

ACQUISITION AND ASSISTANCE INSTRUMENTS

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USAID

Children in Mali benefit from USAID programs designed to improve children's welfare, health, nutrition and education.

USAID utilizes various acquisition and assistance instruments to implement its activities. Contracts, indefinite quantity contracts, grants, cooperative agreements, and purchase orders are some of the instruments that are negotiated and signed worldwide by USAID. These instruments provide a variety of commodities and technical assistance to support the attainment of the Agency's objectives.

It is important to note the distinction between assistance and acquisition for procurement purposes. **Acquisition** refers to obtaining goods and services, through various types of contracts, for the use or benefit of the Agency. Acquisition is governed by the Federal Acquisition Regulations (FAR), the USAID Acquisition Regulations (AIDAR), and the USAID Automated Directive System (ADS). **Assistance** refers to transferring funds (or other valuables) from USAID to another party for the implementation of programs that will contribute to the public good through the furtherance of the objectives of the Foreign Assistance Act. Assistance is governed by USAID Regulation 26 (22 CFR 226) OMB Circulars and the ADS.

At present, the Office of Acquisitions and Assistance performs the following

services:

- Provides direct contracting and grant services for Washington and overseas offices
- Provides Washington contact with U.S. commodity suppliers and foreign embassies
- Provides direct contracting for ocean freight services as well as aircraft in support of the Office of Foreign Disaster Assistance
- Establishes provisional and final overhead rates for organizations doing business with USAID

Only warranted Contracting/Agreement Officers in Washington and overseas have the authority to sign procurement and assistance instruments.

ACQUISITION ACTIVITIES

I. Obtaining the Services of an Individual

Services of an individual fall within two categories: personal services and non-personal services.

- **Personal Services:** are those which, because of the nature of the services, require an employer/employee relationship.
- **Non-Personal Services:** are those services that are performed independently based upon a scope of work that requires an end product or service. These services can be obtained by contract or, more

commonly, by purchase order. Purchase orders may be awarded for amounts of \$100,000 or less.

2. Obtaining the Services of Firms, Universities and Non-Profits

To obtain the services of firms, universities, and non-profits through contracts, the Government requirement must be generally advertised, negotiated, and awarded through full and open competition procedures. The sequence of some of the key steps involved in the contracting process is described below:

- **Step 1:** 8 (a) and Small Business Set-aside applicability is determined by the Contracting Officer in consultation with Office of Small and Disadvantaged Business Utilization.
- **Step 2:** The requirement is advertised in the Government Point of Entry (GPE), <http://www.fedbizopps.gov> and posted on the USAID Internet Site at least 15 days prior to the issuance of the Request for Proposals (RFPs).
- **Step 3:** The RFP is issued in hardcopy, if requested, or through the internet site with proposals due at the designated location not less than 30 days later.
- **Step 4:** Technical proposals are evaluated by a Technical Review Committee while cost proposals are evaluated by the Contracting Officer.
- **Step 5:** Based upon the combined technical and cost evaluations, the Contracting Officer determines a competitive range which includes all those offers with reasonable expectation of winning the contract; (be advised that award may be made upon initial proposals, in which case go to Step 8b).

- **Step 6:** Negotiations are conducted with all those included in the competitive range; negotiations may include technical and/or cost considerations.
- **Step 7:** Best and Final Offers (BAFOs) are requested at the conclusion of negotiations; offerors may revise technical and cost elements of their proposals.
- **Step 8:** a) The BAFOs are evaluated and b) award is made to the offeror providing the greatest value to the Government, cost and technical factors considered.

Micro-purchases are those defined as purchases at the \$2,500 threshold or less. These purchases do not require competitive quotes to be submitted.

3. Indefinite Quantity Contracts (IQCs) – Task Order Contracts

The Agency has awarded several IQC/Task Order Contracts to provide services quickly. Most contracts are awarded by USAID/Washington with orders generated from Washington as well as overseas. They cover many functional categories including but not limited to the following: health, education, governance, and management. Some features of the contracts are:

- They are awarded competitively (see #2 above)
- The Agency is committed to a minimum payment under each contract
- Each contract establishes a maximum

for the amount and level of services to be supplied by the contractor

- The Agency cannot specify individuals who will be provided under the order
- Orders are normally processed within 3 weeks

4. Simplified Acquisition

The term “simplified acquisition” is the state-of-the-art term for small purchases. As a result of the implementation of the Federal Acquisition Streamlining Act (FASA) of 1994, various changes to the simplified acquisition process are now in effect. All acquisitions exceeding \$2,500 and not exceeding \$100,000 (the current simplified acquisition threshold) are reserved for small businesses.

MICRO-PURCHASES

Micro-purchases are those defined as purchases at the \$2,500 threshold or less. These purchases do not require competitive quotes to be submitted. Prompt payment discounts will be accepted and are encouraged.

PURCHASES EXCEEDING THE MICRO-PURCHASE THRESHOLD

Competition must be obtained unless a sole source justification has been approved. Competition is deemed to have occurred when three sources have been solicited. Both written and oral solicitations are acceptable. Award is usually made on a best value basis where price alone, or price as well as other factors, are considered.

Pursuant to Federal Acquisition Regulations (FAR) 5.101, contract actions expected to exceed \$10,000, but not expected to exceed \$25,000, are displayed on the USAID Business and Procurement website

(<http://www.usaid.gov>) under the heading “Download Available USAID Small Purchases Opportunities.” These proposed procurement actions are listed on the website in lieu of being posted on an announcement board in the Ronald Reagan Building.

