/ads/400/updates/iu4-02.pdf>.

Note that the limitations in both mandatory references on what a private sector TAACS may do must be considered when determining the eligibility of a TAACS to be a CTO.

***e. CTO Certification and Training Requirements.** Any manager of an assistance instrument, designated by letter from an Agreement Officer to be a Cognizant Technical Officer (CTO), must meet specific certification requirements. The Office of Human Resources, Training and Education Team (M/HT/TE), in coordination with M/OAA, conducts a CTO Certification Program. This program includes mandatory training courses designed to provide USAID CTOs with the basic knowledge and skills they need to effectively carry out the role of an Agency CTO. The specific certification requirements are in [ADS 458.3.5.5](#), and include the successful completion of the web based Phoenix Accruals course prior to designation.

f. AO Changes to the CTO Designation Letter. AOs should use the standardized letter essentially as written; however, the AO has the discretion to tailor the letter as long as the changes do not affect the substance of the standardized letter. For example, an AO may:

- Include special instructions to account for unusual characteristics of the award;
- Limit or expand the CTO's responsibilities depending on the level of training or experience of the individual receiving the designation;
- Emphasize additional oversight responsibilities if the AO has concerns about the grantee or recipient; or

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- Edit the letter to reflect the AO's own experience, judgment and preference — again, within the scope of the standardized letters.

These examples are not all inclusive, and the AO should not make changes to the letter without a definite reason or rationale. However, the AO will not change Section III, Limitations, of the Designation letter.

g. Designation of Alternate CTO. In each letter, Section III, Subsection B. Redlegation, includes a space for naming an alternate CTO. When designating an alternate CTO, the AO must insert the name of the individual in the blank space in the second paragraph of this subsection.

When the requiring office nominates the primary candidate for the CTO designation, it should also indicate who should be named as the alternate. USAID prefers that the Strategic Objective Team (SOT) leader be the alternate, because the SOT leader is more likely to know what is happening under the award and can therefore step in as CTO. However, if the requiring/technical office is not structured along the lines of an SOT, or when the primary CTO is also the SOT leader, then the CTO's immediate supervisor may need to serve as alternate. If the requiring office nominates an individual other than the SOT leader or the CTO's immediate supervisor to be the alternate CTO, the nomination must include a justification supporting this nomination, including an explanation of the nominated alternate's involvement in overseeing the grantee's or recipient's performance.

CTO alternates will only perform CTO duties or responsibilities if the CTO is absent. The alternate CTO cannot countermand a CTO's decision on a matter pertaining to his or her duties as a CTO. In addition, the primary CTO is not responsible or accountable for the actions of the alternate CTO — the alternate CTO is responsible and accountable.

In rare circumstances, an AO may designate multiple CTOs for a single award by issuing a separate letter to each individual CTO, **provided** that:

- The AO, the CTO candidates, and the requiring office clearly understand the separation of responsibilities;
- Each designation letter clearly spells out the individual CTO's authority; and
- The lines of responsibility and authority do not overlap.

h. Distribution of CTO Designation Letter. The AO will provide copies of the signed designation letter with the CTO's signed acknowledgement to the grantee or recipient, the paying office, and the named alternate CTO. The AO may provide a copy to the SO team leader or activity manager (if different than the CTO or alternate), and Mission Director or office director. Providing courtesy copies to any party other than the grantee or recipient is at the discretion of the AO and the AO should discuss it with the

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CTO. For example, if the requiring office maintains a list of CTOs in the organization, then they may request that a copy be provided to the administrator of this list, together with a copy of the designation letter. AOs are encouraged to do so, but this may be tasked to the CTO with any other distribution within the requiring office.

i. CTO Designation in the Award Document and in A&A electronic records.

The grant or cooperative agreement will not specify the CTO by name, but will state “CTO designated separately” in the appropriate section or provision of the grant or cooperative agreement.

The AO will promptly record the assignment or reassignment of CTO designations by the appropriate electronic means, e.g., NMS A&A Support Module.

j. Specific Guidance for Cooperative Agreement Letter. The following guidance addresses Section I, Subsection C, of the cooperative agreement letter.

