



USAID
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ADS Chapter 302

USAID Direct Contracting

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**Functional Series 300 – Acquisition and Assistance
ADS 302 – USAID Direct Contracting**

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ADS 302 – USAID Direct Contracting

302.1 OVERVIEW

Effective Date: 04/20/2006

This chapter contains the Agency’s internal guidance, policies, and required procedures for the procurement of goods and services through direct contracts for the purposes of implementing Agency programs and supporting Agency logistics. Throughout this chapter, the terms “acquisition” and “procurement” are used interchangeably.

The guidance in this chapter does not apply to personal services contracts (PSCs).

302.2 PRIMARY RESPONSIBILITIES

Effective Date: 04/20/2006

As described in [ADS 103.3.10.7](#), AA/M has designated to the Director, M/OAA, the responsibilities of the **Senior Procurement Executive**, the **Chief Acquisition Officer (CAO)**, and the **Head of the Contracting Agency (HCA)**.

- a. The **Senior Procurement Executive** is responsible for:
 - (1) The management direction for USAID’s [Acquisition & Assistance \(A&A\)](#) system, as delegated and described in [ADS 103](#).
 - (2) Approval of [Procurement Executive Bulletins \(PEBs\)](#) (<http://inside.usaid.gov/M/OP/policy/PEBs/2005.html>), which issue information on general guidance, best practices, reminders, and Frequently Asked Questions (FAQs).
- b. The **Chief Acquisition Officer (CAO)**, Office of Acquisition & Assistance (OAA), is responsible for:
 - (1) Selecting and appointing [contracting officers](#) and terminating their appointments.
 - (2) Exercising, in person or by delegation, authorities as stated in the [Federal Acquisition Regulation \(FAR\)](#) subparts 1.3 and 1.6 and [USAID Acquisition Regulations \(AIDAR\)](#) subparts 701.3 and 701.6.
 - (3) Approval of Acquisition & Assistance Policy Directives (**AAPDs**), which provide agency policy, interim implementation or advance notification of A&A regulations, procedures, and other policy information.
 - (4) Approving contractor salaries exceeding the USAID Contractor Salary Threshold (USAID CST) (**302.3.6.8**)

- c. The **Head of the Contracting Activity (HCA)**, as defined in [AIDAR 702.170-10](#), is responsible for:
 - (1) procuring supplies and services necessary to carry out the programs and activities for which he or she is responsible, including executing contracts within the authorities specified in AIDAR subpart 701.601.
 - (2) establishing procurement policies, procedures, and standards appropriate for these programs and activities, subject to the policy stated in this chapter.

- d. The **Bureau for Management, Office of Acquisition & Assistance (M/OAA)**, is responsible for:
 - (1) Developing, issuing, and maintaining the Agency's acquisition regulations, procedures, and standards for issuance, in accordance with established Agency delegations and requirements.
 - (2) Evaluating the agency's procurement system and providing recommendations to the Procurement Executive regarding the certification specified in 302.2 para.b(1), and for providing technical support to overseas contracting officers.

- e. The **Contract Review Board** is responsible for reviewing solicitations and award documents exceeding \$10 million for acquisitions, consistent with the policy found at 302.3.1.2.

- f. **Contracting Officers and negotiators** are responsible for entering into, administering, and terminating USAID-direct contracts in accordance with the limitations of their delegated authority, policy directives, and required procedures.

- g. The **Activity Manager** is responsible for drafting the request for an individual procurement, to include the Statement of Work (SOW) and appropriate evaluation plan.

- h. The **Cognizant Technical Officer (CTO)**, generally in the office of the Strategic Objective Team sponsoring the activity, is designated by the Contracting Officer and is responsible for the technical oversight and administration of the activity.

302.3 POLICY DIRECTIVES AND REQUIRED PROCEDURES

Effective Date: 04/20/2006

302.3.1 Summary of Acquisition Policy, Regulations, and Procedures

Effective Date: 04/20/2006

302.3.1.1 Applicability of FAR, AIDAR, CIBs, AAPDs, and PEBs

Effective Date: 04/20/2006

USAID executes all [direct procurement](#) in accordance with the FAR and the AIDAR. When it is necessary to implement timely changes prior to formal amendment of agency procurement regulations and policy, the Director of the Office of Acquisition and Assistance issues **Acquisition & Assistance Policy Directives (AAPDs)**. AAPDs replaced the [Contract Information Bulletins \(CIBs\)](#) format; some CIBs are still in effect. USAID requires that the same procedures specified for the agency's Automated Directives System (ADS) apply to AAPDs since they are officially considered a part of this and other Series 300 chapters. **Procurement Executive Bulletins (PEBs)** provide information regarding general guidance, best practices, reminders, and frequently asked questions (FAQs), in addition to agency policy and regulations.

302.3.1.2 Contract Review Board (CRB)

Effective Date: 04/20/2006

[AAPD 05-05, Contract Review Board \(CRB\) Guidelines](#)

The [Contract Review Board](#) is comprised of Contracting Officers and General Counsel (GC) representative who are responsible for reviewing documentation for acquisition actions that exceed \$10,000,000.

The CRB reviews these actions for the purpose of

- minimizing vulnerabilities leading to potential protests, disputes, claims, and litigation against the Agency
- providing senior level advice on contracting actions
- supporting the Contracting Officer
- ensuring the consistency of procurement documentation.

This section currently consists of the information in the referenced AAPD. At a later time, USAID will incorporate this AAPD into this chapter, along with any other relevant information.

302.3.1.3 Deviations

Effective Date: 04/20/2006

Contracting Officers must use the procedures in AIDAR 701.4 when deviating from the policies or procedures in this ADS chapter (See the mandatory reference AIDAR 701.4). However, no deviation may be made to the policy and procedure in section 302.3.6.8,

Approval of Contractor Salaries Exceeding the USAID Contractor Salary Threshold (USAID CST).

