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Expanded DRG Review Guidance

An Additional Help for ADS Chapter 220

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Democratic Accountability Risks in Government-to-Government (G2G) Activities

The preparation of a new Government-to-Government activity requires the consideration of a broad range of risks, including fiduciary, legal, reputational, programmatic, human capital and information technology risks, among others. The Democratic Accountability Statement and, if required, the DRG Expanded Review, in tandem, help weigh the political and reputational risks of direct funding support to partner governments.

Bilateral USAID presence Missions should examine the Democratic Accountability Environment as a part of USAID's due diligence for the preparation of government-to-government (G2G) activities to ensure partner governments have sufficient accountability mechanisms, such that our assistance to partner governments is not being used to at the expense of its citizens, and in order to protect the United States government from programmatic and reputational risk.

There are several dimensions to explore when examining overall government performance with respect to democracy, human rights and governance (DRG). Reputational risk¹ issues could include where leaders have been elected under a high degree of election-related fraud, where human rights are routinely curbed by the government, or where laws are arbitrarily applied or unjustifiably injure citizens. Reputational risks may also include cases where the government does not take reasonable steps to stop corruption or where it undermines accountability institutions and/or civil society. The Mission should also consider reputational risks associated with potential project activities, such as whether USG support for projects could be used in a way that may give government actors electoral advantages, exclude benefits to political opponents or marginalized groups, or project implementation could involve the forcible resettlement of citizens. Decision-making whether the democratic accountability environment is sufficient to proceed with the preparation of a G2G activity, and whether conduct of an Expanded DRG Review might be warranted lies with the Mission Director.

Countries experiencing challenges in the democratic accountability environment do not necessarily need to avoid G2G modalities. The Mission must decide, balancing USAID's interests, and given available mitigating measures, whether G2G is the right choice for project delivery and articulate the advantages and disadvantages of providing direct G2G assistance.

This additional help document provides guidance on integrating democratic accountability considerations into four stages of the G2G preparation process, including:

¹ According to USAID's ERM Risk Appetite Statement, "Reputational Risk' refers to events or circumstances that could potentially improve or compromise USAID's standing or credibility with Congress, the interagency, the American public, host country governments, multilateral institutions, implementing partners, beneficiaries, or other stakeholders."

- 1) **Prerequisite: 7031(a) Review**, which establishes basic eligibility to consider proceeding with a G2G, including whether an Expanded DRG Review is required;
- 2) **Activity Planning: Democratic Accountability Statement**, is a rapid review by the mission of the major factors related to Democratic Accountability that affect the environment for G2G activities in the country, potential risks for further consideration during the G2G Risk Management Process, and a means to decide whether an Expanded DRG Review might be warranted if not already required as a result of the 7031(a) Review Process;
- 3) **Activity Design PT 1: Expanded Democratic Review**, which integrates a more holistic set of DRG considerations into the G2G Risk Management Process in order to effectively review significant reputational and programmatic risks related to the Democratic Accountability environment in the country;
- 4) **Activity Design PT 2: DRG Risk Management Strategies**; and
- 5) **Activity Implementation: Monitoring DRG Related Risks** and adjustment of the Risk Management Plan.

The sections below provide more details on each of these stages, including guiding questions where applicable.

7031(a) Review

Section 7031(a) of USAID's annual Appropriations Act requires an assessment of a partner government's eligibility and risk environment before considering a partnership in implementation of foreign assistance. A review of government-wide criteria is carried out by State F in consultation with USAID. The review assesses partner governments against the following statutory requirements:

1. The government of the recipient country is taking steps to publicly disclose on an annual basis its national budget, to include income and expenditures;
2. The recipient government is taking steps to protect the rights of civil society, including freedoms of expression, association, and assembly.
3. The recipient government is in compliance with the principles of the legal prohibition on taxation of U.S. foreign assistance.

State/F provides final documentation of the assessment of a partner government's eligibility, after review by multiple offices within USAID and State and final determinations made by State and USAID regional bureaus. For USAID regional bureaus, these determinations are based on the recommendation of the DRG Center for requirements one and two, as well as information from the relevant Missions on all three. The DRG Center bases recommendations on review of objective indicators and available information at the country level, and uses the following ratings to make recommendations to the regional bureaus:

- a. **pass** (the country clearly meets or exceeds the designated criteria). Those countries receiving a "passing" rating on the 7031 (a) review will be included on the list of countries that are recommended for G2G assistance.
- b. **pass with reservation** (the performance of the country is ambiguous and needs to be more clearly assessed). Countries who receive a "pass with reservations," rating will also

be included on the list of countries that are recommended for G2G assistance but will be required to complete an Expanded DRG review as a part of their pre-award G2G risk management process to deepen the analysis and provide additional considerations and mitigation measures that would allow the country to proceed favorably in the review.

