

## Agency for International Development

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level interagency Federal initiative that requires consistent and uniform branding and marking by all participating agencies. The USAID Identity (including any required presidential initiative or related identity) is available on the USAID Web site at <http://www.usaid.gov/branding> and is provided without royalty, license or other fee to recipients of USAID funded grants or cooperative agreements or other assistance awards.

### Subpart B—General Provisions

#### § 700.2 Adoption of 2 CFR Part 200.

Under the authority listed above the Agency for International Development adopts the Office of Management and Budget (OMB) guidance Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards to Non-Federal Entities (subparts A through F of 2 CFR part 200), as supplemented by this part, as the Agency for International Development (USAID) policies and procedures for financial assistance administration. This part satisfies the requirements of 2 CFR 200.110(a) and gives regulatory effect to the OMB guidance as supplemented by this part.

#### § 700.3 Applicability.

(a) Subparts A through D of 2 CFR part 200 apply to for-profit entities. The Federal Acquisition Regulation (FAR) at 48 CFR part 30, Cost Accounting Standards, and Part 31, Contract Cost Principles and Procedures, takes precedence over the cost principles in Subpart E for Federal awards to for-profit entities.

(b) Subpart E applies to foreign organizations and foreign public entities, except where the Federal awarding agency determines that the application of these subparts would be inconsistent with the international obligations of the United States or the statute or regulations of a foreign government.

#### § 700.4 Exceptions.

Consistent with 2 CFR 200.102(b):

(a) Exceptions on a case-by-case basis for individual non-Federal entities may be authorized by USAID's Assistant Administrator, Bureau for Management, or designee as delegated in Agen-

cy policy, except where otherwise required by law or where OMB or other approval is expressly required by this Part. No case-by-case exceptions may be granted to the provisions of Subpart F—Audit Requirements of this Part.

(b) USAID's Assistant Administrator, Bureau for Management, or designee as delegated in Agency policy, is also authorized to approve exceptions, on a class or an individual case basis, to USAID program specific assistance regulations other than those which implement statutory and executive order requirements.

(c) The Federal awarding agency may apply more restrictive requirements to a class of Federal awards or non-Federal entities when approved by OMB, required by Federal statutes or regulations except for the requirements in Subpart F—Audit Requirements of this part. A Federal awarding agency may apply less restrictive requirements when making awards at or below the simplified acquisition threshold, or when making fixed amount awards as defined in Subpart A—Acronyms and Definitions of 2 CFR part 200, except for those requirements imposed by statute or in Subpart F—Audit Requirements of this part.

#### § 700.5 Supersession.

Effective December 26, 2014, this part supersedes the following regulations under Title 22 of the Code of Federal Regulations: 22 CFR part 226, “Administration of Assistance Awards To U.S. Non-Governmental Organizations.”

### Subpart C—Pre-Federal Award Requirements and Contents of Federal Awards

#### § 700.6 Metric system of measurement.

(a) The Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act (15 U.S.C. 205) declares that the metric system is the preferred measurement system for U.S. trade and commerce.

(b) Wherever measurements are required or authorized, they must be made, computed, and recorded in metric system units of measurement, unless otherwise authorized by the Agreement Officer in writing when it has

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been found that such usage is impractical or is likely to cause U.S. firms to experience significant inefficiencies or the loss of markets. Where the metric system is not the predominant standard for a particular application, measurements may be expressed in both the metric and the traditional equivalent units, provided the metric units are listed first.

### § 700.7 Advance payment.

Advance payment mechanisms include, but are not limited to, Letter of Credit, Treasury check and electronic funds transfer and must comply with applicable guidance in 31 CFR part 205.

## Subpart D—Post Federal Award Requirements

### § 700.8 Payment.

(a) Use of resources before requesting advance payments. To the extent available, the non-Federal entity must disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional cash payments. This paragraph is not applicable to such earnings which are generated as foreign currencies.