Cooperative Agreement Letter: Section I “Responsibilities”

Subsection C. Substantial Involvement. When stating the substantial involvement (**see 303.3.11 on substantial involvement in Cooperative Agreements**) the Agency will have in the performance of the cooperative agreement, the AO may choose to include in this section of the CA schedule those substantial involvement approvals the AO is redelegating to the CTO. However, the AO must then formally amend the CA to make any changes to the CTO’s authority. The AO may instead choose to list in the CTO designation letter those substantial involvement approval responsibilities the AO redelegates to the CTO. In this case, the AO will only revise the letter to make any changes to the CTO’s authority. For either option, the AO may also specify any approvals the AO retains, such as the authority to consent to sub-agreement provisions.

303.3.18 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.

However, if the Agreement Officer recommends payment and the cognizant legal advisor concurs in the recommendation, then the Agreement Officer may take steps to have the commitment ratified if specific conditions are met. Only the Director, Office of Acquisition and Assistance, has the authority to ratify unauthorized commitments.

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If the Agreement Officer believes that an unauthorized commitment should be ratified, the Agreement Officer submits an action memorandum through the Bureau for Management, Office of Acquisition and Assistance, Evaluation Division (M/OAA/E) to the Director, Office of Acquisition and Assistance, which includes the following information:

- Evidence that the grant would otherwise have been proper if made by an appropriate AO;
- The AO reviewing the unauthorized commitment determines the cost to be reasonable;
- The program provided 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 must be available and must have been available at the time the unauthorized commitment was made;
- The recommended disposition; and
- A written memorandum from the person responsible for the unauthorized commitment detailing how the mistake occurred, training since received from the Agreement Officer on proper procedures, and steps taken to prevent future unauthorized commitments.

b. Expenditures Requiring Prior Approval. Recipients will comply with prior approval requirements that are set out in the agreement. Failure to comply with prior approval requirements will generally cause USAID to deem the costs unallowable.

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

- The Expenditures must be otherwise allocable, allowable, and reasonable.
- The AO could have approved the expenditures at the time that they were made.
- The AO has the authority to approve the same type of expenditure at the time of the request for approval.
- The approval promotes efficient implementation of USAID's program.

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- The facts and circumstances of the expenditure show that the recipient was not grossly negligent and did not intend to circumvent USAID requirements.

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

303.3.19 Controlling Language

Effective Date: 06/01/2006

Because it is almost impossible for a translation to convey the full meaning of the original, it is USAID policy that English is the official language of all award documents. If an award or any supporting documents are provided in both English and a foreign language, it must be stated in each version that the English language version is the controlling version.

303.3.20 File Documentation

Effective Date: 06/01/2006

Policy regarding the maintenance of the Agreement File may be found in the mandatory reference, **PEB 2005-06**, File Standardization Pilot (available on the USAID Intranet only).

303.3.21 Subawards

Effective Date: 06/01/2006

Source/Origin/Nationality rules

[22 CFR 228](#) is the regulation that governs the Source/Origin/Nationality of goods and services procured with USAID funds. 22 CFR 228 applies to USAID-financed goods and services procured by a recipient.

[22 CFR 228](#) also applies to USAID-financed goods and services procured by subrecipients (See the provision entitled “USAID Eligibility Rules for Goods and Services” in the mandatory references section, and see also Standard Provision for U.S. Nongovernmental Recipients and Standard Provisions for Non-U.S. Nongovernmental Recipients).

[22 CFR 228](#) Source/Origin/Nationality rules do not apply to award of subagreements.

Subawards to PIOs and Foreign Governmental Organizations

If appropriate, a recipient may enter into a subagreement with other than non-governmental organizations, including a Public International Organization (PIO) or a host country governmental organization. If it does so, the recipient may require the subrecipient to comply with some of the terms and conditions that flow down from the Prime recipient’s agreement with USAID and not necessarily with the provisions that would apply to a USAID direct award to a PIO or foreign governmental organization. An

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approved deviation (**303.3.3**) will be necessary before the recipient may deviate from the terms and conditions of its agreement. Other factors to consider in a subaward can be found in the additional help document, [Contracts with a Foreign Governmental Organization](#). The AO will consult with the cognizant GC or RLA to determine the appropriate provisions for the subagreement.

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

Effective Date: 06/01/2006

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. For the process for recovering debt see [ADS 625](#), Administrative Accounts Receivable. Also see [AAPD 03-07 \(Revised\)](#) – Instructions to Contracting Officers/Agreement Officers on their Role in the Debt Collection Process.