- c. **fail** (the country clearly fails one or both of the DRG-related criteria). Countries who fail will not be recommended by the DRG Center during the process.

The F memo and list of countries whose governments are eligible for G2G assistance is available at ADS 220sxx.

Democratic Accountability Statement

The Democratic Accountability Statement is an integral part of the Country Context Report to be prepared during the “Setting the Parameters” phase of activity planning. The purpose of the Democratic Accountability Statement is to explore five factors of democratic accountability that establish if the foundation exists in the partner country to conduct a G2G that will not be used to at the expense of its citizens, including:

1. **Fiscal transparency:** The country publicly discloses in an accessible format², on an annual basis, its government budget and enforces access to information laws;
2. **Civil society and media oversight and monitoring:** The country’s legislature, civil society, and media possess the rights and freedoms necessary to enable the monitoring of the proposed G2G funded activities;
3. **Government oversight and accountability:** The legislature, supreme audit institution, and judiciary possess the independence to hold the executive accountable for enforcing the above rights and monitor the expenditure of funds for G2G activities;
4. **Civil liberties:** The country is taking steps to protect the rights of civil society, including freedom of expressions, association and assembly (imposed by section 7031, FY2014 Appropriations Act); and
5. **Protection of human rights:** The country has a functioning and resourced National Human Rights Institution (NHRI) and third party reporting of human rights conditions (e.g. DoS, HRW, AI, and Universal Periodic Review) that demonstrate the state’s adherence to their ratification of international human rights conventions, and [key indicators](#) that demonstrate [equality before the law](#) and [social group equality](#) with respect to civil liberties.

The mission should include a Democratic Accountability Statement as a part of the Activity Concept Note that summarizes the Partner Government’s performance on the above four factors. While stakeholder consultations are strongly encouraged, the data sources in the following table may be useful for missions when considering the above factors. If a country was passed with reservation during the 7031(a) process, this should be noted in the Democratic Accountability Statement.

² Accessibility of budget information should consider not only if budget information is broadly available, but also if formats are provided for visually impaired persons and persons outside of urban areas with limited connectivity

Factor	Suggested Data Sources
Fiscal transparency	International Budget Partnership Open Budget Survey DOS Fiscal Transparency Report Accessible Website of the Ministry of Finance Public Gazette (for final approved budget law) Provisions to share the budget for those not able to access the internet (e.g., mail, print media, etc) (Ministry of Finance website)
Civil society and media oversight and monitoring	World Justice Project ROL Index - Constraints on Government Power sub-factor 1.5 Civil Society Organization Sustainability Index (CSOSI) World Press Freedom Index Reporters Without Borders (RSF)
Government oversight and accountability	World Justice Project ROL Index - Constraints on Government Power (sub-factors 1.1-1.4) V-Dem Executive Oversight
Civil liberties	Freedom House Civil Liberties Index; V-Dem Civil Liberties Index, V-Dem CSO repression indicator; World Justice Project ROL Index - Fundamental Rights; Has the country ratified CEDAW, CRC, CRPD, and UNDRIP for women, children, persons with disabilities, and indigenous peoples
Protection of human rights	V-Dem Equality before the law index V-Dem Social group equality TIP Country Ranking (DoS) Department of State Country Reports on Human Rights Practices

On the basis of the analysis in the Democratic Accountability Statement, the mission may make one of three determinations:

1. The country meets basic standards for democratic accountability (DA). The Mission may move forward with risk management and project design using the standard processes;
2. The country does not appear to meet basic standards for DA, and the G2G risk management process should include the Expanded DRG Review to analyze the risk that use of G2G mechanisms will empower the government at the expense of the people; or
3. The Democratic Accountability environment in the country is too weak at this time to proceed with the preparation of a G2G activity; no further consideration of G2G should be made at the current time.

Countries that received a pass with reservation finding on the 7031(a) review are automatically considered to not meet basic standards for democratic accountability and are required to conduct an Expanded DRG Review. Guidance on integrating democratic accountability into the G2G risk

management process under standard processes are included in the [G2G Risk Management and Implementation Guide](#). Some guiding questions for Expanded DRG Review are provided in the next section of this Guidance Note.

