



ADS Chapter 303

Grants and Cooperative Agreements to Non-Governmental Organizations

Revision Date: 04/10/2009
Responsible Office: M/OAA/P
File Name: 303_041009

**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 describes the Agency's internal guidance, policy directives, required procedures, and standards for the [award](#) and administration of USAID grants and cooperative agreements to

- Institutions of higher education,
- Hospitals,
- Non-profit non-governmental organizations, and
- Commercial organizations.

USAID provides [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)** develops and interprets policy on behalf of USAID for the award and administration of grants and cooperative agreements. M/OAA carries out this responsibility in accordance with the requirements of [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** coordinates all matters that **OMB Circulars** or USAID Regulations govern or which may require OMB approval. As the [Assistance Executive](#), the M/OAA Director may:

- 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".

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

- c. 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 Catalog of Federal Domestic Assistance (CFDA) entries annually.
 - Submitting an annual consolidated crosswalk that references 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.

NOTE: The Chief of the Strategic Planning and Performance Division of the Bureau for Policy and Program Coordination (PPC/SPP/SPA) was serving as the Agency Liaison to the 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 further information, contact PPC and OAA.

d. The **Agreement Officer** (AO) has legal responsibility for the award. Therefore, only the AO can take action on behalf of USAID to enter into, change, or terminate an award. The AO 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 103.3.8.5](#)),
- 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 [Guidelines for Expanded Assistance Authority for Mission Directors](#).

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e. Prior to award, **The Activity Manager** ensures that USAID exercises prudent management over assistance funds. The Activity Manager will:

- Ensure adequate time for the AO to compete and award an assistance instrument and give the AO sufficient notice by using an annual procurement plan or by obtaining the AO's consent.
- Prepare competitive announcements or justify an exception to competition, in accordance with this chapter and as directed by the AO.
- Provide 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).
- Comply with [22 CFR 216](#)'s Environmental Procedures requirements during the design process.
- Manage the technical evaluation of applications on behalf of the AO, including completing a past performance review of the applicant.
- Carry out elements of a pre-award survey and provide a technical analysis of specific costs when asked by the AO.
- Advise the AO regarding whether an application is responsive to a published USAID competitive notice or otherwise complies with established USAID Assistance Objectives.
- Determine the expected level of cost-sharing, in accordance with specific program requirements and **303.3.10**.
- Process all necessary USAID documentation to request that the AO 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 the recipient will be held accountable.
- Help the AO determine the potential recipient's level of technical and managerial competence.
- Perform other duties, as requested by the AO, to ensure prudent management of assistance funds.

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f. After award, **The Agreement Officer's Technical Representative (AOTR)** is the person designated, in writing, by the AO 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 AOTR ensures that USAID exercises prudent management of assistance awards and makes the achievement of program objectives easier by monitoring and evaluating the recipient and its performance during the award. The AOTR will:

- Maintain contact, including site visits and liaison, with the recipient;
- Review and analyze reports and verify timely performance, including monitoring reporting requirements. (see [ADS 540.3.2.3 and ADS 540.3.2.6](#));
- Ensure compliance with the terms and conditions of the award;
- Carry out all responsibilities as delegated by the AO in the schedule of the award or as noted under the "Substantial Involvement" section of Cooperative Agreements;
- Monitor the recipient's financial reports to ensure that the recipient makes progress toward meeting the required cost sharing, when applicable;
- Notify the AO promptly of any developments that could have a significant impact on the recipient's performance;
- Prepare internal documents to support amendments to the award;
- Assist the AO in the review of proposed Branding Strategy and Marking Plans and monitor the execution of approved Marking Plans;
- Ensure 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](#)).
- Monitor classified recipients' compliance with the security specifications included in their grants and cooperative agreements and notify the AO and the Office of Security of any problems or suspected non-compliance with these requirements (see [ADS 545](#), [ADS 565](#), and [ADS 567](#)).
- Evaluate the recipient's program effectiveness at the end of the program and submitting a final report to the AO and the Activity Manager; and
- Perform other duties, as requested or delegated by the AO, to ensure prudent management of assistance funds.

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g. The Office of the General Counsel (GC) interprets 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 approve terminations based on the decision that continued assistance would not be in the national interest of the United States.

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

303.3 POLICY DIRECTIVES AND REQUIRED PROCEDURES

Effective Date: 06/01/2006

303.3.1 Policy Directives

Effective Date: 06/01/2006

[22 Code of Federal Regulations Part 226](#) (22 CFR 226), "Administration of Assistance Awards to U.S. Non-Governmental Organizations," establishes the requirements that USAID must follow when administering grants and cooperative agreements to U.S. nongovernmental organizations. **22 CFR 226** is the Agency's regulatory implementation of the [Office of Management and Budget \(OMB\) Circular A-110](#), "Uniform Administrative Requirements for Grants and Agreements Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations."

[22 CFR 226](#) and [OMB Circular A-110](#) do not directly apply to non-U.S. nongovernmental organizations. However, as a matter of policy and to the extent practicable, USAID applies these regulations to non-U.S. nongovernmental organizations through 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**. The Office of Acquisition and Assistance (OAA) generally uses **Procurement Executive Bulletins (PEBs)** to issue guidance, best practices, reminders, and frequently asked questions (available on the USAID intranet only).

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303.3.3 Type and Length of Assistance Instrument

Effective Date: 06/01/2006

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

The Assistance Objective Team (AOT) makes a preliminary determination on the duration and type of instrument. They base their decision on the purpose of the transaction and the intended nature of the relationship (see [ADS 201](#)). The team describes the purpose and proposed instrument in the programming and requesting documents. The Agreement Officer (AO) makes the final decision regarding whether an award will be an acquisition or 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 it in the best interests of the U.S. Government (USG), USAID may grant a deviation 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, M/OAA, may approve deviations. OMB must also approve any class deviations from [22 CFR 226](#), [OMB Circular A-110](#), and any deviations from 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, M/OAA or by the Mission Director with program responsibility.

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b. Procedure.

(1) The AO 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.**

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

(3) The AO or Activity Manager must consult with The Office of the General Counsel (GC) or the Regional Legal Advisor (RLA) on all deviations. GC or the RLA must clear the document before the AO or Activity Manager submits it to the approving authority.

(4) Before submitting the action memorandum to the approving official under **paragraph a.** of this section, 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 the information required in **paragraph c.** of this section. M/OAA/P should respond within ten working days. If more time is needed, M/OAA/P must alert the requestor and provide an estimate of when comments will be provided. This package cannot be submitted for approval until the requestor receives a written response from M/OAA/P. The AO 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 AO 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 the deviation to the approving official. M/OAA/CAS has ten working days in which to respond. If it needs more time, M/OAA/CAS must alert the requestor and provide an estimate of when it will provide comments. If M/OAA/CAS does not provide comments within ten 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 regarding why the request was not approved. If the requestor can revise the request to address the approving official's objections, the requestor may do so and resubmit the request. 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 AO must retain the approved deviation in the award file. This applies to all approved deviations, including those by the Director, M/OAA, or by a Mission Director.

