

Annex II

Common USAID Standard Provisions

Standard provisions are a variety of laws, regulations and requirements that apply to entities receiving federal funding from USAID. Though they are “standard,” the actual provisions that you find in your Cooperative Agreement may vary based on the following criteria:

- U.S.-based vs. non-U.S.-based organizations have different standard provisions, with some overlap.
- Some standard provisions must be included in all Cooperative Agreements (“mandatory standard provisions”), whereas others are only included if they are relevant to your specific program (“required as applicable standard provisions”).

Some standard provisions provide informational notices to the recipient, while others require the recipient to take specific action.

The following list is not a complete list of all the standard provisions you may find in your award. However, the list does include major items that may affect your award, especially those that require you to do something to be in compliance.

Legend



Applies to Non-U.S. Organizations



Applies to U.S. Organizations

Accounting, Audit and Records

Summarizes the requirements for record keeping and performing annual audit for non-U.S.-based recipients and subrecipients.

- *Applies To:* All Recipients
- *Action Required:*
 - Maintain records for three years following the end of the award.

- Conduct **annual audits** when certain criteria are met.
- Submit reports on audit conclusions.
- Monitor subaward financial performance.

Allowable Costs

Defines the concept of allowable costs, and explains your organization’s responsibility for ensuring that costs are allowable.

- *Applies To:* All Recipients

Amendment

Describes the process to amend the Cooperative Agreement. (See **Modifications to Your Agreement.**)

- *Applies To:* All Recipients

Applicability of 22 CFR 226

Applies all of the regulations under 22 CFR 226 to the recipient and subrecipients of the award. (See **Subrecipient Requirements.**)

- *Applies To:* U.S.-based Recipients
- *Actions Required:* Ensure subrecipients have a copy of the standard provisions. Non-U.S.-based NGOs must be given the standard provisions relevant to them.

Condoms

States that information provided about condoms under this award must be medically accurate and in line with information in the Condom Fact Sheet (http://www.usaid.gov/our_work/global_health/aids/TechAreas/prevention/condomfactsheet.html) available on USAID’s website.

- *Applies To:* All Recipients

Conversion of US Dollars to Local Currency

States that your organization’s chief of party in-country must consult with the USAID Mission on the process for converting dollars into local currency.

- *Applies To:* U.S.-based Recipients
- *Actions Required:* Consult with the in-country mission.

Cost Share (Matching)

Defines the rules and requirements for **cost share and matching**.

- *Applies To:* All Recipients with a cost-share or matching requirement defined in the schedule of the award
- *Actions Required:* Document and report the cost-share contribution from your organization.

Debarment, Suspension, and Other Responsibility Matters

States that you agree to notify the Agreement Officer (AO) immediately if you learn that your organization or any of its principle officers are disqualified from receiving U.S. government (USG) funds, which occurs when someone is convicted of a crime. It also provides a clause you must include in your subagreements and contracts.

- *Applies To:* All Recipients

Disputes

Provides a process for resolving disputes under this award.

- *Applies To:* Non-U.S.-based Recipients

Drug-Free Workplace

Outlines the requirements of a drug-free workplace policy that must be implemented within 30 days of the award.

- *Applies To:* All Recipients
- *Actions Required:* Distribute a drug-free workplace policy within 30 days of the award to employees who will be involved in the federally funded program.

Equal Protection of the Laws for Faith- and Community- Based Organizations

States that beneficiaries of your program must not be discriminated against based on their religious beliefs. It further states that faith-based organizations must separate their religious activities from the activities supported under this award, either in time or location. Finally, states that if the organization receiving funding under this award makes subawards, it must not discriminate against potential

subrecipients on the basis of the religious character or affiliation.

- *Applies To:* All Recipients

Implementation of E.O. 13224 - Executive Order on Terrorist Financing

Reminds recipients that they are prohibited from providing financing to individuals and organizations associated with terrorism.

- *Applies To:* All Recipients
- *Actions Required:* You must check the Excluded Parties List to ensure your subrecipients, suppliers and contractors are not ineligible to receive USG funding. (See **Ineligible Suppliers and the Excluded Parties List**.)

International Air Travel and Transportation

States the rules surrounding international air travel funded under your agreement.

- *Applies To:* All Recipients

Local Procurement

Describes the circumstances in which local procurement is permitted.

- *Applies To:* All Recipients

Marking under USAID-Funded Assistance

Describes the **marking and branding requirements** under USAID-funded programs.

- *Applies To:* All Recipients

Negotiated Indirect Cost Rate (NICRA)

The provisions in this section will vary from one organization to the next, based on whether or not you had a provisional or predetermined NICRA established when your Cooperative Agreement was awarded. There are important follow-up steps you must take, which are described in detail in the **NICRA** section of this document.