302.3.2 Expedited Acquisition and Assistance Procedures for Specific, High-Profile Activities and Programs

Effective Date: 04/20/2006

***302.3.2.1 USAID's Avian Influenza Pandemic Emergency Preparedness and Response Efforts**

Effective Date: 03/27/2007

[*AAPD 06-06 Expedited A&A Procedures for Activities and Programs Related to USAID's Avian Influenza Pandemic Emergency Preparedness and Response Efforts \(Revised\)](#)

This section currently consists of the information in the referenced AAPD. At a later time, USAID will incorporate this AAPD into this chapter, along with any other relevant information.

***302.3.2.2 HIV/AIDS and Infectious Disease Initiatives**

Effective Date: 03/27/2007

[CIB 01-04, Expedited Acquisition and Assistance Procedures for the HIV/AIDS and Infectious Disease Initiatives](#)

[AAPD 05-01, Procurement of HIV-AIDS Test Kits from Code 935 Countries](#)

[*AAPD 07-01 Procurement of Anti-Retrovirals for HIV/AIDS Programs](#)

This section currently consists of the information in the referenced AAPDs/CIBs. At a later time, USAID will incorporate these AAPDs/CIBs into this chapter, along with any other relevant information.

302.3.2.3 Response to the Afghanistan Crisis

Effective Date: 04/20/2006

[AAPD 03-06, Expedited Acquisition and Assistance Procedures for Afghanistan](#)

This section currently consists of the information in the referenced AAPD. At a later time, USAID will incorporate this AAPD into this chapter, along with any other relevant information.

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

302.3.3 Contracting with a Foreign Governmental Organization

Effective Date: 04/20/2006

a. This section establishes policy on contracting and subcontracting with foreign governmental organizations, which are defined as organizations that function as governing bodies, such as foreign ministries and local governments. The policy does not apply to contracts or subcontracts with foreign government-owned parastatal organizations, which function more like private sector commercial or non-profit organizations, and which are covered by the nationality restrictions in ADS Chapter 310, section 310.5.6d.

Both contracts and subcontracts with a foreign governmental organization may be necessary under some circumstances. These may occur either as USAID direct contracts with foreign governments, or as subcontracts executed by recipients of USAID contracts and assistance instruments with foreign ministries or other foreign governmental organizations.

b. Justification and Approvals (J&As)

Prior to entering into a contract or approving a subcontract with a foreign governmental organization, USAID requires a written Justification and Approval to ensure that USAID staff has thoroughly reviewed considerations. This requirement applies to contracts directly between USAID and the foreign governmental organization, subcontracts under contracts, and contracts under grants.

- (1) The J&A must contain the following information:
 - (a) Identification of the J&A as a justification for procurement from a foreign governmental organization
 - (b) A statement which concisely describes the specific need for a procurement from a foreign governmental organization.
 - (c) An explanation of why the foreign organization is the most appropriate source of supply.
 - (d) Discussion of required deviations, waivers, etc.
- (2) The contracting officer must coordinate and obtain advice from GC/A&A or the RLA.
- (3) Approval Level:
 - (a) J&As which are \$500,000 or less require approval by the Contracting Officer

(b) J&As which exceed \$500,000 require approval by the Procurement Executive

(4) The Contract/Agreement Officer must include copies of Justification and Approvals in the contract/agreement file.

c. Guidance for review of proposed subcontract awards to foreign governments.

Contract/Agreement Officers should consider the following items before contracting or subcontracting with a foreign governmental organization:

(1) Audit and accounting systems. Will the organization allow access to their books and records if USAID requires an audit provision in the contract?

(2) Reasonableness of cost/price. How can the Contracting Officer determine the price/cost reasonableness?

(3) Taxes. How will taxes be handled if they are required? Under USAID contracts FAR clauses 52.229-7 and 52.229-9 apply to contracts with foreign governments.

(4) Termination. Will the organization agree to contract termination provisions?

(5) Host country contribution. Would it be appropriate for the foreign governmental organization to provide some or all of the goods or services as part of its contribution under the Strategic Objective Agreement?

(6) Host country salary supplementation. As a general rule, USAID discourages salary supplements, except in very special circumstances and only with the proper justification.

(7) Clauses. Several mandatory clauses may not be applicable, thus requiring a deviation approved by the [head of the contracting activity](#).

302.3.4 Acquisition Planning

Effective Date: 04/20/2006

This section provides policy and procedures addressing the requirements which must be considered prior to issuance of a solicitation.

302.3.4.1 Limiting Competition – Justifications for Other than Full and Open Competition (JOFOCs)

Effective Date: 04/20/2006

a. Contracting Officers must provide a copy of all Justifications for other than Full and Open Competition (JOFOCs) for awards exceeding \$250,000 (U.S.) and prepared

in accordance with FAR 6.303, to the [Agency Competition Advocate](#) as defined in AIDAR 706.501.

b. This section provides two USAID Class Justifications as follows

(1) Overseas contracts of \$250,000 or less

[CIB 97-16, Class Justification for Use of Other Than Full and Open Competition for Overseas Contracts of \\$250,000 or Less](#)

(2) U.S. Mission Procurements of U.S. Manufactured Vehicles

[CIB 97-22, Class Justification for Other than Full and Open Competition for Procurements by Missions of U.S. Manufactured Vehicles](#)

c. This section is supplemented by the referenced CIBs. At a later time, these CIBs will be incorporated into this chapter, along with any other relevant information.

