



USAID
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Heightened-Risk Vetting Order

A Mandatory Reference for ADS Chapter 319

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HEIGHTENED-RISK VETTING ORDER

	Bureau Order #:	Supplements:	Responsible Office: Central Vetting Group/M/MPBP
References: Foreign Assistance Act of 1961, as Amended, 22 U.S.C. 2151 et seq. Executive Order 13224 Title 18 US Code, 2339A and 2339B		Subject: National Security Screening of Awards	Effective Date: On the date signed below

I. PURPOSE

Consistent with USAID policy and regulations, the Agency may determine that a particular award, activity, or other USAID assistance is subject to vetting in the interest of national security. The purpose of this document is to describe standard operating procedures for Heightened-Risk Vetting (HRV), a process in which USAID vets a program, award, subaward or activity or other assistance in a location without an existing, country-wide vetting program. These policies and procedures are intended to help mitigate the risk that USAID funds and other resources inadvertently provide support or benefit to individuals or entities that are terrorists, supporters of terrorists, or affiliated with terrorists, while also minimizing the impact of the vetting process on USAID programs and its implementing partners.

II. DEFINITIONS

As used in these Procedures, including the Appendices:

“Award” means any contract, grant, cooperative agreement, or any other instrument that acts as any of the same awarded by USAID. Unless the context otherwise requires, an Award includes Subawards, as defined below.

“Awardee” means any individual or entity that receives an Award. Unless the context otherwise requires, an Awardee includes Subawardees, as defined below.

“CO” or **“AO”** means, respectively, the Contracting Officer or the Agreement Officer.

“COR” or **“AOR”** means the Contracting Officer’s Representative or the Agreement Officer’s Representative who is responsible for day-to-day management of the project or activity in question. A COR/AOR may serve as a Vetting Assistant, but only for Bureau-

based vetting programs, that is, non-presence vetting programs, and only for subawards.

“Contract” means a mutually binding legal instrument for the acquisition of supplies or services (including construction) by and for USAID.

“Contractor” means the organization or individual from whom USAID acquires supplies or services.

“Grant” means the legal instrument to transfer funds (or anything of value) from USAID to a recipient to carry out a public purpose. **“Cooperative agreement”** means a grant with substantial USAID involvement.

“Partner Information Form” or “PIF” means the Office of Management and Budget/Office of Information and Regulatory Affairs (OMB/OIRA)-approved information collection form that requests personally identifiable information on Key Individuals from offerors/applicants/awardees/funds recipients (Appendix B). The form may not be modified or amended without the prior approval of the Office of Management and Budget, USAID’s Office of Security (USAID/SEC), and USAID’s Office of General Counsel.

“Partner Vetting System Application” or “PVS Application” means the password-protected, web-based application that allows USAID to confidentially transfer information collected via the PIF or Secure Portal (defined below) to USAID/SEC for vetting. It also allows USAID/SEC to request additional information on entities or individuals subject to vetting if the PIF is incomplete.

“Prohibited Party” means an individual or entity that USAID knows or has reasonable grounds to suspect: (i) supports or has supported terrorist activities; (ii) is or has been engaged in terrorist activities; (iii) poses a significant risk of committing terrorist activities; or (iv) supports, has supported, is or has been engaged in, or poses a significant risk of committing, other activities that are contrary to the national security interests of the United States.

“Secure Portal” means the password-protected, web-based application that allows applicants for awards to enter information requested by the PIF.

“Subaward” means any grant, subgrant, guarantee, subcontract or any other instrument that acts as any of the same awarded by an Awardee pursuant to an Award.

“Subawardee” means any organization or individual that receives a Subaward.

“Vetting Official (VO)” means the USAID official designated as such who supervises the coordination of vetting and is responsible to the designating Assistant Administrator (AA) or equivalent. The duties of the VO generally include receiving/coordinating vetting personally identifiable information from Agency implementing partners and prospective implementing partners, responding to questions about information to be

included on the Partner Information Form (PIF) or to be entered in the PVS Secure Portal by implementing partners or prospective implementing partners; receiving the eligibility or ineligibility recommendations from the Office of Security (SEC); and conveying or delegating the authority for transmittal of the vetting notices of eligibility or ineligibility to awardees, potential awardees, sub-awardees or potential sub-awardees that are subject to vetting, as well as to the Contracting or Agreement Officer.