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c. Contents of a Deviation Request.

Each deviation request must:

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

(For an example, see [Sample Action Memorandum for Deviation](#))

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](#) (CFDA) and at www.Grants.gov.

b. As OMB policy requires (see [Office of Federal Financial Management Policy Directive on Use of Grants.Gov](#)), USAID must synopsise and post all funding opportunities and application packages to the Grants.gov site except:

- Programs that only publish assistance programs through the publication of a CFDA entry by the AOT.

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

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- 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.

The **USAID Policy Guidance on Posting Grant Opportunities** and the **Application Packages on Grants.gov** describe the specific instructions for posting synopses and application packages to **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 the database for 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, find assistance programs, determine if an assistance program matches the individual or organization's requirements, and determine if the individual or organization is eligible for the assistance program. The individual or organization may then contact the office that administers the program and find out how to apply.

Use of the CFDA allows an individual or organization to find information in one location, instead of searching through 26 different agency web sites. All agencies of the USG, including USAID, must 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. This includes programs that finance grants or cooperative agreements to U.S. recipients for activities abroad. It does not include programs that finance grants or cooperative agreements to non-U.S. recipients for activities abroad or the acquisition or recruitment of personnel.

USAID satisfies the requirements of the Federal Program Information Act by publishing a general entry about its programs in the CFDA. These programs must also be published in [Grants.gov](#) and issued as Request for Applications (RFA) or Annual Program Statements.

If the AOT wishes to submit an entry, it should send its information 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.

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303.3.5.2 Request for Applications

Effective Date: 06/01/2006

USAID uses a 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 response periods for larger activities or more detailed applications to ensure high quality applications. If USAID cannot provide 30 days notice, the competition may proceed only with the express written approval of the AO.

In cases when 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**).

The RFA must follow an established format (see the [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. Specifically, it must include:

(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 must meet. The level of detail in the program description depends on the requirements of the assistance objective.

(2) A statement identifying the authorizing legislation (generally the [FAA](#)) and whether the award is subject to [22 CFR 226](#).

(3) Program eligibility requirements.

(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](#) are 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 or other Website (see **ADS 303.4** and **ADS 303.5**).

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

- (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:

- (1) Identify what types of entities may apply when there are eligibility restrictions.
- (2) Include a statement to the effect that USAID encourages applications from potential new partners.
- (3) Describe the cost sharing element, if applicable, and state whether the inclusion of cost share is required or suggested (**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.
- (4) State any other minimum qualification requirements.

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

(1) Information for a point of contact, including name, title, address, e-mail address, and phone and fax numbers, so 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](#).

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(3) The required certifications in **303.3.8**.

(4) The required format for the application. In accordance with the regulations ([5 CFR 1320](#)) implementing 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.

(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 evaluates cost sharing as part of the review process (see **303.3.10**). If USAID considers 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 evaluates the applications (for example, USAID personnel or USAID personnel and representatives from the Embassy, host government, or private sector individuals) and who makes the final selection.

f. Section VI, Award and Administration Information, must include:

(1) What a successful applicant can expect to receive following selection. State that a notice of award signed by the AO 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.

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

(2) A statement identifying the standard provision and the deviation when the award includes any deviations from the standard provisions.

(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 situations when the point of contact is not available.

h. Section VIII, Other Information, should include:

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

(2) Any other relevant information.

303.3.5.3 Cancellation of Requests for Applications

Effective Date: 06/01/2006

The cancellation of an RFA involves a loss of time, effort, and money spent by the USG and applicants. USAID should cancel invitations only when cancellation is in the public interest. For example:

(1) When there is no longer a program or project or when USAID is no longer supporting the program.

(2) When amendments to the RFA would be of such magnitude that a new RFA is desirable.

If USAID cancels an RFA, USAID will return the unopened applications it has received and will issue a notice of cancellation, either posted electronically as a general notice, or sent to all prospective applicants, or both, as appropriate. USAID will not view applications that it receives electronically and must purge them from primary and backup data storage systems.

The notice of cancellation must:

(1) Identify the RFA number and provide a short title or the subject matter,

(2) Briefly explain the reason why USAID cancelled the invitation, and

(3) Assure prospective applicants that they will be given an opportunity to apply for any subsequent or future RFA for the program, if appropriate.

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

The AO must document the:

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

303.3.5.4 Annual Program Statement

Effective Date: 06/01/2006

When USAID intends to support a variety of creative approaches in developing methodologies to assess or implement activities that are in keeping with assistance objectives, USAID may use an Annual Program Statement (APS) to generate competition for new awards. In this case, USAID uses an APS instead of relying on unsolicited proposals.

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.

The APS must contain:

- (1) The specific statutory authority and program eligibility requirements, when 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 describing how USAID evaluates 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 [22 CFR 226.23](#)).
- (6) How USAID administers the award. For U.S. organizations, state that [22 CFR 226](#), [OMB Circulars](#), and the USAID Standard Provisions apply. 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 (for example, name or individual they may contact or the USAID

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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](#)).
- (10) Any other relevant information.

303.3.5.5 Unsolicited Concept Papers and Applications

Effective Date: 06/01/2006

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

303.3.6 Competition

Effective Date: 06/01/2006

The Agreement Officer (AO) is the Agency official who guarantees the integrity of the competitive process by ensuring overall fairness and consideration of all eligible applications. The AO 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 accordance 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](#), it is USAID's policy to award all grants and cooperative agreements competitively— seeking applications from all eligible and qualified entities. Competition requires that USAID publishes an announcement in accordance with [303.3.5](#), conducts an impartial review and evaluation of all applications (see [303.3.6.4](#)), and makes a recommendation to the AO for award.

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

303.3.6.2 Eligibility

Effective Date: 06/01/2006

The AO verifies 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 (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 AOT develops the minimum qualifications for applicant consideration. However, if the AO determines that the criteria are so restrictive that they severely limit competition, the AO 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 AOT, with the approval of the AO, may establish a two or more tiered competition system. The AOT may ask potential applicants to submit an executive summary or concept paper and corresponding budget information. After it reviews and evaluates these submissions, the AOT selects the best submissions and conducts a second level of competition that uses more specific evaluation criteria. The AOT 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 AOT develops evaluation criteria. The criteria must include:

- Technical merits of the applications,
- Cost effectiveness and cost realism of the application,
- Past performance of the applicant, and

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

- Branding strategy and marking plan.