302.3.4.2 Unsolicited Proposals

Effective Date: 04/20/2006

[CIB 99-18, Unsolicited Proposals for Acquisition and Assistance](#)

This section currently consists of the information in the referenced CIB. At a later time, USAID will incorporate this CIB into this chapter, along with any other relevant information.

302.3.4.3 Expediting Awards Made Under Section 8(a) of the Small Business Act

Effective Date: 04/20/2006

[AAPD 04-12, USAID Procedures for Partnership Agreement \(PA\) between SBA and USAID for Expedited 8\(a\) Awards](#)

This section currently consists of the information in the referenced AAPD. At a later time, USAID will incorporate this AAPD into this chapter, along with any other relevant information.

The term of the PA covers the period May 21, 2004 through September 30, 2006.

302.3.4.4 Branding

Effective Date: 04/20/2006

Strategic Objective Teams must provide the contracting officer with a branding strategy, in accordance with ADS 320.3.2.

302.3.4.5 Organizational Conflict of Interest (OCI)

Effective Date: 04/20/2006

CIB 99-17, Organizational Conflict of Interest

This section currently consists of the information in the referenced CIB. At a later time, USAID will incorporate this CIB into this chapter, along with any other relevant information.

302.3.4.6 IQCs - Exception for Small Businesses

Effective Date: 04/20/2006

AAPD 02-05, New Authority - Exception for Small Businesses under Indefinite Quantity Contracts (IQCs)

This section currently consists of the information in the referenced AAPD. At a later time, USAID will incorporate this AAPD into this chapter, along with any other relevant information.

302.3.4.7 Logistic Support Overseas To USAID-Direct Contractors

Effective Date: 04/20/2006

The policies in this section supplement other Agency regulations that govern the financing and provision in kind of logistic support overseas to USAID-direct contractors. The policies support USAID's objectives to

- increase the use of contractors, in accordance with section 621 of the Foreign Assistance Act of 1961, as amended (FAA),
- reduce the administration burden on the USAID establishment in Cooperating Countries, and
- ensure, in accordance with section 636(h) of the FAA, that, to the maximum extent possible, local costs are met from Cooperating Country funds or United States (U.S.) Government-owned local currency, rather than from U.S. dollars.

Missions must make every effort to foster the development of country-wide standards for comparable classes of contractors. If a Mission provides logistic support, it must be at the minimum level necessary to ensure efficient, economical, and effective contractor performance.

a. Request documents must indicate the following:

- (1) each type of logistic support to be made available, such as transportation of personnel and personal goods and commodities; quarters; furnishings;

equipment; utilities; supplies for residence and office; maintenance; and other supporting services including medical facilities.

(2) whether each type of logistic support must be in cash or in kind, and whether it will be provided by the Cooperating Country, the Mission, or by the contractor itself.

The contracting office must ensure that the solicitation and contract reflects the information contained in the requesting document.

b. Financing of logistic support

Missions must use local currencies, in lieu of dollars, wherever feasible and in accordance with the financial management requirements in ADS 624, to defray the costs of contractor logistic support, regardless of whether the contractor, the Cooperating Country, or USAID arranges such support. Missions may use USAID dollars to finance logistic support overseas only when no reasonable alternative exists by which such support can be financed with local currency or provided in kind. Local currencies must be contributed from the following sources, in descending order of preference, as listed here:

- (1) The Cooperating Country's own budgetary or private resources;
- (2) Cooperating Country-owned local currency that USAID or Pub. L. 480 programs generate; and
- (3) U.S. Government-owned country-use local currency that USAID or Pub. L. 480 programs generate.

c. Arrangements for logistic support

Each Mission must assess the local logistic support situation and determine which of the following three methods, listed in descending order of preference, is best suited for its programs:

- (1) Arrangements by the contractor itself where feasible and reasonably economical. (It is assumed that this method will apply in the case of virtually all construction contracts and in most of the larger engineering and technical assistance contracts.)
- (2) Arrangements by the Cooperating Country, where these would be timely, adequate, and feasible in terms of the country's economic and administrative resources.
- (3) Arrangements by the Mission alone or jointly with either or both of the other parties, in those cases where the Mission Director determines that adequate and timely logistic support at reasonable cost cannot be ensured through the other options.

In such cases, and when direct-hire resources are inadequate, the Mission is encouraged, wherever feasible, to contract for assistance in providing logistic support. OAA and the Office of General Counsel (GC) provide guidance on logistic support contracts as necessary.

d. Exceptions

For each post, only the Mission Director, principal USAID officer at post, or individual serving in an "Acting" capacity has the authority to approve any exceptions to the policies in this section for that particular post. Mission staff must justify such exceptions and request approval in writing.

302.3.4.8 Grants Under Contracts (GUCs)

Effective Date: 04/20/2006

Subject to the conditions below, the Contracting Officer may enter into a contract that provides for a USAID-direct contractor to execute grants with non-governmental organizations (non-profits or for-profits).

- a. The Grants Under Contracts procedure may be used only after
- (1) clearance from the cognizant GC or Legal Advisor and the Contracting Officer, and then
 - (2) the Head of the Contracting Activity (HCA) has approved its use in writing for a specific contract.
- b. The grant program must meet the following conditions for approval:
- (1) The total value of any individual grant to any U.S. organization must not exceed \$100,000. This limitation does not apply to grant awards to non-U.S. organizations.
 - (2) It is not feasible to accomplish USAID objectives through normal contract and grant awards executed by USAID because either:
 - (a) The burden of executing a number of small grant activities is particularly difficult for the responsible USAID Mission or office; or
 - (b) The grant program is incidental and relatively small in comparison to other technical assistance activities of the contractor.
 - (3) USAID must be significantly involved in establishing selection criteria and must approve the actual selection of grant recipients. USAID may be less significantly involved when grants are quite small and are incidental to the contractor's technical activities.

