

The image features a large, light gray watermark of the USAID seal in the background. The seal is circular and contains the text "UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT" around the perimeter. In the center of the seal is a shield with a map of the United States, and the word "USAID" is prominently displayed in a dark gray box across the middle of the seal. Three stars are positioned at the bottom of the seal.

USAID

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Acquisition & Assistance Policy Directive (AAPD)

From the Chief Acquisition Officer

Issued: September 10, 2002

AAPD 02-13

CONGRESSIONAL AWARD NOTIFICATION SYSTEM

Subject Category: Acquisition Management and Assistance
Type: Policy and Procedures

AAPDs provide information of significance to all agency personnel and partners involved in the Acquisition and Assistance process. Information includes (but is not limited to): advance notification of changes in acquisition or assistance regulations; reminders; procedures; and general information. Also, AAPDs may be used to implement new requirements on short-notice, pending formal amendment of acquisition or assistance regulations.

AAPDs are **EFFECTIVE AS OF THE ISSUED DATE** unless otherwise noted in the guidance below; the directives remain in effect until this office issues a notice of cancellation.

This AAPD: Is New Replaces/ Amends
CIB/AAPD No: 99-14

Precedes change to: AIDAR Part(s) Appendix
 USAID Automated Directives System (ADS) Chapters 302 and 303
 Code of Federal Regulations
 Other
 No change to regulations

Applicable to: Existing awards; Modification required:
 Effective immediately
 No later than
 As noted in guidance below
 RFPs/RFAs issued on or after the effective date of this AAPD; all other Pending Awards, i.e., 8(a), sole source...
 Other or N/A see Guidance section below

New Provision/Clause Provided Herein: Yes; Scheduled update to Prodoc: (insert date)
 No

(signed copy in file) Tim

AAPD 02-13 CONGRESSIONAL AWARD NOTIFICATION SYSTEM

PURPOSE: The purpose of this AAPD is to revise and update the operational guidance and procedures for the Congressional Award Notification System.

BACKGROUND: The Congressional Award Notification System requires USAID Contracting and Assistance Officers (COs/AOs) to notify the Bureau for Legislative and Public Affairs (LPA) when they make certain awards to U.S. ORGANIZATIONS. This AAPD does not apply to personal services contracts (PSCs) and awards to non-U.S. organizations. The Congressional Award Notification System has been in use in the Agency for over 20 years.

GUIDANCE:

I. NOTIFICATION CRITERIA

Contracting Officers and Agreement Officers must follow the Notification Procedures in Section II of this AAPD by notifying LPA AFTER signing but BEFORE releasing, or allowing to be released, an announcement of the following awards. This restriction on announcing the award applies to notifying the awardee (the contractor or recipient of a grant or cooperative agreement) that the award has been signed (however, see also Section III, OTHER CONSIDERATIONS).

- a. Contracts, grants, or cooperative agreements of any value to an organization that never before received an award from USAID.
- b. Any award for which there was Congressional correspondence during the pre-award stage. LPA will alert the CO/AO that such correspondence has occurred, and the CO/AO will then flag the action as falling under the Notification Criteria and Procedures in this AAPD.
- c. Any award for a particular program or geographic region that the operating unit or LPA identifies as being of particular interest at a particular time, such as Hurricane Mitch relief in Central America or the HIV/AIDS program. LPA will coordinate with the individual in the operating unit designated to serve as the LPA liaison to identify such programs, and will then alert the Strategic Objective Team (SOT) or Contracting/Agreement Officer, or both, at the earliest opportunity before the award decision. The CO/AO will then provide notification to LPA consistent with this AAPD.
- d. Grants, cooperative agreements, and any amendments to them that increase the award amount by US\$500,000 or more.
- e. New contracts and contract modifications that establish a total estimated cost (TEC) of or increase the TEC by US\$500,000 (or local currency equivalent) or more.

INCLUDE:

- Contracts awarded under the Small Business Administration's 8(a) program; report the award to the performing subcontractor [the 8(a) firm] rather than to the SBA.
- Basic indefinite quantity contracts (IQCs) with maximum ordering limitations over this threshold.

- Task orders awarded under USAID multiple award indefinite quantity contracts as well as any orders under GSA Federal Supply Schedule contracts or other government-wide acquisition contracts (GWACs).