The evaluation criteria in an announcement must provide as much information as practical to allow potential applicants to judge whether it is in their best interest to incur costs to apply for 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 relative importance of the criteria. The Activity Manager must obtain the AO'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 a point of contact list with current telephone numbers. The Activity Manager determines whether to require this information as part of the initial application or 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 when USAID is conducting a prequalification competition (see **303.3.6.2.d**). Regardless, 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 AO. See information on the use of Past Performance at: [Best Practices for Collecting and Using Current and Past Performance Information](#)

(1) **Evaluating Past Performance.** The Activity Manager and Technical Evaluation Committee (TEC) defined in **303.3.6.4** evaluates an applicant's past performance. The Activity Manager and TEC validates an applicant's past performance reference information based 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 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.

To ensure an effective past performance evaluation, the Activity Manager or TEC, as part of the evaluation, must:

- Assess how recent and relevant the past performance information is.

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

- Evaluate the past performance of the team, consortia, or joint venture members and proposed subaward organizations, along with the applicant's past performance.
- Include analysis and rationale for the conclusions reached regarding an applicant's past performance.

The TEC 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.

If the RFA or APS states that other references may be contacted, the Activity Manager and Technical Evaluation Committee may contact references other than those provided in the application.

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 201.3.9.3](#)). 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 201.3.9.3**. The Approving Official determines the appropriateness of the statement or the rationale as part of the pre-obligation requirements. If the AOT 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 AOT must consult, as necessary, with the Bureau for Economic Growth, Agriculture and Trade, Office of Women in Development (EGAT/WID). EGAT/WID will provide the AOT 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](#), 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,
- Trade for African Development and Enterprise Initiative,
- Middle East Partnership Initiative, and

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- Other Presidential Initiatives that will be identified in the future.

e. Environmental Concerns. The Activity Manager must ensure that the requirements for an 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](#) has detailed guidance on environmental concerns, and [ADS 201](#), [ADS 202](#), and [ADS 203](#) have additional guidance on incorporating **ADS 204** into the planning, achieving, and learning processes.

f. Branding and Marking. It is a federal statutory and regulatory requirement (see [Section 641, Foreign Assistance Act of 1961, as amended](#) and [22 CFR 226.91](#)) 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. Under **22 CFR 226.91**, USAID requires the submission of a Branding Strategy and a Marking Plan, but only by the “apparently successful applicant,” as defined in the regulation. The apparently 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 evaluates and approves 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](#), **22 CFR 226.91**, and [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 TEC to evaluate applications. The TEC must evaluate the applications using the evaluation criteria stated in the RFA. The TEC 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 AO.

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 the TEC.

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d. The AO 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 regarding the organizations whose applications they review. A conflict of interest would include situations when:

- a member of the TEC 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.
- his or her spouse/partner, or minor child 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,
- any organization or entity in which the TEC member serves as officer, director, trustee, general partner or employee (including any organization with whom that person is negotiating about such a position) has any 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 of a conflict of interest would be if an employee of an outside organization (for example, Technical Advisors in AIDS, Child Survival, Infectious Diseases, Population and Basic Education (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.

The AOT must make all efforts to identify potential conflicts early in the competitive process. Because resolution of conflicts of interest is fact-driven and case-specific, the AOT must coordinate with the AO and their cognizant GC or cognizant RLA 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 AOT established a specific timeframe 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 Office of Foreign Disaster Assistance (OFDA) programs, 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 AO.

f. When evaluating applications against a criterion related to gender issues, the Activity Manager must coordinate with EGAT/WID.

g. If an unsolicited application reasonably fits an existing program, the AOT may include the application in the competition under the RFA or APS. If it does not, an

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exception to competition under **303.3.6.5** is necessary before USAID can issue an award to the applicant.

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 AO for the agreement files.

i. The AO provides the TEC with a written Evaluation Plan that specifies the criteria and methodology for evaluating the applications that is consistent with the information published in the RFA or APS document.

j. The TEC must prepare a written evaluation of each application and compare it against the established criteria.

k. If USAID did not assign numerical values to the evaluation criteria, then the comparison will be in the form of a narrative. The narrative details each application's strengths and weaknesses relative to the evaluation criteria. If the RFA does not indicate the relative importance of the evaluation criteria, then all evaluation criteria are equally weighted.

l. If USAID assigns numerical values to the criteria, the evaluation must include a discussion of the numerical scoring and a narrative explaining each application's strengths and weaknesses when compared to the evaluation criteria. The committee must also include a discussion of its review procedure. The Activity Manager must forward this written evaluation to the AO, who must ensure that a copy is placed in the agreement file.

m. In accordance with [Executive Order 13279](#), Equal Protection for the Laws for Faith-Based and Community Organizations, the following principles guide USAID:

- (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

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its mission—including the definition, development, practice, and expression of its 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 Exceptions to 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 exceptions:

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 a follow-on assistance award 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 ten years of its original award date, unless an exception is approved by the Director, M/OAA, and, for awards to non-U.S. organizations, an exception is approved by the Director, M/OAA 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 Grant 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 Federal 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 inappropriate for USAID to reserve the authority to unilaterally extend an assistance award at its discretion because this would be inconsistent with the limited management role available to the Agency in establishing an assistance relationship (see [ADS 304](#)).

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

- Clearly demonstrates a unique, innovative, or proprietary program;
- Represents appropriate use of USAID funds to support or stimulate a public purpose; and
- Fits within an existing Assistance Objective.

Unsolicited applications are those submitted by an applicant to USAID solely on the applicant's initiative, without prior formal or informal solicitation from USAID. The AOT 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 AO, the application is considered unique, innovative, or proprietary.
- Funding the application is an appropriate use of USAID funds to support or stimulate a public purpose.
- It fits within an Assistance Objective.

When the terms of an unsolicited application fits within the scope of a published and open APS, the application may be considered under the APS. The unsolicited application is considered to have competed under the APS and no justification for an exception to competition is required.

A recipient request to extend an on-going relationship must not be considered an unsolicited application. In that case, USAID must prepare a justification using the guidance for amendments and follow-on assistance awards. See [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 and unique relationship with the cooperating country or beneficiaries, or
- 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, if any, other options USAID explored. This exception may not be used to continue an ongoing relationship when the applicant developed the exclusive or

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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. These 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 an 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, M/OAA, may authorize limited competition among a select group of applicants when it is necessary for reasons of efficiency. The AO must submit a justification that describes in sufficient detail what other options USAID explored, including any other exceptions and 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 AO 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. When a Congressional earmark specifies an award to a particular organization, no competition is required. 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 AO.