- (4) USAID must ensure that the requirements that apply to USAID-executed grants will also apply to grants that a USAID contractor executes.
- (5) USAID must retain in the contracting arrangement the ability to terminate the grant activities unilaterally in extraordinary circumstances.
- (6) USAID does not require HCA approval when a contractor will only be managing or administering grants awarded by USAID.
- (7) USAID does not authorize contractors to execute or administer cooperative agreements on USAID's behalf.

302.3.4.9 Information System Security

Effective Date: 04/20/2006

Information system security (ISS) is the protection of the integrity, availability, and confidentiality of automated information and the resources used to enter, store, process, and communicate the information. [ADS 545](#) details the security policies, consistent with federal regulations, mandates, and directives, that serve as the highest-level basis for information systems security within USAID.

In accordance with the [Contract Clause Guide for Unclassified Information System Security Systems and Services](#), contracting officers must ensure that appropriate ISS requirements are accurately specified, funded, and enforced for all USAID IS acquisition, operation, and maintenance contracts under their supervision. The guide provides guidance on including ISS requirements in the acquisition of information systems and services.

This Guide applies to all contracts, regardless of the source of funding, when the contracted systems or services will be connected to, or requires the use of, a USAID general support system (GSS) in USAID/Washington (USAID/W) or at the Missions. USAID staff may also apply the Guide whenever a requestor, an acquisition or contracting authority, or the cognizant designated ISSO believes it would be in the best interest of protecting USAID's information systems.

302.3.4.10 Implementation of Section 508 of the Rehabilitation Act of 1973

Effective Date: 04/20/2006

[CIB 01-21, USAID Implementation of Section 508 of the Rehabilitation Act of 1973](#), and

[Federal Acquisition Circular \(FAC\) 97-27, "Electronic and Information Technology Accessibility](#)

This section currently consists of the information in the referenced CIB. At a later time, USAID will incorporate this AAPD into this chapter, along with any other relevant information.

302.3.5 Solicitation Requirements and Provisions

Effective Date: 04/20/2006

When preparing solicitations, Contracting Officers must adhere to the policies and corresponding solicitation clauses and provisions of this section, when applicable.

302.3.5.1 Branding

Effective Date: 04/20/2006

Reserved.

302.3.5.2 Standardization of Indefinite Quantity Contracts (IQCs)

Effective Date: 04/20/2006

[AAPD 02-12, Standardizing USAID Indefinite Quantity Contracts](#)

This section currently consists of the information in the referenced AAPD. At a later time, USAID will incorporate this AAPD into this chapter, along with any other relevant information.

302.3.5.3 IQCs - Exception for Small Businesses

Effective Date: 04/20/2006

[AAPD 02-05, New Authority – Exception for Small Businesses under Indefinite Quantity Contracts \(IQCs\)](#)

This section currently consists of the information in the referenced AAPD. At a later time, USAID will incorporate this AAPD into this chapter, along with any other relevant information.

302.3.5.4 Key Personnel

Effective Date: 04/20/2006

Contracts must designate as Key Personnel only those personnel directly responsible for management of the contract, or whose professional/technical skills are certified by the CTO as being essential for successful implementation of the activity.

a. Number of Key Personnel

The number of key personnel designated for any contract must not be more than five individuals or five percent of contractor employees working under the contract, whichever is greater.

b. Multiple Candidates

Contracting Officers must not require that contractors propose more than one individual for each position, since requiring contractors to submit multiple candidates for USAID's approval in key personnel positions is inappropriate. USAID is not entitled to select for

the contractor, only to refuse a contractor's selection when the individual is found to be unacceptable for good and sufficient reason.

c. Sample solicitation provisions

(1) Availability of proposed key personnel

Where the qualifications of key personnel are a significant evaluation factor in the award of a contract, the Contracting Officer must be reasonably assured that the offeror has submitted the names of the proposed key personnel in good faith with the consent of those being proposed. To this end, the solicitation document must include language substantially as follows:

"The contract proposed by this solicitation includes a key personnel clause, and the quality of key personnel proposed will be an evaluation factor. The offeror must include as part of its proposal a statement signed by each person proposed as key personnel confirming their present intention to serve in the stated position and their present availability to serve for the term of the proposed contract."

(2) Contracting Officer consent to replace key personnel

The key personnel provision in the contract must require the prior consent of the Contracting Officer for any changes in key personnel, to ensure that replacements have at least equal qualifications. Sample language for this provision follows:

"Key Personnel

A. The key personnel which the Contractor must furnish for the performance of this contract are as follows:

Name Position _____

B. The personnel specified above are considered to be essential to the work being performed hereunder. Prior to replacing any of the specified individuals, the Contractor must notify both the Contracting Officer and the USAID Cognizant Technical Officer reasonably in advance and must submit written justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the program. No replacement will be made by the Contractor without the written consent of the Contracting Officer."

302.3.5.5 Prohibition on Transactions with Designated Entities Associated with Terrorism – Office of Foreign Assets Control (OFAC) List

Effective Date: 04/20/2006

[AAPD 02-04, Implementation of E.O 13224 –Executive Order on Terrorist Financing](#)

This section currently consists of the information in the referenced AAPD. At a later time, USAID will incorporate this AAPD into this chapter, along with any other relevant information.

The referenced AAPD includes a link to a web site for the Office of Foreign Assets Control (OFAC) within the Department of Treasury; however, that website is obsolete. The revised website is <http://www.treas.gov/offices/enforcement/ofac/>, and the list itself is “SDN & Blocked Persons” on that webpage. Further information on pre-award requirements for OFAC is at **302.3.6.12**.