EXCLUDE:

- Personal Services Contracts;
- Non-personal services contracts with individuals; and
- Modifications providing only incremental funding (and involving no increase to the total estimated cost of the contract).

"You" in the following sections refers to USAID's Contracting Officers, Agreement Officers, and their staff.

II. NOTIFICATION PROCEDURES

- a. After signing an award meeting the above criteria, send an e-mail directly to "CONGRESSIONAL AWARDS (LPA)@aidw". Insert "CONGRESSIONAL AWARD NOTICE" on the subject line. Send a cc copy to Joel Starr in LPA (jstarr@usaid.gov).

COs/AOs MUST CERTIFY "RETURN RECEIPT". For BEYOND MAIL, when composing the message, select Properties from the File menu of the message, select Options from Message Properties, then click in the box Return Receipt Requested. For OUTLOOK, click on the "Options" folder (the tab behind the "Message" tab in which you prepare your actual e-mail), and click on the box for "Tell me when this message has been delivered" at the bottom of the screen. You can also select the next box, "Tell me when this message has been read", but all you need to be concerned about is the delivery--LPA is responsible for reading these messages in a timely manner and responding accordingly.

Retain in the award file:

- A copy of the transmitted e-mail, the e-mail system delivery confirmation message, and the "message read" e-mail
 - The message from LPA acknowledging receipt of your notification e-mail.
- b. Include the following information in your Notification e-mail:
 1. The type of award: contract, grant, cooperative agreement, order, or modification/amendment (indicate the type of instrument being modified or amended).
 2. The award number.

3. The date and time when the operating unit or mission intends to notify the awardee or others. Allow at least 48 hours from the time you send your e-mail to LPA, excluding USAID/W weekends and Federal holidays; **this is the "embargo period" (see c. and d. below)**. In case the e-mail system experiences a delay in delivery, you must wait 48 hours from the time the system certifies delivery to LPA before releasing an announcement.
4. The total estimated cost or price of the award, identifying separately dollars and U.S. owned local currency components.
5. The period of the award.
6. The Strategic Objective number and title and the title of special appropriations, if appropriate.
7. A brief description of services or commodities to be provided under the award, and general program purpose to which the award relates. Because this description is very important to the notification process, you must provide an accurate, descriptive, but succinct summary of the purpose of the award. You may include the name of the cognizant technical officer and authorize LPA to contact him or her directly for more information on the description, or you may choose to name yourself or the contract negotiator as the contact for additional information.
8. The name and address (street, city, state, and zip code+4. Include the +4 to assist LPA in identifying the appropriate Congressional district) of the award recipient. In the case of commodity awards, please indicate the place or places of U.S. production if known.
9. A name and telephone number for a contact person with the award recipient.
10. For any anticipated subcontract of \$500,000 or more to a U.S. organization for which the Contracting Officer has provided consent to the prime to subcontract per Federal Acquisition Regulation (FAR) Subpart 44.2 (either in the prime contract itself or in a consent letter issued concurrently with the prime contract):
 - (A) The total value of each subcontract,
 - (B) The name and address of each,
 - (C) Whether or not the subcontractor is a small business, and if so, the category of small business (small business, veteran-owned small business, service-disabled small business, HUBZone small business, small disadvantaged business, and/or women-owned small business. Indicate all categories that apply),
 - (D) The name and/or U.S. telephone number of each subcontractor contact, if known,
 - (E) A brief description of the services or commodities to be provided,
 - (F) The estimated cost or price, and
 - (G) The period of the subcontract.

Before making any notification on subcontracts or subawards, LPA will contact you to either clear the notice or verify that the subaward can be announced.

11. Any advice regarding anticipated problems with the award. This is important--an example of a potentially problematic situation would be if you believe that you will receive a protest on the award.
- c. The return receipt e-mail message will show the date and time the message was delivered--this time begins the 48-hour embargo period. LPA will send a separate message acknowledging receipt in order to monitor the time of receipt for their records. Monitor your e-mails to confirm the time LPA reads your message as well as to check for their acknowledgement message (again, retain copies of both in your file). If there is an unusual delay between the delivery confirmation message and either the "message read" or LPA's separate acknowledgement message, you should either extend the embargo period to add on the additional time, or send an e-mail to LPA to ask for further instructions.
- d. Do not make a public announcement of any award that meets the Notification criteria in Section I during the embargo period--that is, until **48 HOURS (EXCLUDING USAID/W WEEKENDS AND FEDERAL HOLIDAYS) AFTER THE DATE AND TIME THE E-MAIL SYSTEM CONFIRMS THAT YOUR MESSAGE WAS DELIVERED TO LPA.**

