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Key Considerations for Programming in Politically Sensitive Countries

A Mandatory Reference for ADS Chapter 201

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1. OVERVIEW

Pursuant to [ADS 201.3.1.7](#), Operating Units (OUs) that manage non-humanitarian programming in designated “politically sensitive” countries must assess the risks of such programming against a set of key considerations (see **Section 7**) to ensure that the unique risks inherent to these contexts are appropriately managed. These “Key Considerations” reviews must take place at minimum during the project or activity design phase, and during implementation as appropriate. In addition, these reviews must take place under the guidance and oversight of the cognizant Regional Bureau.

Regional Bureau Assistant Administrators (AAs) are responsible for determining which countries within their respective region are politically sensitive countries meriting Key Considerations review. A “politically sensitive country” is generally defined as a country in which the government:

- Is politically repressive; and
- Has explicitly rejected USAID assistance, or has such an adverse relationship with the United States that the Agency cannot partner or cooperate with the government on development assistance.

Politically sensitive countries may or may not be countries where USAID has U.S. Direct-Hire field presence. However, risks are typically heightened in non-presence countries.

2. OBJECTIVES

USAID is committed to fostering countries’ self-reliance. This includes carrying out democracy, human rights and governance (DRG) and other programs in politically sensitive countries to promote democratic societies while meeting other development objectives. However, there are a range of risks (legal, reputational, political, security, fiduciary, programmatic, etc.) inherent to operating in these contexts that need to be managed as the Agency pursues its goals. The Key Considerations review process is intended to ensure that USAID staff identify and assess these risks, and implement measures as appropriate to mitigate the risks of programming in these environments.

Among the challenges of operating in such environments, the National Security Act of 1947 (see [50 U.S. Code §3093\(e\)](#)) prohibits USAID from engaging in activities that seek to influence “political [or] economic conditions,” “where it is intended that the role of the United States Government will not be apparent or acknowledged publicly.” In addition, [The Federal Funding Accountability and Transparency Act of 2006](#), [The Foreign Aid Transparency and Accountability Act of 2016](#), [The Digital Accountability and Transparency Act of 2014](#), [The Foundations for Evidence-Based Policymaking Act](#), and

[OMB Bulletin 12-01](#) and associated [Executive Order 13642](#) set forth requirements for transparency, including a "presumption in favor of openness." Further, the [USAID Political Party Assistance Policy](#) mandates that programs not advance an explicit partisan political agenda beyond the promotion of basic principles of human rights and democratic governance. These requirements, taken together, often must be balanced against safety and security considerations, programmatic needs, and the Agency's overall priority to promote self-reliance.

Therefore, the Key Considerations review is particularly focused on ensuring that activities meet these and other legal and policy requirements to:

- Operate with as much transparency as possible while consistently taking steps to protect security, and
- Not advance an explicit partisan political agenda beyond the promotion of basic principles of human rights and democratic governance.

The Key Considerations review must also be consistent with the [Agency Risk Appetite Statement](#).

3. APPLICABILITY

The requirements herein apply to non-humanitarian programming in designated politically sensitive countries.

These requirements do not apply to:

- Humanitarian programs, including activities managed by the Office of U.S. Foreign Disaster Assistance (OFDA) and emergency activities funded by the Office of Food for Peace (FFP). However, humanitarian programs should operate in a transparent manner, while recognizing that security considerations may dictate discretion in releasing programming details, such as the names of specific implementing partners.
- Ongoing activities that began before this ADS Mandatory Reference was initially issued (on June 11, 2019) unless determined otherwise by the cognizant Regional Bureau (see **Section 4(a)**).

4. PRIMARY RESPONSIBILITIES

a. Regional Bureaus

Regional Bureaus, under the authority and direction of cognizant AAs, are responsible for:

- Identifying and designating countries in their respective regions that are “politically sensitive” and merit the Key Considerations review, and ensuring that mechanisms are in place to update such designations as circumstances in their region evolve;
- Communicating the politically sensitive country designation to: 1) USAID’s Risk Management Council (RMC); and 2) cognizant OUs on a need-to-know basis (see **Section 5** for additional guidance);
- Conducting oversight of Key Considerations review processes, and providing guidance to cognizant OUs that is streamlined, efficient, and clear (see **Section 6** for additional guidance);
- Identifying ongoing high risk activities that began before this ADS Mandatory Reference was issued that merit Key Considerations review, and communicating such decisions to cognizant OUs;
- Approving the documentation that results from the initial Key Considerations review process and any associated mitigation measures, and approving decisions from subsequent reviews, as relevant and appropriate (see **Section 8** for additional guidance); and
- Maintaining Key Considerations review decisions and associated documentation in an electronic or paper-based filing system that is consistent with the Agency’s standard recordkeeping practices (see [ADS 502](#) for further guidance).