USAID may also use the exception if the award is based on language in a Conference Report that clearly indicates that Congress intends for USAID to make an award to a particular 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 AO.

i. Critical objectives of the Foreign Assistance Program. When no other exception applies, the cognizant Assistant Administrator (AA) or Office Director who

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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 without competition (see **303.3.26**).

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 **303.5**.

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 exception from competition (**303.3.6.5**) to the AO for his or her review and approval. The Activity Manager must base the justification using 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 all justifications under **ADS 303** that support a non-competitive award or award augmentation before the Activity Manager submits it to the AO.

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 AO, the AA must sign an Action Memorandum. The Action Memorandum must include a copy of the justification for non-competition as an attachment. The Action Memorandum must indicate that the AA has personally reviewed the proposed decision to ensure that there will be no negative public policy implications of such an award and has cleared the particular grant on this basis. Both the Director, M/OAA, and the Assistant General Counsel for Acquisition and Assistance (GC/A&A) must review and clear the Action Memorandum. 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 exceeds \$20 million and is justified by the "Amendment and follow-on" exception, the Administrator or Deputy Administrator must approve the Action Memorandum. The Administrator or DA reviews using the criteria outlined in paragraph **b**. The Director, M/OAA, and GC must review and clear the Action

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Memorandum. These approvals may not be delegated, but may be fulfilled by one serving as AA, Director M/OAA, or GC in an "Acting" capacity. This includes amendments to Associate awards under Leader with Associate assistance instruments.

The AO may return the justification to the Activity Manager if the AO is dissatisfied with it. In such cases, the AO must notify the Activity Manager in writing, explaining the reasons for rejection. The Activity Manager may appeal to the Director, M/OAA, who makes the final determination.

303.3.6.7 Late or Incomplete Submissions

Effective Date: 06/01/2006

USAID may review and consider late or incomplete RFA or APS award applications if:

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

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

303.3.7 The Award Decision

Effective Date: 06/01/2006

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

303.3.7.1 Notification

Effective Date: 06/01/2006

a. Only the AO notifies the apparently successful 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 AO is authorized to make a commitment on behalf of USAID.

b. USAID must notify each applicant in writing on the success of its application. Once USAID decides which applicant(s) it will consider for award, the AO or the Activity Manager (if authority is delegated by the AO) 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 their application. The AO must approve the letter before the Activity Manager sends it.

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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, the unsuccessful applicant may send a written request for additional information to the USAID Bureau/Independent Office (B/IO) that issued the RFA or APS.

Responses must be limited to USAID's level of interest in supporting the organization's program as described in its application. In general, comparing one organization's application to another is neither advisable, nor helpful to the applicant. USAID encourages the TEC Chairperson and the AO to give additional information that would be useful to the applicant in preparing future applications.

Debriefings may be provided at the discretion of the AO. The cognizant B/IO 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. The AO or the technical representative from the B/IO, responding orally, must make a written summary of the response for the agreement file. The USAID staff member must obtain the AO's approval of all written communication before it is sent, and the AO must be present at any debriefing and should lead any such debriefing.

If the applicant has questions about the program or about the technical evaluation, the TEC chair provides constructive feedback that may assist applicants when developing proposals in the future. The TEC chair explains 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 applicant has questions about process, accountability, or business considerations, the AO responds. The TEC chair and the AO respond jointly when the applicant raises both types of questions.

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

Effective Date: 06/01/2006

In addition to the certifications included in the [Standard Form 424](#), the AO must obtain the following certifications, assurances, and other statements from both U.S. and non-U.S. organizations (except as specified below) before making an award and as otherwise 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 AO may choose to ask that the applicant submit the certifications either as part of the application or during negotiations. The AO 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:

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

- a. For U.S. organizations, a signed copy of the [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 [AAPD 04-14](#);
- e. All RFAs must include the [Survey on Ensuring Equal Opportunity for Applicants](#);
- f. All applicants must provide a Data Universal Numbering System (DUNS) Number (see [Federal Register Notice Use of a Universal Identifier by Grant Applicants](#)).
- g. When applicable, a signed copy of “Key Individual Certification Narcotics Offenses and Drug Trafficking” (see [ADS 206](#));
- h. When applicable, a signed copy of “Participant Certification Narcotics Offenses and Drug Trafficking” (see [ADS 206](#));
- i. 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](#).

303.3.9 Pre-Award Responsibility Determination

Effective Date: 06/01/2006

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 the Office of Management and Budget. 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**).

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

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 TEC or activity manager, as applicable, submits the application and all supporting information to the AO for negotiation and award. An award 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 in the "[Excluded Parties List System](#)" 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 [OFAC List](#) (otherwise known as the [Specially Designated Nationals \(SDN\) and Blocked Persons 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 in 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.

a. 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 U.S. organization that has been previously determined responsible by USAID or another USG Agency, the AO may rely on the following information:

- An 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 AOT, 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**).

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

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:

- 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 AOT, 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. If one of the criteria in **303.3.9.1** applies, the AO must perform a survey in conformance with that provision before making any determination. 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:

- 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: 06/01/2006

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 Manager 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.
- The prospective recipient has not received an award from any other Federal agency in the last five years.

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- The AO has knowledge of deficiencies in the applicant's A-133 (or equivalent) audit.
- The AO determines it to be in the best interest of the USG.

b. Contents of the Pre-Award Survey. The AO or the survey team ensures 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

- Its accounting, recordkeeping, and overall financial management systems meet the applicable standards in **22 CFR 226**.
- The applicant's system of internal controls is reasonable in accordance with applicable cost principles. This includes the segregation of duties, handling of cash, contracting procedures, and personnel and travel policies.
- 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.
- 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 consists of:

- An AOT member,
- 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

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- 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, if appropriate.

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. The AO must make the final determination of the applicant's responsibility.

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, considering all existing prospective recipient commitments, both non-governmental 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.

303.3.9.2 High Risk Recipients

Effective Date: 06/01/2006

If, after making a comprehensive review of a potential recipient, the AO is unable to make a positive responsibility determination, the AO may either deny the Activity Manager's recommendation and not make the award or award with "Special Award Conditions" (High Risk) (see [22 CFR 226.14](#)). The AO, however, may consider this

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choice only if it appears likely that the potential recipient can correct such deficiencies within a reasonable period of time. Because regulation authorizes Special Award Conditions, they are not considered a part of Substantial Involvement; therefore, a deviation (see **303.3.11**) is not needed.

While [22 CFR 226](#) is not directly applicable to awards to non-U.S. organizations, as a matter of USAID policy, the standards in this section may be used for non-U.S. recipients.