DRG G2G Risk Review

In cases where an Expanded DRG Review is called for, either due to the 7031(a) process or on the basis of the analysis in the Democratic Accountability Statement, the review team should place an explicit focus during the G2G Risk Management Process on challenges in the Democratic Accountability Environment. This analysis should be fully integrated within the Risk Mitigation plan (rather than a separate document solely on DRG risks), and may address the following questions:

Good Governance, Rule of Law, and Commitment to Development

Standard Assessment considerations

1. Is there evidence of political will to govern according to the nation's laws?
2. Are the constitution and national laws respected documents, or are they regularly changed or ignored?
3. Are the constitution and national laws regularly enforced by the judiciary? Are decisions, as reviewed by a third party group, reflective of the crime, equitably applied to all?
4. Do prosecutors and judges act with independence, or show evidence of their own discretion if falling under the executive?
5. Does any person or institution outside of government have de-facto power over government decisions?
6. Does the government, or major service delivery ministries, track its results or measure its success in any systematic way? In what modality (electronic, manual); and, are those results accessible to all?
7. What percentage of the national budget is spent on human capital development and social services?

Public Administration and Human Resource Management

Standard Assessment considerations

8. Does the government have a merit-based civil service system? Describe the legal basis for that system.
9. Describe the roster and time and attendance systems for the public sector.

Expanded DRG Assessment considerations

10. Does this system provide equitable treatment for persons with disabilities relative to their recruitment, retention, and promotion? Are women of all backgrounds represented at all ranks within this system?
11. What are the training requirements and policies dealing with ethics, codes of conduct, and whistle-blower protections?

12. What evidence is there that capacity building programs intended to reach individuals with specific responsibilities at various levels of government actually reach them? How is the efficacy of those programs measured?
13. Does the civil service law cover disclosure of personnel assets, liabilities, and non-government sources of income as well as non-monetary services or allowances?
14. Do the people in the country (vs citizens) actually pay taxes?
15. Does the law cover conflicts of interest and probable sanctions? If so, is the law enforced?

Public Accountability and Anti-Corruption

Standard Assessment considerations

16. Has the government started or undergone transparency and accountability reform?
17. Describe the government institutions and organizations that provide accountability such as prosecutor's offices, legislative committees, the supreme audit institution or inspector(s) general. Do these organizations have independent authority to investigate, prosecute, or sanction? Do they exercise that authority? If not, what prevents them (structural or fear or other)? Who controls their budget? Are there linkages between these institutions and are they effective?
18. Is there evidence of whistleblower protections in place and in use?
19. What roles do civil society organizations, private sector entities, or the media play in accountability oversight of public resources? Is the media able to safely report without retaliation?
20. Does the government have an active anti-corruption program? Is the state able to address both high-level and low-level corruption? What evidence is there that the anti-corruption laws are being enforced? If an Anti-Corruption Commission exists, is it fully staffed with capable members, sufficiently funded and able to enforce or report recommendations?

Expanded DRG Assessment considerations

21. Is there a legal environment that protects independent media and civil society? When allegations occur, does the legal environment actually provide a remedy?
22. Is the government a party to UNCAC and any regional anti-corruption agreements; and do they make good faith attempts to live up to those agreements?
23. Has the government shown intent to gain membership in the Open Government Partnership?
24. Is there evidence of political will to address corruption?

Fiscal Transparency

Standard Assessment considerations

25. Are there laws providing freedom to access information? Does the government have the will, capacity and staff to respond to information requests? Does this include requests for information about financial dealings of the government?
26. Are "user friendly" budgets and other financial documents made available to the public? How accessible are the national budget and supporting documents to the public and civil society organizations including for persons with disabilities, those that are illiterate/non-numerate, or

do not speak/read/write the official language used by the central government? Is the budget prepared with input from different branches and levels of government? If the Open Budget Initiative (www.internationalbudget.org) covers the country, the results of its most recent survey should be summarized.

27. Do supporting and available documents include information on extra-budgetary funds and contingent liabilities?
28. Can the budget process be followed by the public, civil society and media? Are there junctures where the public and civil society can contribute to the process?

Expanded DRG Assessment considerations

Democracy and Political Considerations

Standard Assessment considerations

29. Are there any civil disturbances, border or regional conflicts or upcoming political events such as national elections that could affect successful implementation?
30. Are laws applied equally across political and other affiliations or identity groups (e.g., ethnicity, tribal affiliation, caste, membership in an indigenous peoples group, religion, sex and gender identity, sexual orientation, region, color, national origin, disability, age, genetic information, marital status, parental status, political affiliation, or veteran's status)?³
31. Do actors within or outside the political system have de facto veto power over state decisions? That is, is there evidence that one political party or an elite group(s) has revised or ignored decisions made through government deliberative or administrative procedures? Are officials able to act with impunity?
32. What evidence, if any, is there of bias or favor by the state in allocation of jobs and resources among major groups, particularly where merit is not a factor?
33. Is government decision-making transparent? Do citizens have access to information on the performance of public officials? How free and able are the media to investigate and report on government misconduct? How engaged are citizen groups in oversight of government budgets and performance?