b. OUs that Seek to Manage a Project/Activity in a Politically Sensitive Country

OUs that seek to manage projects/activities in politically sensitive countries are responsible for:

- Consulting with the Regional Bureau for guidance before initiating the Key Considerations review process;
- Conducting Key Considerations reviews during the project/activity design phase and during implementation as required by the Regional Bureau (see **Section 7** for additional guidance); and
- Submitting the documentation that results from the initial Key Considerations review process, along with any associated

mitigation measures, for approval or disapproval by the Regional Bureau AA (or his/her designee) (see **Section 8** for additional guidance).

c. Risk Management Council (RMC)

The RMC, which is charged with overseeing USAID's Enterprise Risk Management program on behalf of the Agency (see [ADS 596mab](#)), is responsible for:

- Maintaining the global list of politically sensitive countries, and monitoring and overseeing their overall risk profile; and
- Overseeing implementation of this ADS Mandatory Reference; and
- Adjudicating or resolving any disputes that may arise involving different Bureaus.

5. COMMUNICATION OF THE POLITICALLY SENSITIVE COUNTRY DESIGNATION

As described in **Section 4(a)**, Regional Bureau AAs are responsible for identifying and designating countries in their respective regions that are "politically sensitive" and merit the Key Considerations review, and communicating such designations to: a) the RMC; and b) cognizant OUs on a need-to-know basis.

a. Risk Management Council

Regional Bureaus must share this information, and any changes thereto, with the RMC by emailing erm@usaid.gov. Regional Bureau RMC members should also raise any material changes to a country's risk profile during quarterly RMC meetings.

b. Cognizant OUs

Regional Bureaus must also share this information with cognizant OUs that manage, or seek to manage, projects/activities in designated countries. In the vast majority of cases, cognizant OUs will be under the direct purview of the Regional Bureau AA (*i.e.*, a Country Office, Mission, Regional Mission, or Regional Bureau office in Washington). In these cases, the Regional Bureau may communicate this determination to such OUs through its regular communication channels.

In other cases, a cognizant OU may be located in a Pillar Bureau. In the vast majority of these cases, the Regional Bureau will have an opportunity to advise such OUs of the politically sensitive designation (and the requirement to conduct a Key Considerations review) when the OU submits to the Mission Concurrence process and emails **program.[country]@usaid.gov** (see [ADS 201man](#) for additional information on the Mission Concurrence process, which is separate from this process). There are two Pillar Bureau OUs that manage non-humanitarian programs that are exempt from the Mission concurrence process: DCHA's Office of Transition Initiatives (OTI) and DCHA's FFP Office. Regional Bureaus must communicate politically sensitive country designations to DCHA/PPM so that these OUs can meet the requirements herein.

OUs that are considering a project/activity in a potentially politically sensitive country may also email **program.[country]@usaid.gov** at any time to inquire about the country's status, or **erm@usaid.gov** for general questions about this policy.

6. REGIONAL BUREAU OVERSIGHT AND GUIDANCE

As described in **Section 4(a)**, Regional Bureaus are responsible for conducting oversight of Key Considerations review processes and providing guidance to cognizant OUs that is streamlined, efficient, and clear. In general, Regional Bureaus should require a level of effort, formality, and documentation that is commensurate with the level of risk. For example, non-presence countries would typically merit more rigorous review process(es) since risks are typically heightened in these countries. DRG activities would similarly merit more rigorous review process(es) in most cases. For programming areas judged by the Regional Bureau to be low risk, the Regional Bureau may decide that Key Considerations reviews are most appropriately conducted at the project rather than the activity level.

Regional Bureau guidance for OUs on monitoring the Key Considerations (and updating mitigation actions as necessary) during implementation should also vary based on risk. Activities judged by Regional Bureaus to be high risk should be periodically reviewed throughout implementation.