(b) Standards governing the use of banks and other institutions as depositories of advance payments under Federal awards are as follows:

(1) Except for situations described in paragraph (b)(2) of this section, USAID does not require separate depository accounts for funds provided to a non-Federal entity or establish any eligibility requirements for depositories for funds provided to the non-Federal entity. However, the non-Federal entity must be able to account for receipt, obligation and expenditure of funds.

(2) Advance payments of Federal funds must be deposited and maintained in insured accounts whenever possible.

### § 700.9 Property standards.

(a) *Real property.* Unless the agreement provides otherwise, title to real property will vest in accordance with 2 CFR 200.311.

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(b) *Equipment.* Unless the agreement provides otherwise, title to equipment will vest in accordance with 2 CFR 200.313.

### § 700.10 Cost sharing or matching.

Unrecovered indirect costs, including indirect costs on cost sharing or matching may be included as part of cost sharing or matching. Unrecovered indirect cost means the difference between the amount charged to the Federal award and the amount which would have been charged to the Federal award under the non-Federal entity's approved negotiated indirect cost rate.

### § 700.11 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

(a) Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises. To permit USAID, in accordance with the small business provisions of the Foreign Assistance Act of 1961, as amended, to give United States small business firms an opportunity to participate in supplying commodities and services procured under the award, the recipient must to the maximum extent possible provide the following information to the Office of Small Disadvantaged Business Utilization (OSDBU), USAID, Washington, DC 20523, at least 45 days prior to placing any order or contract in excess of the simplified acquisition threshold:

(1) Brief general description and quantity of goods or services;

(2) Closing date for receiving quotations, proposals or bids; and

(3) Address where solicitations or specifications can be obtained.

(b) [Reserved]

### § 700.12 Contract provisions.

(a) The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

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(b) All negotiated contracts (except those for less than the simplified acquisition threshold) awarded by the non-Federal entity must include a provision to the effect that the non-Federal Entity, USAID, the Comptroller General of the United States, or any of their duly authorized representatives, must have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

### § 700.13 Additional provisions for awards to for-profit entities.

(a) This paragraph contains additional provisions that apply to awards to for-profit entities. These provisions supplement and make exceptions for awards to for-profit entities from other provisions of this part.

(1) Prohibition against profit. No funds will be paid as profit to any for-profit entity receiving or administering Federal financial assistance as a recipient or subrecipient. Federal financial assistance does not include contracts as defined at 2 CFR 200.22, other contracts a Federal agency uses to buy goods or services from a contractor, or contracts to operate Federal government owned, contractor operated facilities (GOCOs). Profit is any amount in excess of allowable direct and indirect costs.

(2) [Reserved]

(b) [Reserved]

[80 FR 55722, Sept. 17, 2015, as amended at 87 FR 60059, Oct. 4, 2022]

### TERMINATION AND DISPUTES

### § 700.14 Termination.

If at any time USAID determines that continuation of all or part of the funding for a program should be suspended or terminated because such assistance would not be in the national interest of the United States or would be in violation of an applicable law, then USAID may, following notice to the recipient, suspend or terminate the award in whole or in part and prohibit the recipient from incurring additional obligations chargeable to the award other than those costs specified in the notice of suspension. If a suspension is

put into effect and the situation causing the suspension continues for 60 calendar days or more, then USAID may terminate the award in whole or in part on written notice to the recipient and cancel any portion of the award which has not been disbursed or irrevocably committed to third parties.

### § 700.15 Disputes.

(a) Any dispute under or relating to a grant or agreement will be decided by the USAID Agreement Officer. The Agreement Officer must furnish the recipient a written copy of the decision.

(b) Decisions of the USAID Agreement Officer will be final unless, within 30 calendar days of receipt of the decision, the recipient appeals the decision to USAID's Assistant Administrator, Bureau for Management, or designee as delegated in Agency policy. Appeals must be in writing with a copy concurrently furnished to the Agreement Officer.

(c) In order to facilitate review of the record by the USAID's Assistant Administrator, Bureau for Management, or designee as delegated in Agency policy, the recipient will be given an opportunity to submit written evidence in support of its appeal. No hearing will be provided.