It is the USAID AO's responsibility to minimize the risk to USAID posed by High Risk organizations. When the AO makes an award, any of the following additional conditions may be considered:

- a. Special award conditions, such as more detailed or more frequent financial reports, and
- b. Technical assistance to recipient. When the AO determines that more Federal oversight is necessary, the AO may:
 - Issue a contract to a third party to provide technical assistance to the recipient and authorize the recipient to call on the contractor for specified services;
 - Require the recipient to contract for its own technical assistance; or
 - Have USAID staff provide technical assistance directly to the recipient.

These conditions are intended to be for a limited time period, and not for the life of award.

303.3.10 Cost Share Effective Date: 06/01/2006

Cost share refers to the resources a recipient contributes to the total cost of an agreement. It is the portion of project or program costs not borne by the Federal Government.

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 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 is appropriate for an activity should be based on technical and/or programmatic considerations. The policy does not contain a suggested numeric

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reference point. Cost sharing should be based on the needs or purpose of the activity. Examples of when cost-sharing may be appropriate:

- When 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.
- When it is critical that the activity continues after USAID assistance ends, cost sharing requirements can ensure that the recipient establishes adequate alternate sources of funding.
- When an award supports an activity initiated by the recipient or is based on an unsolicited proposal. Because most funding is reserved for development priorities USAID has already established, only limited funding may be available for even the best of such applications. USAID may only be able to partially fund the activity.
- To otherwise give the recipient a financial stake in the success of the program.

In all of these cases, the AOT should discuss the amount and terms of cost sharing with potential recipients prior to award (see [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 determines 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 range 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](#) and the approval of the AO, USAID may use program income to finance the non-Federal cost sharing of the award.

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USAID may also make the program income additive to USAID's contribution without a cost sharing requirement, when this would help achieve program objectives, such as sustainability.

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 when establishing cost sharing requirements.

The Activity Manager must write a memorandum to the AO documenting the factors that he or she considered when 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 an award when it is 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 may bring to the program without necessarily providing them to the recipient. These parties may 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 Web site, and [USAID Global Partnerships](#), which is available on USAID's public Web 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. After USAID issues an announcement, when the Activity Manager decides that the amount of cost sharing required should be changed, the Activity Manager must provide an adequate justification and request the AO 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

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consider this to be within the cost effectiveness evaluation criterion. You should not create a separate or 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 throughout the life of the agreement, and the AOTR 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 AOTR must bring this to the attention of the AO. The AO must initiate discussions with the recipient to resolve the issue. The AO has the authority to reduce the amount of USAID incremental funding in the following funding period or to reduce the amount of the agreement by the difference between the expended amount and what the recipient agreed to provide. If the award has expired or been terminated, the AO may request the recipient to refund the difference to USAID.

In-kind contributions are allowable as cost 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 AO must review the applicant's proposed cost sharing contributions (for example, categories or items) for cost realism. The AO must 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 does 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 AO 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 AO must select whether a grant or cooperative agreement is the appropriate instrument, in accordance with [ADS 304](#). OMB policy on substantial involvement proscribes that agencies "should limit their involvement in assisted activities to the minimum consistent with program requirements." The AO must be satisfied that the proposed involvement by USAID is reasonable and necessary.

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

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 [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 AO should not look at one single factor or proposed involvement. The AO 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 AOT anticipates substantial Agency involvement during the performance of the award, the Cooperative Agreement must define this involvement. Unless USAID authorizes a deviation in accordance with **303.3.4**, substantial involvement is limited to the elements listed in **303.3.11 a - d**, and USAID must directly and specifically tie it to the Program Description. The AOT must consult with the AO 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 AO.

The intended purpose of AOTR's substantial involvement during the administration of an award is to help the recipient achieve the supported objectives of the agreement. The AO may delegate the approvals listed in paragraph **a - d** of this section to the AOTR, except for changes to the Program Description or the approved budget. Only the AO may approve those changes, after review by the AOTR.

a. Approval of the Recipient's Implementation Plans.

If at the time of award, the Program Description does not establish a timeline for the planned achievement of milestones or outputs in sufficient detail, USAID may approve the plan at a later date. USAID will not require approval of these plans more often than annually. If the AO has delegated authority to the AOTR to approve Implementation Plans, the AOTR should review the terms and conditions of the agreement to ensure that the AOTR 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 those positions that are essential to the successful implementation of the award. USAID's policy limits 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 AO may authorize the joint participation

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of USAID and the recipient. When satisfied that there is sufficient reason for Agency involvement and that the involvement is specifically tailored to support identified elements in the Program Description, the AO may include appropriate levels of substantial involvement, such as the following:

- (1) Collaborative involvement in selection of advisory committee members. If the program will establish an advisory committee that provides 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. [22 CFR 226.25](#) already requires the recipient to obtain the AO's prior approval for the subaward, transfer, or contracting out of any work under an award. This is generally limited to approving work by a third-party under the agreement. If USAID wishes to reserve any further approval rights 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.
- (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, negotiated in the budget, and made part of the award.

d. Agency authority to immediately halt a construction activity.

USAID may include the statement "the AO may immediately halt a construction activity if identified specifications are not met" as part of the substantial involvement. The AO 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 AO 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 located in [22 CFR 226.2](#) and application suggestions are located in [22 CFR 226.24](#)).

When performing a thorough cost analysis, the AO obtains cost breakdowns; verifies cost data; evaluates specific elements of costs; and analyzes data to determine the necessity, reasonableness, and allocability of the costs reflected in the budget and if

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they are allowable under the applicable cost principles. The cost analysis helps the AO determine:

- (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 AO on the basis of the amount and type of costs involved, the nature of the program, and past experience with the applicant. The AO may ask M/OAA/CAS for help in his or 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 AO 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 AO 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 **PEB 2005-6** (available on USAID intranet only).

303.3.13 The Award Process and Elements of an Award

Effective Date: 01/25/2007

It is USAID's policy to award a grant or cooperative agreement to support a specific or separate program. The AO must ensure that an award clearly defines the activities that make up the program USAID supports. 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 AO must ensure that the Agency's role in administration is limited to measuring and evaluating the recipient's progress and any appropriate involvement. 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.

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

The AO must ensure that all of the elements of a legally binding agreement are present. These are:

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

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 achieve and for which it will be held accountable.

The AO 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 AO should advise the AOT to check [ADS 540](#) when 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 AO 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 AO, describes, with as much specificity as possible, the programmatic information to be produced and the timing of its submission to the 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 the AO should contact GC or the cognizant RLA for guidance. Also, the schedule may require output or unit cost data (see [22 CFR 226.51\(d\)\(1\)](#)).