Expanded DRG Assessment considerations

34. Are enough members of parliament elected (as opposed to appointed) so that public opinion can be reflected in the decisions of parliament? What is the balance of men and women in parliament? What is the balance of men and women in the judiciary, the security sector, and in the executive branch? Are persons with disabilities and other historically marginalized populations permitted to stand for election, and are they represented in the legislature?

³ For more details, please refer to the FAQs available on USAID's website regarding non-discrimination in USAID programming: <https://www.usaid.gov/what-we-do/democracy-human-rights-and-governance/protecting-human-rights/nondiscrimination-faq>

35. Has the government evidenced a commitment to peaceful, democratic transitions of power? Are government institutions accepted as legitimate by relevant actors (government bodies, political parties, associations, interest groups and civic organizations, as well as groups with potential veto powers, such as the military or the clergy)?
36. Were the most recent government-run elections found to be free and fair by credible international observers, and were they held according to schedule? How does the electoral system perform based on [Freedom House's Freedom in the World](#) Electoral Process sub-index? (If activity is being implemented at the local level, please consider local elections in addition to national elections)
37. Has the country experienced recent, significant democratic backsliding, based on the [Varieties of Democracy Democracy Report](#)?

Human Rights and Protection of Key Populations

Standard Assessment considerations

38. Does the government have a mechanism(s) to consider the needs of specific populations in the budget process (e.g., through gender based and responsive budgeting and analysis)? To what extent is that budget broken down by demographics and geography to determine where budgeting is targeted and for whom, along lines of gender, indigenous group/tribe/caste, religious minority, other factors unique to country/laws (third gender in Pakistan, India, Nepal, Bangladesh), and other?

Expanded DRG Assessment considerations

39. Does the government protect, or demonstrate will to protect, the fundamental political and civil rights enshrined in the Universal Declaration of Human Rights? Based on the country's ratification status of human rights (<https://indicators.ohchr.org/>), does the country uphold the treaties it has ratified?
40. Does the government have a mechanism to report on human right violations or monitor threat to human rights? Does a national human rights institution (NHRI) exist, and by a third party analysis, does it have a sufficient budget and is it otherwise [Paris Principles](#) compliant?
41. Do various segments of the population (including ethnic, religious, gender, LGBT, disability, and other relevant groups) have full political rights and electoral opportunities? Based on the [USAID Gender Analysis](#) as required by the [WEEE Act](#), how robust is the country addressing constraints and opportunities regarding gender and inclusion?⁴

Missions that are required to implement an Expanded DRG Review, or who opt to do so, must include a member of the Democratic Governance (DG) office in the Partner Government Systems Team (PGST) to support the risk analysis, risk mitigation, and risk monitoring processes.

⁴ For more guidance, see also, <https://www.usaid.gov/what-we-do/democracy-human-rights-and-governance/protecting-human-rights/nondiscrimination-faq>

Consideration of Mitigating Factors

Especially in cases where an Expanded DRG Review is required, missions should consider mitigation activities to assist in addressing reputational risks and in strengthening local accountability systems, for example, support for:

- Competitive procurement processes
- Inclusive budgeting that involves all stakeholder groups
- Development of service delivery standards and oversight/monitoring mechanisms
- Improved internal control and audit practices for projects implemented using USG funds
- Conditions precedent in bilateral agreements requiring the partner government take steps to address accountability or other democratic gaps

The Risk Management Plan should discuss or reference the findings of the Standard or Expanded DRG Review and explain risk mitigation steps and Monitoring, Evaluation and Learning (MEL) related to risk mitigation.

Risk mitigation can take place at a number of junctures. DRG concerns requiring risk mitigation could be addressed through project design and included in the conditions precedent for the implementation letter, for example requiring that the partner agency allow for civil society monitoring of the procurement process funded under the G2G. Risk mitigation can also be through funded activities in the same or separate project, such as PFM or public accountability strengthening efforts. Progress can be tracked within the activity MEL system to track progress against the risk mitigation measures or other measures like perception of government performance.

Monitoring DRG Related Risks

ADS 220 requires the Government Agreement Technical Representative (GATR) and the PGST to monitor all risks identified in the Risk Management Plan (RMP) during the life of the G2G activity (see ADS 220.6.4). DRG officers should be engaged in monitoring partner government implementation of mitigation measures related to democratic accountability risks. Particularly in countries with elevated risks in the democratic accountability environment, the PGST should also regularly monitor the four factors included in the Democratic Accountability Statement outlined above (fiscal transparency, external oversight and monitoring, government oversight and accountability, and civil liberties) to identify changes in the country's risk profile that might warrant the development of additional measures to support risk monitoring or that might warrant reconfirmation of risk mitigation strategies identified in the RMP. In addition, when an election takes place during the course of a G2G activity, the mission should carefully monitor the conduct of the election and mitigate associated risks of democratic backsliding.