302.3.5.6 Grants Under Contracts (GUCs)

Effective Date: 04/20/2006

a. If the Head of the Contracting Activity (HCA) provides written approval per section **302.3.4.8**, the Contracting Officer may enter into a contract that provides for a USAID-direct contractor to execute grants with non-governmental organizations (non-profits or for-profits).

b. Contracting officers must

(1) ensure that the requirements that apply to USAID-executed grants will also apply to grants that a USAID contractor signs

(2) retain in the contracting arrangement the ability to
(a) terminate the grant activities unilaterally in extraordinary circumstances, and

(b) require USAID significant involvement in establishing selection criteria and approval of the actual selection of grant recipients, as required by 302.3.4.8.

c. Further information on requirements for HCA approval are at **302.3.4.8**

302.3.5.7 Government Cost Estimate in Negotiated Procurements

Effective Date: 04/20/2006

The Contracting Officer may not include the Government cost estimate in a competitive solicitation or Requests for Task Order Proposals. Solicitations may state the magnitude of the requirement in terms of an estimated price range. Do not include estimated price ranges in solicitations for a cost-reimbursement term (LOE) contract.

302.3.5.8 Defense Base Act (DBA) Insurance

Effective Date: 04/20/2006

[**AAPD 04-05, Negotiation of New DBA rate for Direct and Host Country**](#)

[AAPD 04-05S, DBA Rate for Direct and Host Country Contracts in FY 2006](#)

[AAPD 02-14, Re-negotiation of DBA rate for Direct and Host Country Contracts](#)

This section currently consists of the information in the referenced AAPDs. At a later time, USAID will incorporate these AAPDs into this chapter, along with any other relevant information.

302.3.5.9 Contractor Progress Reports

Effective Date: 04/20/2006

[CIB 98-21, Contractor Progress Reports](#)

This section currently consists of the information in the referenced CIB. At a later time, USAID will incorporate this CIB into this chapter, along with any other relevant information.

302.3.5.10 Organizational Conflict of Interest (OCI)

Effective Date: 04/20/2006

[CIB 99-17, Organizational Conflict of Interest](#)

This section currently consists of the information in the referenced CIB. At a later time, USAID will incorporate this CIB into this chapter, along with any other relevant information.

302.3.5.11 Implementation of Section 508 of the Rehabilitation Act of 1973

Effective Date: 04/20/2006

[CIB 01-21, USAID Implementation of Section 508 of the Rehabilitation Act of 1973](#) and

[Federal Acquisition Circular \(FAC\) 97-27, "Electronic and Information Technology Accessibility](#)

This section currently consists of the information in the referenced CIB. At a later time, USAID will incorporate this FAC into this chapter, along with any other relevant information.

302.3.5.12 Information System Security

Effective Date: 04/20/2006

Information system security (ISS) is the protection of the integrity, availability, and confidentiality of automated information and the resources used to enter, store, process, and communicate the information.

The [Contract Clause Guide for Unclassified Information System Security Systems and Services](#) provides guidance on including ISS requirements in the acquisition of information systems and services.

Additional information on ISS is at 302.3.4.9.

302.3.5.13 USAID Disability Policy

Effective Date: 04/20/2006

[CIB 04-17, Supporting USAID's Disability Policy in Contracts, Grants, and Cooperative Agreements](#)

This section currently consists of the information in the referenced CIB. At a later time, USAID will incorporate this CIB into this chapter, along with any other relevant information.

302.3.5.14 Incorporating Gender Considerations into Evaluation Criteria

Effective Date: 04/20/2006

To ensure that competitive contract solicitations comply with the policy contained in the bullet item "Gender Analysis" in [ADS 201.3.12.6](#), Contracting Officers must

- a. Incorporate into the Request For Proposal (RFP) the statement outlining gender issues or confirm that the Strategic Objective Team (SOT) completed the rationale for not specifying gender issues as part of the activity approval; AND
- b. Include in the RFP an appropriately weighted technical evaluation criterion addressing the gender considerations specified in the statement, if applicable.

302.3.5.15 Prohibition on USAID-Specific Experience Requirements in Evaluation Criteria

Effective Date: 04/20/2006

[AAPD 03-10, Prohibition on Requirement for Prior USAID-Specific Experience in Evaluation Criteria for Award of Agency A&A Instruments](#)

This section currently consists of the information in the referenced AAPD. At a later time, USAID will incorporate this AAPD into this chapter, along with any other relevant information.

302.3.6 Pre-Award Requirements

Effective Date: 04/20/2006

This section provides required policy and procedures governing the acquisition process prior to award.

302.3.6.1 Composition of Technical Evaluation Committees (TEC)

Effective Date: 04/20/2006

The selection of Technical Evaluation Committee members should be made in accordance with the following

- a. USAID staff (direct-hires, PSCs, and PASA/RSSA direct-hire employees) must constitute a majority of the membership on all TECs. Evaluators from other Federal agencies and non-governmental evaluators, including Fellows, may participate, provided that they comply with any applicable requirements for, or limitations on, their participation as stated in this chapter, in [FAR Parts 3 and 15](#), or in [AIDAR Part 715](#).
- b. Contracting Officers must take reasonable precautionary steps to avoid the possibility of conflicts of interest arising on the part of technical evaluation team members. One such step is to verify with TEC members that they or their spouse or dependents have no connections, such as financial interests, with any of the offerors prior to commencing evaluations. Contracting Officers are to refer any potential problems to their cognizant Regional Legal Advisor for overseas actions, and to the Assistant General Counsel for Ethics and Administration (GC/EA) for AID/W actions.
- c. As required in [AIDAR 715.305\(c\)](#), a Non-Governmental Evaluator (NGE) or an Evaluation Assistance Contractor (EAC) participating in a technical evaluation must sign a [Certification and Agreement for the Use and Disclosure of Proposals](#), which states that they will safeguard the proposals and information in them and that they perceive no actual or potential conflict of interest. The certification statement to be used is provided as a mandatory reference.