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The AO's signature serves to obligate funds under a grant or cooperative agreement (see [ADS 621.3.4, paragraph b](#)), as long as the AO 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 it agrees with the terms and conditions of the award. If the AO makes any substantive change to the program description or the budget or adds terms to the agreement that were not addressed during negotiations, such as a Substantial Involvement Understanding or Special Award Conditions (see [22 CFR 226.14](#) and [ADS 303.3.9.2](#) and [303.3.11](#)), the AO must obtain the applicant's agreement to the changes or additional terms before obligating funds.

[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](#).

***303.3.14 Designation of the Agreement Officer's Technical Representative (AOTR)**

Effective Date: 02/20/2009

The AO must designate the AOTR for each grant or cooperative agreement in accordance with the policy directives and required procedures of this chapter. The AO must use the AOTR designation letter to define the scope of authority of the AOTR to carry out grant or cooperative agreement administration duties which would otherwise be the AO's responsibility.

a. Eligibility and Appointment.

In order to be an AOTR (and alternate, if applicable), the appointee must be working for USAID as a(n):

- Direct-hire employee,
- Employee of another USG agency and working for USAID through an interagency agreement or on detail, or
- Personal services contractor (PSC) working in the agency. PSCs include U.S. citizens, Foreign Service National (FSN), and Third Country National (TCN) PSCs.

AOTR eligibility is not based on the program that brought the individual into the Agency, e.g. Fellows or Participating Agency Service Agreements (PASA), but on the individual's employment status as described above.

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

The AOTR must be appointed by letter from an AO in accordance with the attached [Agreement Officer's Technical Representatives Appointment Procedures](#) and must meet the Agency's AOTR mandatory training and certification program requirements specified in **b.** of this section.

b. Certification and Training Requirements.

The Office of Human Resources, Training and Education (HR/TE), in coordination with M/OAA, established a Certification Program for COTRs and AOTRs that includes training courses designed to provide USAID AOTRs with the basic knowledge and skills they need to effectively perform the role of an Agency AOTR. Specific certification requirements are outlined in ADS [458.3.5.5 \(b\)](#) and include successful completion of:

- The web-based Phoenix Accruals on-line course,
- A&A 103: Assistance Management for AOTRs (CTOs), and
- A&A 102: Acquisition Management for COTRs (CTOs).

AOTRs designated after October 1, 2009 must be certified prior to designation, except as provided in this section. AOTRs designated prior to October 1, 2009 must have completed the web-based Phoenix Accruals on-line course prior to designation and must be certified within six months of designation.

HR/TE maintains a database of COTR and AOTRs who have received training and the courses they have successfully completed. AOs may request an individual's certification status from the COTR/AOTR Certification Point of Contact (POC) in the Office of Human Resources (For Internal Use only - see the POC on the COTR/AOTR Certification Program Web page at <http://inside.usaid.gov/M/HR/lsd/ctocert.html>). **[Note: These documents are only available on the intranet.]** By issuing the designation letter, the AO is confirming that he or she has verified the training status of the AOTR.

Exceptions. In exceptional circumstances, designation of an uncertified individual as an AOTR can be authorized in USAID/W by the Evaluation Division of the Office of Acquisition and Assistance (M/OAA/E) or in the field by the Mission Director for a period of no more than six months. If the Nominating Office requests approval of an AOTR designation for an uncertified individual, the request must include

- A description of the compelling circumstances requiring the exception,
- Affirmation that the individual has completed the Phoenix Accruals on-line course, and
- Confirmation from the individual's supervisor that the individual will complete AOTR certification within six months.

Extensions beyond six months can only be approved by the Director M/OAA and will not exceed one year from the date of the initial designation.

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

Warranted Contracting/Agreement Officers and Procurement Management Certification Program (PMCP) or Federal Acquisition Certification in Contracting (FAC-C) Level 1 certified individuals can be designated as AOTRs without completion of the COTR/AOTR certification program, but they must complete the web-based Phoenix Accruals on-line course.

c. Issuing the AOTR Designation Letter.

AOs must use the appropriate designation letter to appoint the AOTR to perform award administration responsibilities and authorities. Standardized letters are provided in the [Agreement Officer's Technical Representatives Appointment Procedures](#). AOs must use the appropriate standardized grant or cooperative agreement letter essentially as written, but some tailoring of these letters is acceptable as long as they do not affect the substance of the standardized letter. However, the AO may not change Section III, Limitations, of the Designation letter.

The AO may designate an alternate AOTR to perform AOTR duties during the absence of the AOTR. The alternate is subject to the same certification requirements as the AOTR and must be appointed in the designation letter.

The AOTR cannot further delegate the authority designated to him or her by the AO. If neither the AOTR nor the alternate are available to perform their duties, the AOTR must direct the recipient to the AO for guidance.

d. Rescinding/Expiration of an AOTR Designation Letter.

AOs have the authority to rescind a designation letter at any time if the individual's performance as an AOTR is unsatisfactory; for example, if the individual fails to perform his or her duties and responsibilities or if the individual exceeds his or her authority as specified in the designation letter. Examples of circumstances which might warrant rescinding an AOTR designation for unsatisfactory performance include the AOTR's failure to adequately monitor the available funding on an agreement or the AOTR inappropriately giving technical direction to the recipient.

AOs must rescind a designation letter when the AOTR is reassigned to a new post or position, and then he or she must designate another individual as the AOTR. If an AOTR has not completed the certification program within six months (only applicable to those AOTRs/CTOs designated prior to the implementation of this policy or who have an exception approved by M/OAA/E or the Mission Director), the AO must rescind the designation unless the Director, M/OAA, authorizes an additional six month extension. If the AOTR has not completed the certification program within one year of his or her designation, the AO must rescind the designation letter. Extensions beyond 12 months can not be authorized.

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

e. Documentation and Monitoring

The AO must ensure the AOTR designation is kept up to date in the appropriate electronic acquisition system(s) and must maintain a copy of the designation letter, signed by both the AO and the AOTR, in the award file. AOs must not finalize an award until the AOTR has acknowledged receipt of the appointment.