303.3.23 Disputes and Appeals

Effective Date: 06/01/2006

[22 CFR 226.90](#) and the [Standard Provision for Non-U.S. Nongovernmental Recipients](#) entitled “Disputes” establishes USAID’s policy that the Agreement Officer decides any dispute between the recipient and USAID arising under or related to an assistance award. The Agreement Officer’s decision is to be considered final unless the recipient appeals the decision to the Assistance Executive. Appeals must be in writing; USAID will not provide hearings.

303.3.23.1 Disputes

Effective Date: 06/01/2006

The Agreement Officer must give the recipient a written final decision within 60 calendar days of receiving notice from the recipient of a dispute. If the Agreement Officer is not able to reach a final decision within that time, the Agreement Officer must notify the recipient that he/she requires more time to consider the dispute. The Agreement Officer must place a copy of the final decision in the Award files.

303.3.23.2 Appeals

Effective Date: 06/01/2006

If the recipient is not satisfied with the Agreement Officer’s final decision, within 30 days of receiving the final decision, the recipient may appeal that decision to the Assistance Executive. The appeal must be in writing, and the recipient must provide a copy to the Agreement Officer. If USAID has issued a Bill of Collection, USAID will suspend the Bill of Collection pending resolution of the Appeal.

The Assistance Executive forwards the appeal to the Office of Acquisition and Assistance, Evaluation Division (M/OAA/E). M/OAA/E determines what other Divisions within the Office of Acquisition and Assistance review the appeal – usually the Policy

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Division (M/OAA/P) and/or the Contract Audit and Support Division (M/OAA/CAS). M/OAA/E asks the Office of General Counsel, Acquisition and Assistance (GC/A&A) and GC Litigation (GC/LE) for a review, as appropriate. M/OAA/E determines if other participants need to review the appeal, based on the dollar value and the complexity of the appeal. Within 60 days of receiving the appeal, the Assistance Executive, or, if a decision has not yet been made, M/OAA/E, must notify the recipient of the outcome or progress (for example, denied, approved, or more time is needed).

The Director, Office of Acquisition and Assistance, is responsible for making recommendations to the Assistance Executive on how to resolve the dispute based on the review undertaken by Office of Acquisition and Assistance, Evaluation Division.

303.3.24 Small Grants

Effective Date: 06/01/2006

A deviation is not required from the requirements of [22 CFR 226](#) or the policies of this chapter to use the simplified format for small grants or a fixed obligation grant. **(See the mandatory references, [Simplified Grant Format](#) and [Fixed Obligation Grant Format](#)).** Except as discussed below, a grant using one of these formats generally does not include any of the Standard Provisions used for USAID grants. The Agreement Officer may use the Simplified Format or the Fixed Obligation Grant Format when the grant meets all of the following conditions:

- a. The assistance instrument is a grant, not a cooperative agreement;
- b. If the recipient is a U.S. organization, the total of the grant does not exceed \$100,000; and, if it is a non-U.S. organization, it does not exceed \$250,000;
- c. The grantee will not purchase any ineligible or restricted goods (**see [ADS 312](#)**), all goods the grantee will purchase have their source/origin in the authorized geographic code (**see [ADS 260](#)**), and the grantee will not purchase any single item that has a useful life over one year and an acquisition cost of \$5,000 or more;
- d. The grantee is required to sign pre-award certifications required in **303.3.8**;
- e. USAID does not provide advance payments to the grantee;
- f. The grant includes language requiring the grantee to allow USAID access to its records for up to three years, and that the grantee will refund to USAID any funds it received for any costs that did not meet the terms and conditions of the grant;
- g. For grants using the simplified grant format on a cost reimbursement basis,
 - All costs to be charged to the grant are identified in the grant text.
 - Costs do not include indirect costs.

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- If the support of international travel or the purchase of equipment is necessary for performance of the grant, the Agreement Officer may modify the Simplified Grant format as long as the agreement includes the applicable Standard Provision for those types of costs in the small grant award.
- The grant will be included in any audit required by [OMB A-133](#) or [ADS 591.5.4](#).