“Vetting Assistant(s)” means any USAID employee or employee designated as such by, and who is or are responsible to, the AA or AA equivalent. The Vetting Assistant(s) has/have responsibility delegated by the VO, to include receiving vetting information, responding to questions about information to be included on the Partner Information Form, and coordinating with SEC and the VO, and conveying the vetting determination to each applicant, potential subrecipients, and contractors subject to vetting, and the contracting or agreement officer. AORs/CORs will not serve as Vetting Assistants for prime awards. For non-presence vetting programs, an AOR/COR may be designated as a Vetting Assistant for sub-awards.

“Vetting Support Unit (VSU)” means either: (a) the VSU of a Bureau vetting program; (b) the VSU of a Mission vetting program; or (c) the Central Vetting Group. A VSU consists of the Vetting Official and any Vetting Assistants. All staff of the VSU will be required to sign appropriate non-disclosure agreements relating to source selection information, classified information and any other information that has not been made available to the public or disclosed publicly.

“Washington-Based Award” means a central award that is centrally managed in Washington, DC, by a USAID B/IO.

III. AUTHORITIES AND REFERENCES

Foreign Assistance Act of 1961, as amended (FAA) (22 USC 2151 et seq.)

Executive Order 13224 (eff. 9/24/2001) blocks property and interests in property of individuals and entities that are designated as committing or posing a significant risk of committing terrorist acts. The Executive Order prohibits all transactions and dealings in blocked property or interests in the United States or by U.S. persons. It also prohibits transactions with, and provision of support for, individuals or entities designated in or subject to the Executive Order.

Title 18 USC 2339A and 2339B, which prohibit the provision of material support or resources for terrorist acts or to designated foreign terrorist organizations.

Interim Agency Policy on Centralized Management of Partner Vetting, 4.17.18

2 CFR 701; AIDAR Vetting Provisions

IV. ADDITIONAL BACKGROUND INFORMATION

In addition to the vetting policies and procedures established by these standard operating procedures, other required procedures may also prevent support to Prohibited Parties. First, the CO or AO, as applicable, is required to check relevant public lists, including the Specially Designated Nationals (SDN) list and the excluded parties list found at the System for Award Management (SAM). Second, before an Award is made, the staff of USAID (in the case of a prime Award) or the staff of the prime Awardee (in the case of a Subaward) must scrutinize various aspects of the proposed entity's operations as part of the standard due diligence and pre-award survey. As part of this process, the personal knowledge of USAID staff is considered before any Award is made or Subaward is approved.

V. PROCEDURES FOR VETTING

Appendix A details the procedures for vetting potential Awardees and Subawardees. These procedures are subject to change. Check with the VSU for updates prior to implementing.

VI. MANDATORY CLAUSES

The clauses set forth in Appendix D should be included in all Awards and Subawards that are subject to vetting in accordance with these Procedures.

VII. EFFECTIVE DATE

The effective date of these Procedures is the date of signature of the Bureau(s) as indicated below.

Assistant Administrator, Bureau for Management:

Name: _____ Date _____

VII. APPENDICES

- A. Vetting Procedures
- B. Partner Information Form
- C. Notices of Eligibility/Ineligibility
- D. Mandatory Clauses

Appendix A: Vetting Procedures

As a reminder, all prime awardees are expected to conduct their own due diligence review of proposed U.S. and non-U.S. subawardees prior to submission for vetting.

1. **Applicability:** Heightened-Risk Vetting may be conducted when the Senior Agency Vetting Official (SAVO) determines, based upon an OU's analysis and recommendation(s), that there is a heightened risk of a diversion of funds that are counter to the national security interests of the United States, and that partner vetting is justified to mitigate the risk.
2. **Scope of Vetting:** Consistent with Agency policy, the request to conduct heightened-risk vetting will include information concerning the program, award, subawards, or activity subject to vetting to provide direction based upon an OU's analysis and recommendation.