7. THE KEY CONSIDERATIONS REVIEW

As described in **Section 4(b)**, responsible OUs must conduct Key Considerations reviews during the project or activity design phase, and during implementation as required by the Regional Bureau. Operating Units must consider and discuss the following Key Considerations as part of the initial review:

- **Undue lengths:** USAID staff should not go to “undue lengths” to minimize USAID's role, and partners and beneficiaries should have the information necessary to determine the level of risk they are willing to assume. To determine undue lengths, USAID staff, with the assistance of their legal advisor, should assess whether the project/activity strikes an appropriate balance between the program's transparency and the security of its implementing partners and beneficiaries.

In general, USAID's commitment to transparency requires that program documents be unclassified, that briefings be held in unclassified settings, that basic programmatic information be included in Congressional Notifications and on [ForeignAssistance.gov](https://www.foreignassistance.gov) websites, and that implementing partners, including sub-contractors and sub-grantees, be made fully aware of an activity's USAID funding. However, this commitment does not prohibit USAID from authorizing waivers or exemptions in accordance with established Agency procedures (e.g., a waiver to contract marking requirements acquired through the process described in [ADS 320](#)). These factors, and others relevant to the particular country context, must be considered when balancing transparency and security in each specific setting.

- **Commitment to transparency:** [The Federal Funding Accountability and Transparency Act of 2006](#), [The Foreign Aid Transparency and Accountability Act of 2016](#), [The Digital Accountability and Transparency Act of 2014](#), [The Foundations for Evidence-Based Policymaking Act](#), and [OMB Bulletin 12-01](#) and associated [Executive Order 13642](#) set forth requirements for transparency, including a “presumption in favor of openness”; however, these requirements are not absolute. Agencies are also required by law or policy to identify information that is not appropriate for release, including information that, if released, could impact safety and security of USAID personnel or recipients of U.S. resources, privacy, confidentiality, or national security.

In order to ensure that these exceptions to openness are used appropriately, consistently, and sparingly, agencies must document specific case-by-case exceptions to withhold or redact information. If an OU determines that withholding of information is appropriate, they should follow the procedures in both [ADS 579maa](#) and [ADS 302mbj](#) (for contracts) or [ADS 303maz](#) (for grants) to seek authorization for redactions and ensure redactions are done at source and consistently across all USAID publications. Where security considerations result in redactions or withholding certain information, OUs should identify alternative means by which USAID's programming in the country is made apparent to the public.

- **Not advancing a partisan political agenda:** USAID staff should abide by [USAID's Political Party Assistance Policy](#) to ensure that programs are not advancing an explicit political agenda beyond the promotion of basic principles of human rights and democratic governance.
- **Political shifts:** USAID staff should take into account significant political shifts and/or changes to the operating environment in designing and implementing projects/activities in politically sensitive countries. Such shifts may relate to changes in the legal enabling environment that may affect registration of the implementing organization; information sharing with the government; prohibitions on foreign funding; elections; and/or other domestic or international shifts that may impact the closing or opening of the political space.
- **Other risks:** In consultation with current or prospective implementing partners, USAID staff should ensure that programs have mechanisms in place to assess, mitigate, and manage any other major risks to USAID, implementing partners, and program beneficiaries related to physical and cyber security, legal and fiduciary standing, and organizational reputation.

8. APPROVAL OF KEY CONSIDERATIONS REVIEW FINDINGS AND RECOMMENDATIONS

As described in **Section 4(b)**, cognizant OUs must submit the documentation that results from the initial Key Considerations review process, along with any associated mitigation measures, for approval or disapproval by the Regional Bureau AA (or his/her designee). The Action Memo that accompanies this documentation must either:

- Affirm that risks are judged to be at acceptable levels, or
- Summarize key risks that were identified and associated actions to mitigate them.

This Action Memo should also set forth a process – consistent with Regional Bureau guidance – to review or update this initial review based on actions taken or new developments (e.g., in operating contexts or programming approaches). As described in **Section 6**, activities judged to be high risk should be periodically reviewed throughout implementation. The Regional Bureau must make an approval or disapproval decision within 12 business days of receiving this Action Memo.

With respect to reviews during implementation, Regional Bureaus have discretion to determine the format, level of formality, and process for approval where relevant. However, Regional Bureaus are encouraged to implement a level of oversight that is commensurate with the level of risk.

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