For example, an AID/W CO signs a contract and then sends the e-mail to LPA at 10 am EST on Friday, September 6, 2002. The e-mail system confirms delivery at 10 am on Sept. 6, 2002--this begins the embargo period. LPA "reads" the message at 1:30 PM on Sept. 6, 2002, and sends an acknowledgement e-mail at 1:33 PM, same day. The embargo period ends at 10 am on Tuesday Sept. 10, unless LPA contacts the CO before then to extend it. If LPA has not contacted you during the embargo period, you may then release any public notices either required by regulation or determined to be appropriate by the SOT or operating unit, except that any communications with Members of Congress or their staff must be through LPA.

LPA will notify you during the embargo period if they need more time to decide whether or not to notify a Member of Congress or to prepare a public announcement for either the Agency to release or for a Member to release. LPA may request your cooperation and assistance in preparing this announcement to ensure that it is worded to adequately address any procurement-sensitive considerations related to the award (per II.b.11 of this AAPD).

EMERGENCY DISMISSAL OR CLOSURE IN USAID/W: If USAID/W experiences an emergency dismissal or closure for adverse weather conditions, power failures, or other emergency situations, the embargo period is automatically extended by the same amount of time as the period of the closure (a full day closure extends the embargo period by a full day; a partial closure extends the embargo period by the amount of time that lapses between the time of dismissal until 5:45 PM or whenever USAID/W resumes regular hours). Such dismissals or closures are announced Agency-wide through the Notices system, and overseas COs/AOs are responsible for monitoring these notices and adding the dismissal/closure time to the embargo

period accordingly. If the amount of time to extend the embargo is unclear, contact LPA for instructions.

- e. If LPA determines that it will not notify Members of the Congress or, if after LPA has done so, the Member of Congress indicates that he or she does not wish to announce it, then LPA will advise you as soon as possible so that you can proceed to make public notification without further delay.

III. OTHER CONSIDERATIONS

- a. COs/AOs are to make every effort to sign the award without the successful offeror's knowledge. If you cannot sign the contract without the successful offeror's knowledge, then ask the contractor to cooperate in not making a public announcement.
- b. Contracting Officers and Agreement Officers are to notify LPA only **after** the award is actually signed. An interested party may protest before a contract is awarded and the award could be delayed as a result. If LPA notified Congress that a contract was awarded in this case, then that notification would have been inaccurate and this could be embarrassing to the Agency. If you have reasons to think that there may be a protest after award, you must alert LPA in your e-mail or fax transmission (see II.b.11 above) and work with them to appropriately handle the notification.
- c. FAR 15.503(a)(3) requires that a CO make pre-award notifications to unsuccessful offerors when making a small business set-aside, when a small disadvantaged business concern receives a benefit based on its disadvantaged status and is the apparently successful offeror, or when using the HUBZone procedures (see FAR 15.503 for more detailed instructions). Since these pre-award notifications are required by the FAR, you must comply. Unsuccessful offerors are unlikely to make a public announcement, but you should ask for their cooperation by not publicly discussing the pending award.
- d. LPA, often on the recommendation of the SOT, program office, or operating unit representative, may determine that a particular program or geographic region is of "particular interest at a particular time" (see Section I.c above) at some point during activity design or even during the source selection process. They will coordinate the exchange of information regarding these types of activities. Typically, you may not be involved except to provide the award notification information described in Section II above, at the point of award. Exceptions to this limited involvement would be if you are the designated operating unit representative or you must assist LPA in addressing any procurement-sensitive concerns in LPA's notification to Congress or in a public announcement.

For example, LPA could advise all CO/AO's making awards for Afghanistan that any award over \$50,000, regardless of the type of award, must be notified to LPA before the public announcement of award may be made. LPA may place other conditions on these sensitive actions, such as specifying a waiting period longer than 24 hours, or that only awards to organizations located outside the Washington, DC area are to be notified.

POINT OF CONTACT: Please direct questions about this AAPD to Diane Howard, M/OP/POL (e-mail dhoward@usaid.gov; by phone at 202-712-0206).