3. Solicitation and New Awards:

Solicitations: For each prime activity or program that will be subject to vetting, the CO or AO, as the case may be, will seek to ensure that the solicitation language for vetting is included and/or adapted for the solicitation for the particular activity or program subject to HRV.

Prospective Nature of Procedures: In general, the vetting procedures described in these Procedures will only apply to Awards issued after the effective date of these Procedures and will not apply retroactively.

Non-competitive Awards/Unsolicited Proposals: Any proposed Awardee and any Subawardee named (or expected to be named, such as at the concept note stage) in a Non-competitive Award or unsolicited proposal subject to HRV will be vetted in accordance with these Procedures as early in the proposal review process as possible, and may be implemented in a post-obligation environment, due to extenuating circumstances, such as ensuring no delays in the provisions of humanitarian assistance.

4. **Vetting of "Key Individuals":** Unless otherwise provided in the HRV approval, USAID may only vet "Key Individuals." "Key individuals" means:
 - a. Principal officers of the organization's governing body (including individuals with an ability or potential ability to divert funds or have influence over assistance; e.g., chairman, vice chairman, treasurer, or secretary, of the board of directors or board of trustees);
 - b. The principal officer and deputy principal officer of the organization (e.g., executive director, deputy director, president, or vice president);

- c. The program manager or chief of party for the USAID-financed program; and
- d. Any other person with significant responsibilities for administration of USAID-financed activities or resources, such as key personnel as described in either ADS Chapter 302 for contracts or ADS Chapter 303 for assistance awards. Key personnel, whether or not they are employees of the prime awardee, must be vetted.

Note that the definition of “Key Individuals” differs from the definition of “Key Personnel” under a contract, grant, or cooperative agreement. Please see “USAID Guidance on Vetting of Key Individuals.”

5. Obtaining Data Needed for Review:

- a. If an award is subject to vetting, the CO/AO, will inform each Awardee to complete the PIF as a paper document or via the Secure Portal for all of its Key Individuals and return the PIF to the Vetting Official responsible for that award.
- b. Awardees and Subawardees will be responsible for collecting, verifying, and submitting the PIF to the Vetting Official responsible for each proposed sub-award or other action requiring vetting and for themselves as the prime.

6. Vetting Flow:

Step 1 – Data Collection: Awardees will submit the PIF (see Appendix B) when directed to do so by the CO/AO. Awardees will submit their PIFs electronically via the Secure Portal. If internet access is not available to the Awardees then such Awardees will submit hard copies of their PIFs directly to the Vetting Official or designated Vetting Assistant.

Step 2 – Data Review: Upon receipt, the Vetting Official or designated Vetting Assistant will review the data for completeness and accuracy and will seek any additional information necessary from the Awardee.

Step 3 – Data Submission: Before initiating a vetting request, the VSU should review the submission to determine if a vetting approval is already in effect for the Key Individual(s) in question. If an individual received an eligible vetting determination within the past year, the VSU is not required to submit that individual for vetting during that one-year period but may elect to do so should conditions warrant. If USAID has determined the individual to be ineligible, with no intervening eligible determination, that individual must be re-submitted for vetting.

- a. **Secure Portal:** For those offerors or applicants that have the capability, the VSU will establish accounts in the Secure Portal for their access. Awardees will enter vetting information electronically through the Secure Portal. The VSU will review and approve PIF submissions via the Secure Portal, which will permit the data to be systematically pulled from the Secure Portal into the PVS Application. The VSU will then submit the information to USAID/SEC for vetting.
- b. **Non-Secure Portal Submissions:** Awardees will submit to the Bureau the PIFs of proposed Subawardees or other entities or individuals required to be vetted under these Procedures. Upon the VSU's receipt of the PIF submission, the VSU will enter the data into the PVS Application and submit a vetting request.