(d) Decisions by the Assistant Administrator, Bureau for Management, or designee as delegated in Agency policy, will be final.

### USAID—SPECIFIC REQUIREMENTS

### § 700.16 Marking.

(a) USAID policy is that all programs, projects, activities, public communications, and commodities, specified further at paragraphs (c) through (f) of this section, partially or fully funded by a USAID grant or cooperative agreement or other assistance award or subaward must be marked appropriately overseas with the USAID Identity, of a size and prominence equivalent to or greater than the recipient's, other donor's or any other third party's identity or logo.

(1) USAID reserves the right to require the USAID Identity to be larger and more prominent if it is the majority donor, or to require that a cooperating country government's identity be

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larger and more prominent if circumstances warrant; any such requirement will be on a case-by-case basis depending on the audience, program goals and materials produced.

(2) USAID reserves the right to request pre-production review of USAID funded public communications and program materials for compliance with the approved Marking Plan.

(3) USAID reserves the right to require marking with the USAID Identity in the event the recipient does not choose to mark with its own identity or logo.

(4) To ensure that the marking requirements “flow down” to subrecipients of subawards, recipients of USAID funded grants and cooperative agreements or other assistance awards are required to include a USAID-approved marking provision in any USAID funded subaward, to read as follows:

As a condition of receipt of this subaward, marking with the USAID Identity of a size and prominence equivalent to or greater than the recipient’s, subrecipient’s, other donor’s or third party’s is required. In the event the recipient chooses not to require marking with its own identity or logo by the subrecipient, USAID may, at its discretion, require marking by the subrecipient with the USAID Identity.

(b) Subject to § 700.16(a), (h), and (j), program, project, or activity sites funded by USAID, including visible infrastructure projects (for example, roads, bridges, buildings) or other programs, projects, or activities that are physical in nature (for example, agriculture, forestry, water management), must be marked with the USAID Identity. Temporary signs or plaques should be erected early in the construction or implementation phase. When construction or implementation is complete, a permanent, durable sign, plaque or other marking must be installed.

(c) Subject to § 700.16(a), (h), and (j), technical assistance, studies, reports, papers, publications, audio-visual productions, public service announcements, Web sites/Internet activities and other promotional, informational, media, or communications products funded by USAID must be marked with the USAID Identity.

(1) Any “public communications” as defined in § 700.1, funded by USAID, in which the content has not been approved by USAID, must contain the following disclaimer:

This study/report/audio/visual/other information/media product (specify) is made possible by the generous support of the American people through the United States Agency for International Development (USAID). The contents are the responsibility of [insert recipient name] and do not necessarily reflect the views of USAID or the United States Government.

(2) The recipient must provide the Agreement Officer’s Representative (AOR) or other USAID personnel designated in the grant or cooperative agreement with at least two copies of all program and communications materials produced under the award. In addition, the recipient must submit one electronic and/or one hard copy of all final documents to USAID’s Development Experience Clearinghouse.

(d) Subject to § 700.16(a), (h), and (j), events financed by USAID such as training courses, conferences, seminars, exhibitions, fairs, workshops, press conferences and other public activities, must be marked appropriately with the USAID Identity. Unless directly prohibited and as appropriate to the surroundings, recipients should display additional materials such as signs and banners with the USAID Identity. In circumstances in which the USAID Identity cannot be displayed visually, recipients are encouraged otherwise to acknowledge USAID and the American people’s support.

(e) Subject to § 700.16(a), (h), and (j), all commodities financed by USAID, including commodities or equipment provided under humanitarian assistance or disaster relief programs, and all other equipment, supplies and other materials funded by USAID, and their export packaging, must be marked with the USAID Identity.

(f) After merit review of applications for USAID funding, USAID Agreement Officers will request apparently successful applicants to submit a Branding Strategy, defined in § 700.1. The proposed Branding Strategy will not be evaluated competitively. The Agreement Officer will review for adequacy the proposed Branding Strategy, and