303.3.24.1 Fixed Obligation Grants to Non-Governmental Organizations

Effective Date: 06/01/2006

When a grant is awarded to support a program with very specific elements, the Fixed Obligation format allows performance without monitoring the actual costs incurred by the grantee. The government prefers the Fixed Obligation Grant for supporting specific projects where there is a reasonable certainty about the cost, and USAID can easily define accomplishment of the purpose of the grant or milestones, such as conferences or supplies.

Since payments are based on the achievement of milestones, the structure of the payments is very important. USAID pays grantees a set amount when they accomplish a benchmark. It is therefore essential that the Agreement Officer have sufficient cost information to allow for negotiation of the payments and to make sure that the amount requested will be an accurate estimate of the actual cost of the effort, so that the recipient does not receive a windfall upon completion of the project.

Grant closeout is accomplished by CTO acceptance of the final milestone and approval of payment. The Agreement Officer may specifically authorize a prime recipient to use Fixed Obligations Grants (FOGs) in subgrants when the same standards for their use are met.

a. Factors for Determining the Use of a Fixed Obligation Grant

Besides ensuring that the grant meets the elements of the simplified grant format described at **303.3.24**, the Agreement Officer must also determine the appropriateness of issuing a fixed obligation grant, based on the following factors:

(1) The ability to easily identify and quantify programmatic accomplishments or results in establishing grant milestones;

(2) Limited risk that there will be changes to the program;

(3) Adequate cost information is available to allow the Agreement Officer to determine and negotiate the fixed price of the grant. The fixed price may include an amount based on the grantee's demonstrated indirect costs; and

(4) The Agreement Officer must also be satisfied that this type of grant fits within the objectives of the established USAID program, and USAID will not use it as an alternative way of awarding to a High Risk Grantee. The Negotiation Memorandum

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must include a discussion by the Agreement Officer of the appropriateness of this type of grant.

b. Required Provisions for a Fixed Obligation Grant

(1) USAID has the right to terminate the grant in whole or in part, or suspend payments, should the grantee become insolvent during performance of the award; and

(2) At the end of the grant, the Grantee must certify in writing to the Agreement Officer that it completed the activity. If the grantee cannot certify this, the Agreement Officer may require the Grantee to make appropriate reimbursements.

303.3.25 Endowments

Effective Date: 06/01/2006

When legislative authority permits, USAID may create an endowment financed with appropriated funds. The guidance for establishing endowments may be found in the mandatory reference, USAID Policy Determination 21 of July 18, 1994, [Endowments Financed With Appropriated Funds](#). USAID awards a grant or cooperative agreement to establish the terms and conditions governing the establishment of an endowment agreement. The purpose of the award is served by establishing the endowment agreement; and therefore the regulations and policies applicable to other grants and cooperative agreements are not applicable to the administration of the endowment once it is established.

When awarding an endowment agreement to a U.S. organization, the Agreement Officer must use the [Standard Provisions for an Endowment with U.S. Non-Governmental Recipients](#). When awarding an endowment agreement to a non-U.S. organization, AO must use the [Standard Provisions for an Endowment with Non-U.S. Non-Governmental Recipients](#).

Sample agreements and schedules for endowments with U.S. and non-U.S. organizations are attached as additional help (**see the additional help document, [Sample Format for Award Letter and Schedule](#)**).

303.3.26 Leader/Associate Awards

Effective Date: 06/01/2006

A Leader/Associate Award involves the issuance of an award that covers a specified worldwide activity (the Leader Award). The Leader award includes language that allows a Mission or other office to award a separate grant to the Leader Award recipient without additional competition and which supports a distinct local or regional activity that fits within the terms and scope of the Leader Award. This is called an Associate Award.

Leader/Associate Awards are not to be confused with Indefinite Quantity Contracts (IQC) used in acquisition or any of the procedures used under an IQC. As examples, a Leader Award cannot be made without a program description and budget with sufficient

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funds to carry out that program, and Associate Awards are not made using fair opportunity procedures.

a. Competition of Leader Award

The Agreement Officer or Activity Manager must issue an RFA for every Leader/Associate Award program, following the procedures in **303.3.5**. These arrangements may not be based on unsolicited applications or waivers of competition, unless a deviation is authorized in accordance with the requirements of **303.3.4**. The RFA must clearly state that the competition covers both the initial Leader Award and all subsequent Associate Awards and include an estimate of the total grant amount, including all Associate Awards.