Step 4 – Vetting: Upon receiving a vetting request, USAID/SEC will search relevant databases, including non-public sources, for derogatory information. If deemed necessary, USAID/SEC will ask the VSU to obtain additional information. Depending on the vetting results, that is, whether USAID/SEC identifies a Prohibited Party, USAID/SEC will make a recommendation to the Vetting Official that the potential Awardee or Subawardee proposed for vetting is either eligible or ineligible. If the recommendation is eligible, then the Vetting Official or designated Vetting Assistant notifies the vetted entities following the process described in Step 6 and the CO/AO, who proceeds with the award or the procurement, as the case may be. The notification by the Vetting Official to the entities of the vetting decision must not include any information regarding award decisions (the CO or AO is responsible for notifying Awardees of award decisions).

Step 5 – Final Determination in the Event of Derogatory Information: If USAID/SEC discovers derogatory information and makes a recommendation of ineligibility with respect to one or more potential Prohibited Parties (*i.e.*, Awardees that USAID/SEC knows or has reasonable grounds to suspect (i) supports or has supported terrorist activities, (ii) is or has been engaged in terrorist activities, (iii) poses a significant risk of committing terrorist activities, or (iv) supports, has supported, is or has been engaged in or poses a significant risk of committing other activities which are contrary to the national security interests of the United States), the designated senior official, either a Bureau DAA or Deputy Mission Director (DMD), depending on whether a B/IO/Mission is managing the award, with the coordination support of the Vetting Official, will determine whether or not to proceed with the award. USAID/SEC will base any recommendation of ineligibility on the derogatory information used during the analysis. The designated senior official should consult with appropriately cleared parties in making a final determination. Appropriate parties that the designated senior official is encouraged to consult with include, without limitation, the relevant technical office(s), GC and/or the RLO, and USAID/SEC. Legal advice on a final determination is important to ensure compliance with applicable law. In the case of a Washington-based award, if the cognizant DAA for the Operating Unit managing the award determines to move forward with the award despite SEC's recommendation of ineligibility, the matter will be referred to the AA for the Operating Unit managing the award for final

determination in consultation with AA/[of the regional Bureau overseeing the Mission of the location where the award or subaward is subject to vetting]; provided that, in the case of a Bureau of Humanitarian Assistance (BHA)-managed award, the AA/BHA will make the final determination. In the case of a Mission-managed award, should the designated DMD not concur with USAID/SEC's recommendation of ineligible, the designated DMD will then refer the matter to the DAA of the regional Bureau overseeing that Mission for review and final determination.

Step 6 - Determination Notification: Once a final determination is made, the VO/VA will notify the relevant offerors or applicants. Notification of the vetting decision must not include any information regarding award decisions (the CO or AO is responsible for notifying offerors/applicants of the award decisions). Notices must conform to the language shown in Appendix C, unless prior, written approval is received from USAID/SEC, GC, and the Bureau for Management. The B/IO/Mission managing the award or subaward that is vetted will retain a copy of the final determination in its/their files. Information determined by USAID/SEC to be releasable, as described in the Reconsideration Procedures below, should be included by the VO in the notice to any offeror/applicant determined to be ineligible. The Bureau or Office will retain a copy of the final determination in its files. The Office of Acquisition and Assistance will retain a copy of the final determination in its procurement files.

Ineligibility Determination: If an entity/individual is found ineligible as a result of vetting, USAID/SEC will provide to the VO any information to support the vetting recommendation that USAID/SEC determines to be releasable to the vetted entity/individual. In its determination, SEC will take into consideration the classification or sensitivity of the information, the need to protect sources and methods, the type or source of information, and the status of ongoing law enforcement and intelligence community investigations or operations. Releasable information must be included in the notice to the denied offeror or applicant.

Following an ineligibility determination, an entity or individual is not precluded from applying for future awards, as it is USAID policy to re-vet previously ineligible entities/individuals for every proposed award based on information available at the time of the determination.

Reconsideration Procedures

Reconsideration: (1) Within seven calendar days after the date of the Vetting Official's or designated Vetting Assistant's ineligibility notification to the Awardee or Subawardee, the Awardee may make a written request to the responsible Vetting Official or designated Vetting Assistant that the Agency reconsider the ineligibility determination. The request should include any written explanation, legal documentation, and other relevant written material for reconsideration. If an Awardee indicates to USAID that it no longer wishes to propose a prospective

Subawardee under its award, the appeal process will terminate with respect to such Subawardee. The replacement Subawardee would then be vetted as well.