***303.3.15 Congressional Award Notification System**

Effective Date: 02/20/2009

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.

a. AOs must follow the notification procedures in [Congressional Award Notification](#). This requires the AO to notify LPA AFTER signing but BEFORE releasing, or allowing to be released, an announcement of the awards listed below. This restriction on announcing the award applies to notifying the awardee that the award has been signed. For further details, see Section II, Other Considerations of that same document.

b. Types of awards that require notification include the following:

- (1) Grants or cooperative agreements of any value to an organization that never before received an award from USAID.
- (2) Any award for which there was Congressional correspondence during the pre-award stage. LPA will alert the AO that such correspondence has occurred, and the AO will then flag the action as falling under these notification criteria and procedures.
- (3) Any award for a particular program or geographic region that the operating unit or LPA identifies as being of particular interest 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 these programs and will then alert the Operating Unit, or the AO, or both, at the earliest opportunity before the award decision. The AO will then provide notification to LPA consistent with this policy.
- (4) Grants, cooperative agreements, and any amendments to them that increase the award amount by US \$500,000 or more

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

303.3.16 Distribution of Awards

Effective Date: 06/01/2006

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

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

If payment is by letter of credit, the AO 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). Because the funds are obligated when the AO signs the award, the AO should not obtain the recipient's signature before sending the award to M/CFO/CMP. The AO must provide M/CFO/CMP with the signed award letter or modification cover page, accounting and appropriation data, and the schedule. The AO 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 AO must send the award or modification to M/CFO/CMP within 10 business days after the AO's signing.

303.3.17 Award Administration

Effective Date: 08/14/2008

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

a. Administrative Duties. The AOTR and the AO share in the oversight of an assistance award. It is essential that they work as a team in order to administer the grant or cooperative agreement effectively. While there is a clear division of responsibility between the functions, AO and AOTR functions are closely related and cannot be performed in isolation from each other.

The AO provides oversight of the financial management aspects of the award through reviews of reports, correspondence, site visits, or other appropriate means. When necessary, the AO will request or arrange for special audits. The AO is responsible for all award suspensions and terminations, except for national interest terminations, which the AA determines.

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

The AO should give a post-award orientation to the recipient and AOTR to clarify the roles and responsibilities of the USAID officials who will administer the award. If the AO delegates specific authority to the AOTR, the AO must notify the recipient in writing of the delegation, either in the schedule of the award or a letter. The AO 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 AOTR becomes aware of any other administrative requirements levied on the recipient, the AOTR must immediately notify the AO.

The AO is the records custodian for all official communication that constitutes a modification of the award. The AOTR keeps the AO informed of the recipient's performance. The AOTR must ensure that the AO receives copies of all performance and financial status reports, as appropriate. The AOTR reviews all performance and financial reports for adequacy and responsiveness. When reports are not on time, inadequate, or have some other problem becomes apparent, the AOTR advises the AO to take the necessary action.

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

When a modification to the award is necessary, the AOTR prepares internal USAID documentation that supports the modification and meets the satisfaction of the AO.

b. Site Visits. Site visits are an important part of effective award management because they usually allow a more effective review of the project. Site visits occur as needed and do not take place on a set schedule. Joint visits by the AO and the AOTR are encouraged. When the AO or AOTR makes a site visit, the AO or AOTR must write a brief report highlighting his or her findings and put a copy in the official award file.

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 USG and USAID policy to enter into unauthorized commitments.

When the AO believes that an unauthorized commitment should be ratified and recommends payment, and the cognizant GC or cognizant RLA concurs in the recommendation, the AO submits an action memorandum to have the commitment ratified through the Bureau for Management, Office of Acquisition and Assistance, Evaluation Division (M/OAA/E) to the Director, M/OAA. The memorandum must show that the following conditions have been met:

- There must be evidence that the grant would otherwise have been proper, if made by an appropriate AO;
- The AO reviewing the unauthorized commitment must determine the cost to be reasonable;
- How the provided program has furthered USAID's objectives;
- The findings of facts essential to the situation, arranged chronologically with cross-references to supporting enclosures;
- The nature of the unauthorized commitment and funds citation;
- Funds must be available and must have been available at the time the unauthorized commitment was made;
- The recommended disposition; and
- A written statement from the person responsible who made the unauthorized commitment. This statement must detail how the mistake occurred, what training he or she has received from the AO on proper procedures since the incident, and what steps will be taken to prevent future unauthorized commitments.

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

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

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

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

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

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

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

303.3.19 Controlling Language

Effective Date: 06/01/2006

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

a. Source/Origin/Nationality rules

(1) [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.

(2) [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” and see also Standard Provision for U.S. Nongovernmental Recipients and Standard Provisions for Non-U.S. Nongovernmental Recipients).

(3) [22 CFR 228](#) Source/Origin/Nationality rules do not apply to award of subagreements.

b. Subawards to PIOs and Foreign Governmental Organizations

If appropriate, a recipient may enter into a subagreement with organizations that are not non-governmental organizations, including a Public International Organization (PIO) or a host country governmental organization. If it takes this action, 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

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organization. An approved deviation (**303.3.3**) is necessary before the recipient must deviate from the terms and conditions of its agreement. Other factors to consider in a subaward may be found in [Contracting 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](#) or [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](#) “Disputes” establishes USAID’s policy that the AO decides any dispute between the recipient and USAID arising under or related to an assistance award. The AO’s decision is final unless the recipient appeals the decision to the Assistance Executive. Because USAID will not provide hearings appeals must be in writing.

303.3.23.1 Disputes

Effective Date: 06/01/2006

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

303.3.23.2 Appeals

Effective Date: 06/01/2006

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

The Assistance Executive forwards the appeal to M/OAA/E. M/OAA/E determines what other Divisions within the Office of Acquisition and Assistance review the appeal – usually M/OAA/P or M/OAA/CAS, or both. M/OAA/E asks the Office of General Counsel, Acquisition and Assistance (GC/A&A) and GC Litigation (GC/LE) for a review,

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

as appropriate. M/OAA/E determines if other participants need to review the appeal, based on its dollar value and complexity. 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 status (for example, denied, approved, or more time is needed).

The Director, M/OAA, makes recommendations to the Assistance Executive on how to resolve the dispute based on the review undertaken by M/OAA/E.

***303.3.24 Simplified Grant Format**

Effective Date: 02/20/2009

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

- a.** The assistance instrument is a grant, not a cooperative agreement.
- b.** The recipient is a U.S. organization and the total of the grant does not exceed \$100,000. If the recipient is a non-U.S. organization, the grant does not exceed \$250,000.
- c.** The grantee must not purchase any ineligible or restricted goods (see [ADS 312](#)). All grantee purchases must have their source/origin in the authorized geographic code (see [ADS 260](#)), and the grantee must 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 has signed a pre-award certifications as required in **303.3.8**.
- e.** USAID does not provide advance payments to the grantee.
- f.** The grant requires 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 that will be charged to the grant are identified in the grant text.
 - Costs must not include indirect costs.
 - The AO 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 and if the support of international travel or the purchase of equipment is necessary for performance of the grant.

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

- The grant must 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 USAID awards a grant to support a program with very specific elements, the Fixed Obligation format allows performance without monitoring the actual costs incurred by the grantee. The USG prefers the Fixed Obligation Grant for supporting specific projects when 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.