The funding announcement for the Leader/Associate assistance program must include an estimate of the dollar amount of Associate Awards that are anticipated; however it is not necessary to amend the Leader Award if the amount of Associate awards exceeds the estimate. The Leader Award and each Associate Award must specify the total award amount for that instrument. Likewise, the RFA will state that there is no guarantee regarding the magnitude of Associate Awards in dollars or number of awards. Leader Awards and Associate Awards are separately obligated instruments. Associate Award estimates included in the Leader Award do not suggest that funds obligated under a Leader Award can be moved to an Associate Award without a deobligation of those funds.

Once USAID selects a recipient pursuant to a Leader/Associate Award program RFA, it does not require any further competition or waiver of competition for any Associate Award issued within the terms of the Leader RFA. The Agreement Officer's determination of the responsibility of the recipient for the Leader Award applies to Associate awards. However, before awarding an Associate Award, the Agreement Officer must verify that the applicant does not appear on the [Excluded Parties List System](#). The Agreement Officer for the Associate Award should 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 Agreement Officer must obtain the certifications required by **303.3.8** prior to the execution of the Leader Award. Before the Agreement Officer may award an Associate Award, the recipient must affirm that those certifications remain valid, or provide new certifications. **(See the mandatory reference, [Affirmation of Certifications](#).)**

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

The Agreement Officer has the discretion to issue one or more Associate Awards to a Leader Award recipient under each Leader Award or to issue more than one Associate Award under different Leader Awards for a program. In cases where a Leader Award

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recipient is working with a consortium or sub-recipients, the subsequent Associate Awards under that Leader Award must be issued to the Leader Award recipient, not to any of the consortium or sub-recipient members. The recipient of the Leader Award may make subawards as necessary for the program. The Leader Award recipient must provide a programmatic report to the CTO, semi-annually or annually, that summarizes activities undertaken, progress made/results achieved, trends, problems, etc., under both the Leader Award and all Associate Awards.

b. Length of Award

Normally, a Leader Award is for five years, and with a justification under the provisions of **303.3.6.5, paragraph a**, it may be extended up to ten years for purposes of the Leader Award activities. Associate Awards may be issued until the Leader Award expires. The Leader Award may authorize Associate awards for up to an initial five years. Associate Awards may be extended for a cumulative term of up to ten years, but in no event may they extend for more than five years beyond the expiration of the Leader Award. In no case may either the Leader or Associate Award extend more than five years into the future at any given time.

USAID will no longer fund activities funded directly under the Leader Award after the expiration date of the Leader Award.

After completion of the activities under the Leader Award, if funds are available, the CTO may request the recipient to provide a consolidated report on lessons learned.

c. 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. Agreement Officers responsible for the program of the requesting activity, within the limits of their authority, may issue Associate Awards. Leader Awards are also posted on the USAID Business and Acquisition and Assistance Internet site (<http://inside.usaid.gov/M/OAA/lwa/index.html>).

Before requesting the Agreement Officer to issue an Associate Award, the Activity Manager must consult with the CTO of the Leader Award. After receiving the CTO's concurrence, the Activity Manager asks the Leader Award recipient to provide an application. The request will include a background statement, a discussion of the area of activity, host country involvement, funds, and period limitation, and description how the activity falls under the Leader Award. The application for an Associate Award contains a specific Program Description and budget.

An SF-424 is not required. The Activity Manager reviews the application, and provides his/her comments to the Agreement Officer responsible for the Associate Award. The Agreement Officer 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,

*An asterisk indicates that the adjacent information is new or substantively revised.

and negotiating the final award. The Agreement Officer has the discretion to decide whether or not to award the Associate Award.

An Associate Award may be a grant or a cooperative agreement, independent of whether the Leader Award is a grant or cooperative agreement. An Associate cooperative agreement must spell out the terms of any substantial involvement. Such substantial involvement must be consistent with the requirements of **303.3.11** and the program description for the particular Associate Award. The Associate Award will use the standard grant or cooperative agreement award format.

The Agreement Officer 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 CTO for the Associate Award and copies of all programmatic reports to the CTO for the Leader Award. The schedule of the Associate Award must also specify the following:

- 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 are not included in the Leader Award, but are necessary to the Associate Award.