302.3.6.2 Dissemination of Cost Proposal information to TEC in Negotiated Procurements

Effective Date: 04/20/2006

- a. Contracting Officers may provide cost information from proposals to members of the TEC during the source selection process, as described in paragraph b. of this section, which constitutes the Agency procedures required in the mandatory reference FAR 15.305(a)(4).
- b. The decision to provide cost information from proposals to members of the TEC rests with the Contracting Officer, who may request TEC input as part of the cost realism analysis required in the mandatory reference FAR 15.404-1(d). While the Contracting Officer has considerable discretion as to how much, when, to whom, and even if cost information is to be provided, the following guidelines must be considered and the decision documented in the negotiation file:
 - (1) The Contracting Officer decides which portions of the cost proposals are to be shared with the TEC. While there may be circumstances in which the entire cost proposal is provided to the TEC, in many cases, only certain components of

the cost proposals need to be provided; e.g., in-country housing costs, number of trips and their duration, proposed level and distribution of effort under completion form contracts, etc. If the cost proposals vary significantly either from the Government estimate or in comparison to each other, then the TEC may assist in analyzing the discrepancies.

(2) The preferred timing for the Contracting Officer to share cost information with the TEC is after the initial technical assessment and scoring has taken place, but early enough in the process to ensure adequate attention to discrepancies and questions during negotiations. The Contracting Officer may also share with the TEC any revisions to cost proposals resulting from negotiations, if, in the Contracting Officer's judgment, doing so aids the analysis of the revisions.

c. The Contracting Officer does not have to share cost information with all members of the TEC. After discussion with the Chairperson of the TEC, the Contracting Officer decides who, among the other members, is best able to provide relevant analysis.

***302.3.6.3 Evaluation and Use of Contractor Information (CPI)**

Effective Date: 03/27/2007

[*AAPD 06-05 \(Revision 2\) Evaluation and Use of Contractor Past Performance Information \(CPI\)](#)

This section currently consists of the information in the referenced AAPD. At a later time, USAID will incorporate this AAPD into this chapter, along with any other relevant information.

302.3.6.4 Branding

Effective Date: 04/20/2006

Reserved

302.3.6.5 Non-Expendable Property (NXP)

Effective Date: 04/20/2006

[CIB 92-25, Non-Expendable AID-Owned Property in Contractor's Custody](#)

This section currently consists of the information in the referenced CIB. At a later time, USAID will incorporate this into this chapter, along with any other relevant information.

302.3.6.6 Classified Contract and Contractor Security Requirements

Effective Date: 04/20/2006

[CIB 98-23, Guidance Regarding Classified Contract Security and Contractor Personnel Security Requirements](#)

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

[AAPD 02-12, Standardizing USAID Indefinite Quantity Contracts](#)

This section currently consists of the information in the referenced AAPDs/CIBs. At a later time, USAID will incorporate these AAPDs/CIBs into this chapter, along with any other relevant information.

302.3.6.7 Negotiation of Indirect Cost Rates

Effective Date: 04/20/2006

[CIB 92-17, Indirect Cost Rates](#)

This section currently consists of the information in the referenced CIB. At a later time, USAID will incorporate this CIB into this chapter, along with any other relevant information.

302.3.6.8 Approval of Contractor Salaries Exceeding the USAID Contractor Salary Threshold (USAID CST)

Effective Date: 04/20/2006

[AAPD 06-03, Revised Salary Approval Threshold Policy/Procedures](#)

This section currently consists of the information in the referenced AAPD. At a later time, USAID will incorporate this AAPD into this chapter, along with any other relevant information.

302.3.6.9 Determining Profit or Fee Objectives

Effective Date: 04/20/2006

USAID must use a structured approach as described and required in the mandatory reference **FAR** for determining profit or fee prenegotiation objectives. USAID contracting officers may use another agency's structured approach.

302.3.6.10 Pre-award Audits and Surveys

Effective Date: 04/20/2006

[CIB 92-16, Pre-award Audits and Surveys](#)

This section currently consists of the information in the referenced CIB. At a later time, USAID will incorporate this CIB into this chapter, along with any other relevant information.

302.3.6.11 Contract Reporting

Effective Date: 04/20/2006

[AAPD 06-02, DUNS Numbers and New Agency Reporting Codes](#)

FAR Part 4.6, Contract Reporting, requires all successful offerors to have a DUNS Numbers when the anticipated value of any single award is expected to be over \$2,500 or the local currency equivalent. The DUNS Number is the unique identifier that is used to retain information on all companies, organizations and people that have awards with the U.S. Government.

This section currently consists of the information in the referenced AAPD. At a later time, USAID will incorporate this AAPD into this chapter, along with any other relevant information.

302.3.6.12 Prohibition on Transactions with Designated Entities – Office of Foreign Assets Control (OFAC)

Effective Date: 04/20/2006

[AAPD 02-04, Implementation of E.O 13224 –Executive Order on Terrorist Financing](#)

[FAR 25.701](#) and **[E.O. 13224 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism](#)** require that, prior to making an award (to include award of options or modifications increasing the scope of a contract), contracting officers must check the Department of Treasury’s OFAC List to ensure that the names of the selected offeror and proposed subcontractors (and individuals from those organizations who have been made known to them), are not on the list. Also, COs must ensure that awardees are aware of the list as part of their compliance with the Terrorist Financing clause.