Because 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 AO have sufficient cost information to allow for negotiation of the payments and to make sure that the amount requested is 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 AOTR acceptance of the final milestone and approval of payment. The AO may then 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 in **303.3.24**, the AO must also determine the appropriateness of issuing a fixed obligation grant, using 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 AO 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.
- (4) The AO must 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 (see **ADS 303.3.9.2**) The Negotiation Memorandum must include a discussion by the AO of the appropriateness of this type of grant.

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

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 AO that it has completed the activity. If the grantee cannot certify this, the AO 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 [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. Regulations and policies applicable to other grants and cooperative agreements do not apply to the administration of the endowment after it is established since the purpose of the award is accomplished by establishing the endowment agreement.

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

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 Recipient](#).

Sample agreements and schedules for endowments with U.S. and non-U.S. organizations are attached (see [Sample Award Format 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 should not to be confused with Indefinite Quantity Contracts (IQC) that are 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 funds to carry out that program, and Associate Awards are not made using fair opportunity procedures.

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

a. Competition of Leader Award

The AO 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 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 anticipated Associate Awards; 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 AO's determination of the responsibility of the recipient for the Leader Award applies to Associate awards. However, before awarding an Associate Award, the AO must verify that the applicant does not appear on the [Excluded Parties List System](#). The AO 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 AO must obtain the required certifications (see **303.3.8**) prior to the execution of the Leader Award. Before the AO may award an Associate Award, the recipient must affirm that those certifications remain valid or provide new certifications (see [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 must not compete Associate Awards among the different recipients of the Leader Awards.

The AO has the discretion to issue one or more Associate Awards to a Leader Award recipient under each Leader Award or to issue more than one Associate Award under different Leader Awards for a program. When a Leader Award recipient works with a consortium or 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 AOTR that summarizes activities undertaken, progress made/results achieved, trends, problems, etc., under both the Leader Award and all Associate Awards. The report may be provided either semi-annually or annually,

b. Length of Award

Normally, a Leader Award is for five years. An award may be extended up to cumulative of ten years for purposes of the Leader Award activities using a justification in **303.3.6.5, paragraph a.** 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 may not be extended for more than five years beyond the expiration of the Leader Award. A Leader or Associate Award may not be extended more than five years into the future at any given time.

USAID does not 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 AOTR may request that the recipient provides 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. AOs 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 Intranet site (<http://inside.usaid.gov/M/OAA/lwa/index.html>). **[Note: These documents are only available on the intranet.]**

Before requesting the AO to issue an Associate Award, the Activity Manager must consult with the AOTR of the Leader Award. After receiving the AOTR's concurrence, the Activity Manager asks the Leader Award recipient to provide an application. The request includes a background statement; a discussion of the area of activity; host country involvement; funds; any period limitation; and description of why 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 or her comments to the AO responsible for the Associate Award. The AO issuing the Associate Award must ensure that the Associate Award is within the scope of the Leader Award when reviewing the recipient's proposed costs and negotiating the final award. The AO decides 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

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

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

- The Authorized Geographic Code for procurement, if it is different from the Leader Award;
- Any cost sharing requirements; and
- Any additional standard provisions, such as Title to and Care of Property (Cooperating Country), that 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 AOTR of the Leader Award.

d. File Documentation

The AO's file documentation for Associate Awards must include

- (1) A copy of the Activity Manager's consultation with the AOTR 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 AOTR for the Leader Award) and a copy of the Leader Award.

303.3.27 Global Development Alliance (GDA)

Effective Date: 06/01/2006

GDA awards provide resource leverage (see **303.3.10**) from sources outside USAID. The Activity Manager should consult closely with the GDA Office, the Assistance Officer, the General Counsel or RLA when developing the Program Description for these types of awards. Additional guidance may be found at the [GDA Web site](#) and in [AAPD 04-16, Public-Private Alliance Guidelines and Collaboration Agreement](#).

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

***303.4 MANDATORY REFERENCES**

Effective Date: 06/01/2006

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. [31 USC 6301- 6308, Federal Grant and Cooperative Agreement Act](#)
- i. [Executive Order 13279, Equal Protection of the Laws for Faith-Based and Community Organizations](#)
- j. [Executive Order 13317](#)
- k. [Executive Order 13280, Responsibilities of the Department of Agriculture and the Agency for International Development With Respect to Faith-Based and Community Initiatives.](#)
- l. [Foreign Assistance Act of 1961, as amended](#)
- m. [OMB Circular A-21, Cost Principles for Educational Institutions](#)
- n. [OMB Circular A-110, Uniform Administrative Requirements for Grants and Other Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations](#)
- o. [OMB Circular A-122, Cost Principles for Non-Profit Organizations](#)
- p. [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.

q. [Paperwork Reduction Act](#)

***303.4.2 Internal Mandatory References**

Effective Date: 06/01/2006

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

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

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

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 \(Long Form\)](#)

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

- 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: 02/20/2009

- a. [AAPD 03-06 Expedited Acquisition and Assistance Procedures for Afghanistan](#)
- b. [AAPD 05-01 Procurement of HIV-AIDS Test Kits from Code 935 Countries](#)
- c. [AAPD 05-09 Expedited Acquisition and Assistance Procedures for Tsunami Relief and Reconstruction in South and Southeast Asia](#)
- *d. [AOTR Designation - Cooperative Agreement Administration](#)
[The Microsoft Word version is only available at <http://inside.usaid.gov/ADS/300/303sag.doc> to USAID employees.]
- *e. [AOTR Designation – Grant Administration](#)
[The Microsoft Word version is only available at <http://inside.usaid.gov/ADS/300/303sah.doc> to USAID employees.]
- f. [Certifications, Assurances, and Other Statements of the Recipient \(May 2006\)](#)
- g. [CIB 01-04 Expedited Acquisition and Assistance Procedures for the HIV/AIDS and Infectious Disease Initiatives](#)
- h. [Contracting with a Foreign Governmental Organization](#)
- i. [Cross Reference Index](#)
- j. [Policy Paper, Women in Development](#)
- k. [Procurement Reform Documentation Requirements for Non-Profit Recipients \(self-certification\)](#)
- l. [Operational Security – General Information](#)

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

- m. [Sample Action Memorandum for Deviation](#)
- n. [Sample Award Format and Schedule](#)
- o. [Sample Fixed Obligation Grant](#)

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 or her designee in USAID/W who

- Acts as the Agency's coordinator for all assistance matters (that is, financial assistance that provides support to a non-governmental entity to accomplish a public purpose), which may require OMB approval (such as deviations to OMB 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;

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

and
Makes the final determination of the choice of implementation instrument when there is disagreement between the contracting activity and the Assistance 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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