In addition to the distribution required by **303.3.16**, the AO must provide a copy of the Associate Award to the CTO of the Leader Award.

d. File Documentation

The Agreement Officer's file documentation for Associate Awards must include

- (1) A copy of the Activity Manager's consultation with the CTO for the Leader award;
- (2) The request for the recipient's application;
- (3) The recipient's application with affirmation of certifications;
- (4) A memorandum of negotiation, including a cost analysis; and
- (5) A copy of the final Associate Award (a copy must be sent to the CTO for the Leader Award); and a copy of the Leader Award.

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303.3.27 Global Development Alliance (GDA)

Effective Date: 06/01/2006

GDA awards provide resource leverage (**See 303.3.10**) from other sources outside USAID. The Activity Manager should consult closely with the GDA Office, the Assistance Officer, the General Counsel or Regional Legal Advisor in the development of the Program Description when these types of awards might be appropriate. Additional guidance may be found at the GDA website (<http://inside.usaid.gov/GDA/>) and in [**AAPD 04-16, Public-Private Alliance Guidelines and Collaboration Agreement.**](#)

***303.4 MANDATORY REFERENCES**

Effective Date: 09/09/2008

303.4.1 External Mandatory References

Effective Date: 06/01/2006

- a. [**5 CFR 1320, Controlling Paperwork Burdens on the Public**](#)
- b. [**22 CFR 203, Registration of Agencies for Voluntary Foreign Aid**](#)
- c. [**22 CFR 208, Governmentwide Debarment and Suspension \(Nonprocurement\)**](#)
- d. [**22 CFR 216, Environmental Procedures**](#)
- e. [**22 CFR 226, Administration of Assistance Awards to U.S. Non-Governmental Organizations**](#)
- f. [**22 CFR 227, New Restrictions on Lobbying**](#)
- g. [**22 CFR 228, Rules on Source, Origin and Nationality for Commodities and Services Financed by USAID**](#)
- h. [**OMB Circular A-21, Cost Principles for Educational Institutions**](#)
- i. [**Executive Order 13317**](#)
- j. [**OMB Circular A-110, Uniform Administrative Requirements for Grants and Other Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations**](#)
- k. [**OMB Circular A-122, Cost Principles for Non-Profit Organizations**](#)
- l. [**OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations**](#)

*An asterisk indicates that the adjacent information is new or substantively revised.

- m. [31 USC 6301- 6308, Federal Grant and Cooperative Agreement Act](#)
- n. [Executive Order 13279, Equal Protection of the Laws for Faith-Based and Community Organizations](#)
- o. [Executive Order 13280, Responsibilities of the Department of Agriculture and the Agency for International Development With Respect to Faith-Based and Community Initiatives.](#)

***303.4.2 Internal Mandatory References**

Effective Date: 09/09/2008

- a. [ADS 103, Delegations of Authority](#)
- b. [ADS 201, Planning](#)
- c. [ADS 204, Environmental Procedures](#)
- d. [ADS 206, Prohibition of Assistance to Drug Traffickers](#)
- e. [ADS 216, USAID-Higher Education Community Partnership](#)
- f. [ADS 260, Geographic Codes](#)
- g. [ADS 304, Choice of Implementation Instrument](#)
- h. [ADS 312, Eligibility of Commodities](#)
- *i. [ADS 458, Training and Career/Professional Development](#)
- j. [ADS 540, USAID Development Experience Information and Reference Services](#)
- k. [ADS 591, Financial Audits of USAID Contractors, Grantees, and Host Government Entities](#)
- l. [ADS 625, Administrative Accounts Receivable](#)
- m. [AAPD 04-14, Implementation of E.O. 13224 - Certification Regarding Terrorist Financing](#)
- n. [Affirmation of Certifications](#)
- o. [A.I.D. Partnership in International Development with Private and Voluntary Organizations \(Policy Paper\)](#)

*An asterisk indicates that the adjacent information is new or substantively revised.