The OFAC List is now fully integrated into the Excluded Parties List System (EPLS) database; however, it is also available at the revised OFAC web site (<http://www.treas.gov/offices/enforcement/ofac/>), and the list itself is “SDN & Blocked Persons” on that webpage.

This section is supplemented by the information in the referenced AAPD. At a later time, the AAPD will be incorporated into this chapter, along with any other relevant information.

302.3.6.13 Incorporating Competitive Proposals Into Contracts By Reference

Effective Date: 04/20/2006

Contracting officers must not incorporate the entire proposal from successful offerors under competitive solicitations into contracts by reference. To the extent that any portion of a proposal is of substantial importance to the contract, then the Contracting Officer must expressly state that portion in the contract or incorporate a very specific, clearly delineated citation in the contract that references just that portion of the proposal.

302.3.7 Award
Effective Date: 04/20/2006

The following sections provide required policy and procedures upon award of a contract(s).

302.3.7.1 Designation of Cognizant Technical Officer
Effective Date: 04/20/2006

[AAPD 04-10, Standardized Model Letters for Designating the Cognizant Technical Officer \(CTO\) for Contracts](#)

This section currently consists of the information in the referenced AAPD. At a later time, USAID will incorporate this AAPD into this chapter, along with any other relevant information.

302.3.7.2 Congressional Award Notification System
Effective Date: 04/20/2006

[AAPD 02-13, Congressional Award Notification System](#)

The Congressional Award Notification System requires USAID Contracting Officers to notify the Bureau for Legislative and Public Affairs (LPA) after they sign an award to a U.S. organization.

This section currently consists of the information in the referenced AAPD. At a later time, USAID will incorporate this AAPD into this chapter, along with any other relevant information.

302.3.8 Post-Award Administration
Effective Date: 04/20/2006

The following sections provide required policy and procedures governing the administration of a contract through final close-out procedures.

302.3.8.1 Fair Opportunity Procedures - Award of Task Orders under Multiple-Award Indefinite Quantity Contracts
Effective Date: 01/08/2007

[AAPD 02-12, Standardizing USAID Indefinite Quantity Contracts](#)

This section currently consists of the information in the referenced AAPD. At a later time, USAID will incorporate this AAPD into this chapter, along with any other relevant information.

Three additional help documents are also available to provide further guidance and clarification on the task order award process in general as well as Field Support actions:

- [The Nuts and Bolts of Writing Scopes of Work and Competing and Awarding Task Orders under IQCs *TEXT ONLY VERSION*](#)
- [The Nuts and Bolts of Writing Scopes of Work and Competing and Awarding Task Orders under IQCs *VERSION WITH GRAPHICS*](#)
- **Field Support Action Process** – This document addresses task orders that accept Mission funding and lays out the processes that should be completed before Mission-specific work is authorized under such a task order.
- [Contract Types to Address Global Technical Leadership with Field Support and/or Cost-Contributions](#) – The purpose of this document is to determine alternative contracting mechanisms available to USAID/Washington technical officers to accept field support and/or cost-contributions from Missions or other operating units to co-fund project activities.

302.3.8.2 Issuance of Task Orders Under Indefinite Quantity Contracts – Exception to Fair Opportunity Procedures for Small Businesses

Effective Date: 04/20/2006

[AAPD 02-05, New Authority - Exception for Small Businesses Under Indefinite Quantity Contracts \(IQCs\)](#)

This section currently consists of the information in the referenced AAPD. At a later time, USAID will incorporate this AAPD into this chapter, along with any other relevant information.

302.3.8.3 Approval of Contractor Salaries Exceeding the USAID Contractor Salary Threshold (USAID CST)

Effective Date: 04/20/2006

During the administration of the contract, Contracting Officers will refer to the guidance at **ADS 302.3.6.8** for requests for approval.

302.3.8.4 The Role of the Contracting Officer in the Debt Collection Process (Debt Collection Improvement Act of 1996 (DCIA))

Effective Date: 04/20/2006

[AAPD 03-07, Revised Instructions to Contracting/Agreement Officers on their Role in the Debt Collection Process](#)

This section currently consists of the information in the referenced AAPD. At a later time, USAID will incorporate this AAPD into this chapter, along with any other relevant information.

302.3.8.5 Design and Implementation IQC Task Orders (OCI)
Effective Date: 04/20/2006

[CIB 99-17, Organizational Conflict of Interest](#)

This section currently consists of the information in the referenced CIB. At a later time, USAID will incorporate this CIB into this chapter, along with any other relevant information.

***302.3.8.6 Evaluation of Contractor Performance**
Effective Date: 03/27/2007

[*AAPD 06-05 \(Revision 2\), Evaluation and Use of Contractor Performance Information \(CPI\)](#)

This section currently consists of the information in the referenced AAPD. At a later time, USAID will incorporate this AAPD into this chapter, along with any other relevant information.

302.3.8.7 Close-out procedures
Effective Date: 04/20/2006

[CIB 90-12, Guidance for AID Missions -- Closing Out Contracts, Grants and Cooperative Agreements](#)

This section currently consists of the information in the referenced CIB. At a later time, USAID will incorporate this CIB into this chapter, along with any other relevant information.