(2) Within seven calendar days after the Vetting Official or designated Vetting Assistant receives a written request for reconsideration, the designated AA of the Bureau managing a Washington-based award or subaward, or of the Bureau overseeing a Mission managing an award or subaward, as appropriate, will determine if the applicant's additional information merits a revised decision. If that AA was substantially involved in the ineligibility determination that is proposed for reconsideration, the AA will appoint another senior official (more senior than the one who made the initial decision), as the deciding official. That deciding official's determination of whether reconsideration is warranted (and decision on eligibility) is final. The deciding official should consult with appropriate parties in making the reconsideration determination. Appropriate parties that the deciding official is encouraged to consult with include, without limitation, the GC.

7. Step 7 - Duration of Approval: The OU may rescind a determination of eligibility if it obtains information indicating that an entity or any of its Key Individuals is a Prohibited Party. In such event, the CO/AO, as appropriate, will provide written instructions to the Awardee on termination, in whole or in part, of any Award or Sub-award affected. Failure to take immediate action upon receipt of such written instructions may result in disallowance of costs incurred after the date of such written instructions. In addition, USAID reserves the right to vet or re-vet any individual or entity subject to vetting at any time regardless of the previous vetting date.

8. Records Management: USAID/SEC will maintain a database of all Key Individuals that have been submitted for vetting and the status of each case. Due to the sensitivity of information in the database, it will be made available only to those with an official need to know. The OU will maintain a database of all final eligibility and ineligibility determinations of awards. The PVS application will serve as the database of all final eligibility and ineligibility determinations of award. The Vetting Official or designated Vetting Assistant, as appropriate, will store all paper records containing Sensitive But Unclassified information, such as PII, in a secure container, and will update the PVS application with vetting decisions. USAID will retain and dispose of records in its PVS Application in accordance with the records disposition schedule approved by the National Archives and Records Administration.

Appendix B: USAID Partner Information Form (PIF)

Appendix C: Vetting Notices

Unless otherwise approved in writing by USAID's Bureau for Management (M Bureau), and Offices of Security (SEC) and the General Counsel (GC), the following language must be used to notify of eligibility or ineligibility for an award or subaward.

NOTICES OF ELIGIBILITY

To Potential Contractor or Recipient

I am writing with regard to [INSERT NAME OF PROPOSED CONTRACTOR/RECIPIENT]'s application for [INSERT NAME OF BUSINESS OPPORTUNITY AND ASSOCIATED SOLICITATION OR NOTICE OF FUNDING OPPORTUNITY REFERENCE NUMBER, IF ANY]. USAID has determined that [INSERT NAME OF CONTRACTOR/RECIPIENT] is eligible at this time to receive a USAID award in connection with the opportunity specified above. Eligibility is not a determination as to whether USAID will make an award. USAID reserves the right to rescind this eligibility determination in the event that the Agency becomes aware of information to indicate that the award is contrary to the national-security interests of the United States.

This eligibility determination does not relieve your organization of its legal obligation to comply with U.S. law and Executive Orders that prohibit transactions with, and the provisions of resources and support to individuals and organizations associated with terrorism, and to comply with the terms and conditions of its contract/agreement.

The terms and conditions of your contract/agreement with USAID will require prompt notification to the designated Vetting Official in the event of any change in the identity of any "Key Individuals." You must also notify the Vetting Official if there is a material change in the program or operations under this award, or any development that might cause USAID to reconsider [INSERT NAME OF PROPOSED CONTRACTOR/RECIPIENT]'s eligibility for the above business opportunity.

To Potential Contractor or Recipient Concerning Eligibility of Subcontractor or Subrecipient

I am writing with regard to [INSERT NAME OF PROPOSED SUBCONTRACTOR/SUBRECIPIENT], which your organization has proposed to receive a USAID award under [INSERT NAME OF BUSINESS OPPORTUNITY AND ASSOCIATED SOLICITATION OR NOTICE OF FUNDING OPPORTUNITY REFERENCE NUMBER, IF ANY]. USAID has determined that [INSERT NAME OF PROPOSED SUBCONTRACTOR/SUBRECIPIENT] is eligible at this time to receive such award. However, USAID reserves the right to rescind this approval in the event that the Agency becomes aware of information to indicate that the award is contrary to the national-security interests of the United States. Furthermore, a new request for

eligibility will be required annually if your organization wishes to make a new award to [INSERT NAME OF PROPOSED SUBCONTRACTOR/SUBRECIPIENT].