- p. [PEB 2005-06, File Standardization Pilot \(available on the USAID intranet only\)](#)
- q. [Guidance on Funding Foreign Government Delegations to International Conferences](#)
- r. [Guide to USAID's Assistance Application Process and to Submitting Unsolicited Assistance Applications](#)
- s. [Guidelines for Expanded Assistance Authority for Mission Directors](#)
- t. [Policy Determination 21, Endowments Financed With Appropriated Funds](#)
- u. [Procurement and Assistance Procedures for the HIV/AIDS and Infectious Disease Initiatives](#)
- v. [Standard Provisions for U.S., Nongovernmental Recipients](#)
- w. [Standard Provisions for Non-U.S. Nongovernmental Recipients](#)
- x. [Simplified Grant Format](#)
- y. [Standard Provisions for an Endowment with Non-U.S. Nongovernmental Recipients](#)
- z. [Standard Provisions for an Endowment with a U.S. Nongovernmental Recipients](#)
- aa. [USAID Guidance on Congressional Award Notification System](#)
- ab. [Updated Guidance for Modified Acquisition and Assistance Request Document \(MAARD\) Usage](#)
- ac. [Contract Clause Guide for Unclassified Information System Security Systems and Services](#)
- ad. [Guidelines for Delegation of Assistance Authority](#)
- ae. [USAID Policy Guidance on Posting Grant Opportunities and Application Packages on Grants.gov](#)

*An asterisk indicates that the adjacent information is new or substantively revised.

303.4.3 Mandatory Forms

Effective Date: 06/01/2006

- a. [SF-424, Application for Federal Assistance](#)
- b. [SF-424a, Budget Information, Non-Construction Programs](#)
- c. [SF-424b, Assurances, Non-Construction Programs](#)
- d. [SF-269, Financial Status Report \(Long Form\)](#)
- e. [SF-269a, Financial Status Report \(Short Form\)](#)
- f. [SF-270, Request for Advance or Reimbursement](#)
- g. [SF-271, Outlay Report and Request for Reimbursement for Construction Programs](#)
- h. [SF-272, Federal Cash Transactions Report](#)
- i. [SF-272a, Federal Cash Transactions Report, Continuation](#)

303.5 ADDITIONAL HELP

Effective Date: 06/01/2006

- a. [Cross Reference Index](#)
- b. [Procurement Reform Documentation Requirements for Non-Profit Recipients \(self-certification\)](#)
- c. [Sample Fixed Obligation Grant](#)
- d. [Sample Award Letter and Schedule](#)
- e. [Sample CTO Letter of Designation for Grants](#)
- f. [Sample CTO Letter of Designation for Cooperative Agreements](#)
- g. [Contracting with a Foreign Governmental Organization](#)
- h. [Policy Paper, Women in Development](#)
- i. [Sample Action Memorandum for Deviation](#)
- j. [AAPD 05-09 Expedited Acquisition and Assistance Procedures for Tsunami Relief and Reconstruction in South and Southeast Asia](#)

*An asterisk indicates that the adjacent information is new or substantively revised.

- k. [AAPD 05-01 Procurement of HIV-AIDS Test Kits from Code 935 Countries](#)
- l. [AAPD 03-06 Expedited Acquisition and Assistance Procedures for Afghanistan](#)
- m. [CIB 01-04 Expedited Acquisition and Assistance Procedures for the HIV/AIDS and Infectious Disease Initiatives](#)
- n. [Certifications, Assurances, and Other Statements of the Recipient \(May 2006\)](#)
- o. [Operational Security – General Information](#)

303.5.1 Optional Forms
Effective Date: 06/01/2006

- a. [Survey on Ensuring Equal Opportunity for Applicants](#)

303.6 DEFINITIONS
Effective Date: 06/01/2006

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

Agreement Officer (See also, Contracting Officer)

A person with the authority to (1) enter into, administer, terminate, and/or closeout 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. (Chapters 303, 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, 304)

Assistance Executive

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

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- 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 Circulars, or class deviations to OMB Circular A-110);
- Makes final decisions for any appeals brought under 22 CFR 226.90, or the Standard Provision entitled "Disputes", as applicable to non-US organizations; and
- Makes the final determination of the choice of implementation instrument when there is disagreement between the contracting activity and the Strategic Objective team. (Chapters 303 and 304)

Award

Financial assistance that provides support or stimulation to accomplish a public purpose. Awards include grants and cooperative agreements. (Chapter 303)

Recipient

An organization that receives direct financial assistance (a grant or cooperative agreement) to carry out an activity or program. (Chapters 303, 304, 305, 591)

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