5. Commodity Procurement

COMMODITY IMPORT PROGRAM (CIP)

USAID provides grant assistance in the form of a Commodity Import Program (CIP). These grants finance the procurement of a wide variety of basic commodities needed in the host country economy. To participate in a CIP, suppliers submit bids in response to competitive tenders issued by foreign importers. Resulting transactions then occur directly between American suppliers and foreign importers.

PROJECT COMMODITIES

USAID provides funding to finance the procurement of commodities. These commodities are purchased in support of various USAID country specific objectives.

ADVERTISING COMMODITY REQUIREMENTS

CIP and project commodity procurement requirements are advertised in the Procurement Information Bulletin (PIB). The PIB is a USAID publication listing Agency commodity requirements.

Formerly distributed by U.S. Mail, the PIB is now available on the USAID internet web page. The internet web address is www.usaid.gov. When in our web page, click on “Business and Procurement,” then on “USAID

Procurements” and then on “Procurement Information Bulletins.”

6. Title XII Set-Asides

Title XII of the Foreign Assistance Act (FAA) permits other than full and open competition when contracting with U.S. land-grant universities for agriculture-related activities.

7. Competition Exceptions

While most acquisitions are conducted under full and open competition procedures, there are times when “other than full and open competition” procedures may be appropriate. The following seven circumstances (found in Federal Acquisition Regulation, Part 6), if justified, may allow for other than full and open contracting procedures to be conducted.

SOLE SOURCE

When there is only one source deemed capable of filling the requirement

UNUSUAL AND COMPELLING URGENCY

The requirement is so urgent that a delay in the award would cause serious injury to the U.S. Government

INDUSTRIAL MOBILIZATION, RESEARCH OR ENGINEERING CAPABILITY

Used in certain cases where industrial mobilization, engineering development, or research capability is required

INTERNATIONAL AGREEMENT

To be used when the terms of an international agreement or treaty requires contracting through other than full and open competition

AUTHORIZED OR REQUIRED BY STATUTE

Such as Federal Prison Industries, the 8(a) program, blind-made products, and the Robert T. Stafford Disaster Relief and Emergency Assistance Act, etc.

NATIONAL SECURITY

To be used when disclosure of the Government’s needs would compromise the national security (e.g., would violate security requirements)

PUBLIC INTEREST

To be used when none of the other authorities listed above apply. This exception requires determination by the Administrator and 30 days advance notice to Congress.

In addition to the above exceptions to full and open competition, USAID acquisition regulations (AIDAR) provide further circumstances that allow for other than full and open competition procedures to be utilized. The AIDAR authorizes other than full and open competition when not to do so would impair or otherwise have an adverse effect on programs conducted for the purpose of foreign aid, relief, and rehabilitation. The authority may be used for the following circumstances:

- **Personal Services:** which are to be exclusively performed overseas or if otherwise authorized by law
- **Contracts for \$250,000 or less:** which are procured by an overseas USAID Mission
- **Multiple Award Indefinite Quantity Contracts:** Exception for any category of small or small disadvantaged business that received one of the contracts awarded

- **When a judgment is made by the cognizant Assistant Administrator or the Administrator:** that compliance with full and open competition procedures would impair the objectives of the Foreign Assistance Act
- **Disaster Assistance:** to support disaster assistance efforts under certain circumstances. (Applies to the Office of Foreign Disaster Assistance, only.)
- **Follow-On Contract Modification:** An award for the continued provision of highly specialized services when an award to another resource would result in substantial additional costs to the government or would result in unacceptable delays

ASSISTANCE ACTIVITIES

1. Grants

With a grant USAID agrees to fund, in whole or in part, the program of a non-governmental organization (NGO), university, or institution that will contribute to the public purpose. Responsibility for achieving program objectives rests with the recipient.

2. Cooperative Agreements

A Cooperative Agreement is administered in the same manner as a grant with the one difference being that of substantial involvement by USAID. Substantial involvement may include such matters as:

- Approval of annual work plans
- Designation of key positions and approval of key personnel
- USAID approval of monitoring and evaluation plans and USAID

involvement in monitoring progress toward the achievement of program objectives during the course of the cooperative agreement

It should be noted that these are areas of involvement, not control. Also, while for-profit firms are eligible for grants and cooperative agreements, it is USAID's policy not to pay a fee or profit under such assistance instruments.

3. Competition Requirements

It is USAID policy to compete all grants and cooperative agreements.

With a grant USAID agrees to fund, in whole or in part, the program of a non-governmental organization (NGO), university, or institution that will contribute to the public purpose.

Competition is defined as being met when the requirement has been announced and award was made following an impartial review and evaluation of all applications received. USAID shall announce its assistance requirements by publishing an Annual Program Statement (APS) or a Request for Applications (RFA). APS' and RFAs shall be posted on the USAID Internet Site except when a program is specifically designed only to be available for local (indigenous) organizations in which case announcement in local publications, Mission Bulletin Boards, or other means shall substitute for announcement on the Internet.

Competition is not required for the following categories of assistance awards:

- Amendments to existing assistance awards
- Follow-on awards intended to continue or further develop an existing assistance relationship
- Awards based on unsolicited applications, provided that the Strategic Objective/Results Package team or the head of the Operating Unit certifies that the proposals were not solicited by USAID; that they are unique, innovative, or proprietary; and that they represent appropriate use of USAID funds to support or stimulate a public purpose
- Awards for which one recipient is considered to have predominant capability based on experience, specialized facilities, technical competence, or an existing relationship with the cooperating country or beneficiaries
- Those geo-political or exiguous situations which the cognizant Assistant Administrator or the Office Director who reports directly to the Administrator deems to be critical to the objectives of the foreign assistance program

DID YOU KNOW?

The Procurement Information Bulletin (PIB) is a USAID publication listing Agency commodity requirements.