This eligibility determination does not relieve your organization of its legal obligation to comply with U.S. law and Executive Orders that prohibit transactions with, and the provisions of resources and support to individuals and organizations associated with terrorism, and to comply with the terms and conditions of its contract/agreement.

You must notify the designated Vetting Official in the event of any change in the identity of any "Key Individuals". You must also notify the Vetting Official if there is a material change in the program or operations under this award, or any development that might cause USAID to reconsider [INSERT NAME OF PROPOSED SUBCONTRACTOR/SUBRECIPIENT]'s eligibility for the above business opportunity.

NOTICES OF INELIGIBILITY

To Potential Contractor or Recipient

I am writing with regard to [INSERT NAME OF PROPOSED CONTRACTOR/RECIPIENT]'s application for funding. After careful consideration, USAID has determined that [INSERT NAME OF PROPOSED CONTRACTOR/RECIPIENT] is not eligible to receive the award funded by USAID under [INSERT NAME OF BUSINESS OPPORTUNITY AND ASSOCIATED SOLICITATION OR NOTICE OF FUNDING OPPORTUNITY REFERENCE NUMBER, IF ANY].

Within seven calendar days after receiving this notice, your organization may request in writing that USAID reconsider this determination. Your organization may submit with this request any written explanation, legal documentation, and/or other relevant material for USAID's consideration.

USAID will notify your organization whether reconsideration is warranted within seven calendar days after USAID receives from your organization the written explanation, legal documentation, and/or other relevant material referred to above.

To Contractor or Recipient Concerning Ineligibility of Proposed Subcontractor or Subrecipient

I am writing with regard to [INSERT NAME OF PROPOSED SUBCONTRACTOR/SUBRECIPIENT], which your organization has proposed to receive a USAID award under [INSERT NAME OF BUSINESS OPPORTUNITY AND ASSOCIATED SOLICITATION OR NOTICE OF FUNDING OPPORTUNITY REFERENCE NUMBER, IF ANY]. After careful consideration, USAID has determined that [INSERT NAME OF PROPOSED SUBCONTRACTOR/SUBRECIPIENT] is not eligible to receive this award funded by USAID.

Within seven calendar days after receiving this notice, your organization may request in writing that USAID reconsider this determination. Your organization may submit with this request any written explanation, legal documentation, and/or other relevant material for USAID's consideration.

USAID will notify your organization whether reconsideration is warranted within seven calendar days after USAID receives from your organization the written explanation, legal documentation, and/or other relevant material referred to above.

To Contractor or Recipient Regarding an Individual's Eligibility

I am writing with regard to [INSERT NAME OF INDIVIDUAL], the individual your organization has proposed to receive USAID assistance. USAID has determined that [INSERT NAME OF INDIVIDUAL] is eligible to receive assistance funded by USAID.

To Contractor or Recipient Regarding an Individual's Ineligibility

I am writing with regard to [INSERT NAME OF INDIVIDUAL], the individual your organization has proposed to receive USAID assistance. After careful consideration, USAID has determined that [INSERT NAME OF INDIVIDUAL] is not eligible to receive assistance funded by USAID. We encourage you to identify another candidate to receive the proposed assistance.

Appendix D: Required Clauses for Vetting

For Acquisition (see Partner Vetting for Acquisition – A Guide for Contracting Officers):

- 48 CFR 752.204-70/71 Partner Vetting Pre-Award Requirements (Feb. 2012)
- 48 CFR 752.204-70/71 Partner Vetting (Feb. 2012) and its alternative I, as applicable. The CO must also include the contact information for the vetting official or mailbox for submissions of vetting information in 48 CFR 752.204-70/71

For Assistance: 2 CFR 701