302.3.9 Other Non-Mandatory Items of interest
Effective Date: 04/20/2006

[Reserved]

302.4 MANDATORY REFERENCES
Effective Date: 04/20/2006

302.4.1 External Mandatory References
Effective Date: 04/20/2006

- a. **[Executive Order 11223, Relating to the Performance of Functions Authorized by the Foreign Assistance Act of 1961, as amended](#)**
- b. **[Executive Order 13224, Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism](#)**

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

- c. [Federal Acquisition Regulation \(FAR\)](#)
- d. [Foreign Assistance Act of 1961, as amended, Section 621\(b\)](#)
- e. [Foreign Assistance Act of 1961, as amended, Section 636\(h\)](#)
- f. The Office of Federal Procurement Policy (OFPP) Act of 1974 (Pub. L. 93-400), as amended by Pub. L. 96-83 [not available electronically]
- g. [The National Defense Authorization Act for FY 1997 \(Public Law No. 104-201\), Section 821\(b\)](#)
- h. [Federal Acquisition Circular \(FAC\) 97-27 “Electronic and Information Technology Accessibility”](#)

302.4.2 Internal Mandatory References

Effective Date: 01/08/2007

- a. [Acquisition and Assistance Policy Directives \(AAPDs\)](#)
- b. [ADS 103 Delegations of Authority](#)
- c. [ADS 201 Planning](#)
- d. [ADS 320 Marking](#)
- e. [ADS 545 Information Systems Security](#)
- f. [Agency for International Development Acquisition Regulation \(AIDAR\)](#)
- g. [Contract Clause Guide for Unclassified Information System Security Systems and Services](#)
- h. [Contract Information Bulletins \(CIBs\)](#)
- i. [Guidance on Funding Foreign Government Delegations to International Conferences](#)
- j. Procurement Executive Bulletins (PEBs) [These are only available to USAID employees.]
- k. [Updated Guidance for Modified Acquisition & Assistance Request Document \(MAARD\) Usage](#)
- l. [USAID Implementation of Section 508 of the Rehabilitation Act of 1973](#)

m. [Contractor Performance Reports \(CPRs\) for Architect and Engineer Services and CPR Amendments in General](#)

302.4.3 Mandatory Forms
Effective Date: 04/20/2006

302.5 ADDITIONAL HELP
Effective Date: 01/08/2007

a. [Contract Employee Use of Department of State Diplomatic Pouch Alternate Pouch Address for Contractor Employee Mail](#)

b. [Contractor Travel vs. Direct Hire Travel Policy](#)

c. **Issues/Trends identified by the Contract Review Board (CRB) – June 2005**
[This is only available to users of the USAID intranet. Please contact ads@usaid.gov if you need a copy.]

d. [Guidance for Award Fee Contracting](#)

e. [Guidebook for Managers and Cognizant Technical Officers on Acquisition and Assistance](#)

f. [Contract Types to Address Global Technical Leadership with Field Support and/or Cost- Contributions](#)

g. [The Nuts and Bolts of Writing Scopes of Work and Competing and Awarding Task Orders under IQCs *TEXT ONLY VERSION*](#)

[The Nuts and Bolts of Writing Scopes of Work and Competing and Awarding Task Orders under IQCs *VERSION WITH GRAPHICS*](#)

h. [Operational Security – General Information](#)

i. [Certification and Agreement for the Use and Disclosure of Proposals](#)

j. [Field Support Action Process](#)

302.5.1 Optional Forms
Effective Date: 04/20/2006

302.6 DEFINITIONS

Effective Date: 04/20/2006

Acquisition & Assistance Policy Directives (AAPDs)

Issued by the Director, Office of Acquisition & Assistance (M/OAA) to provide information of interest to contracting personnel, such as advance notification or interim implementation of changes in acquisition or assistance regulations, reminders, procedures, and general information. (Chapter 302)

Agency Competition Advocate

See Competition Advocate. (Chapter 302)

Contract Information Bulletins (CIBs)

Previously issued by the Director, Office of Acquisition & Assistance (M/OAA) to provide information of interest to contracting personnel, such as advance notification or interim implementation of changes in acquisition or assistance regulations, reminders, procedures, and general information. Replaced by Acquisition & Assistance Policy Directives (AAPDs) (Chapter 302)

Contract Review Board (CRB)

Review Board comprised of Contracting Officers and General Counsel (GC) representative responsible for reviewing documentation for acquisition actions exceeding \$10,000,000 for the purpose of minimizing vulnerabilities leading to potential protests, disputes, claims, and litigation against the Agency, providing senior level advice on contracting actions and support to the Contracting Officer and consistency of procurement documentation. (Chapter 302)

contracting officer

A person representing the U.S. Government through the exercise of his/her delegated authority to enter into, administer, and/or terminate contracts and make related determinations and findings. This authority is delegated by one of two methods: to the individual by means of a "Certificate of Appointment", SF 1402, as prescribed in FAR 1.603-3, including any limitations on the scope of authority to be exercised, or to the head of each contracting activity (as defined in AIDAR 702.170), as specified in AIDAR 701.601. (Chapters 302 and [331](#))

direct procurement

See Direct Acquisition (Chapter 302)

Federal Acquisition Regulation (FAR)

The primary document containing the uniform policies and procedures for all executive agencies for acquisition of supplies and services with appropriate funds. It is issued as Chapter 1 of Title 48, Code of Federal Regulations (CFR). (Chapters 302 and [330](#))

Head of the Contracting Activity (HCA)

The official who has overall responsibility for managing the contracting activity. AIDAR 702.170-10 lists each HCA in USAID and the limits on the contracting authority for each are listed in AIDAR 706.601. Also see Contracting Activity. (Chapters 302, [330](#), and [331](#))

Procurement Executive Bulletin (PEBs)

Issued by the Director, Office of Acquisition & Assistance (M/OAA) to provide information of interest to contracting personnel, such as policy reminders, information regarding general guidance, best practices, reminders and frequently asked questions (FAQs). (Chapter 302)

USAID Acquisition Regulation (AIDAR)

USAID's supplement to the FAR, issued as Chapter 7 of Title 48, CFR. (Chapters 302 and [330](#))

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