- *Applies To:* All Recipients who pursue a NICRA
- *Actions Required:* Following the completion of your annual audit, partners with a provisional NICRA will need to propose a final NICRA to your Agreement Officer

Nondiscrimination

No U.S. citizen may be discriminated against based on the basis of race, color, national origin, age, handicap or sex. This is primarily only applicable to NPI partners if they plan to recruit and hire positions funded under their award in the U.S.

- *Applies To:* U.S.-based Recipients

Non-liability

If you are sued or taken to court by someone because of something that happened in the execution of your program, the USG will not be held responsible.

- *Applies To:* All Recipients

Notices

Describes the official process for communicating between your organization and USAID. This process applies to key formal notices, not everyday communications.

- *Applies To:* All Recipients

Ocean Shipment of Goods

States that, if you plan to ship goods to the country you are working in via ocean cargo, you must send at least half your cargo on privately-owned U.S. flag commercial ocean vessels. A process is also described for applying for waivers, if shipping via a U.S. flag vessel is not a viable option.

- *Applies To:* All Recipients
- *Action Required:* You must submit copies of the ocean bills of lading to specified USG offices at USAID and the U.S. Department of Transportation.

OMB Approval under the Paperwork Reduction Act

Lists the various information you are required to provide the USG under the standard provisions, and provides an estimate of how long it should take you to comply.

- *Applies To:* U.S.-based Recipients

Organizations Eligible (HIV/AIDS Funding)

This provision states that organizations eligible to receive funding can not be required to endorse or participate in a multi-sectoral approach, or endorse or utilize a prevention

or treatment method to which they are morally opposed.

- *Applies To:* All Recipients

Organizations Eligible (Human Trafficking/Prostitution)

This provision states that none of the funds under this agreement may be used to promote, support or advocate the legalization or practice of prostitution. However, that does not mean that prostitutes are ineligible to receive the services you may be providing, so long as those services are not promoting or supporting prostitution. A similar provision entitled “Prohibition on the Use of Federal Funds to Promote, Support, or Advocate for the Legalization or Practice of Prostitution” may also appear in your agreement, and reinforces this policy.

- *Applies To:* All Recipients

Participant Training

This provision provides regulations that must be followed if your program includes training non-U.S. individuals outside their home country. That includes training any of your non-U.S. staff in the U.S., or a third country, or if you train third-country nationals in the country where you are implementing. These regulations are outlined in the **Participant Training** section.

- *Applies To:* All Recipients

Payment

Non-U.S. NGOs have three separate provisions on payment topics: 1) Payment Advances and Refunds, 2) Payment - Advances, and 3) Payment - Reimbursements. These provisions lay out the following: 1) The processes for **requesting and disbursing funds from the USG**, 2) What happens if there are **remaining funds at the end of the award**, and 3) That USAID reserves the right to require you to refund any amount which is not spent in accordance with the terms and conditions of the award (i.e. costs not allowable under the regulations outlined in the **Procurement** section of this guide.) Please note that, the process outlined in these provisions calls for the use of **SF-1034** for requesting advances, and reporting the liquidation of funds. However, USAID’s Financial Management Office has instead asked NPI partners to use the **SF-270** for requesting funds (both advances and reimbursements), and the **SF-269 A** for reporting the status of funds.

- *Applies To:* Non-U.S.-based Recipients

Procurement of Goods and Services

Outlines the minimum standards that must be included in an organization's procurement policies. (See **Procurement Policy Standards**.)

- *Applies To:* All Recipients

Prohibition of Assistance to Drug Traffickers

This provision only applies to certain countries, as defined in USAID ADS Chapter 206 (<http://www.usaid.gov/policy/ads/200/206.pdf>). Currently, only three PEPFAR countries are listed: Haiti, Vietnam and Nigeria. Organizations operating in those countries must follow a special procedure for gaining approval of subrecipients, and must include a special clause in their subawards.

- *Applies To:* Recipients operating in Haiti, Vietnam or Nigeria

Public Notices

This provision encourages you to notify the public about your work, and requests you include a statement in any press releases related to your USAID-funded project. Further, you are requested to provide your AOTR/COTR and the USAID public affairs office copies of press releases related to your USAID-funded project as far in advance as possible. (See **Marking and Branding**.)

- *Applies To:* All Recipients

Publications and Media Releases

A copy of all publications that result from your work funded by USAID must be sent to the address specified, in the format specified. This provision also clarifies copyrights of these materials.

- *Applies To:* All Recipients
- *Action Required:* Copies of publications must be sent to the address specified in your agreement.

Regulations Governing Employees and Standards of Conduct

This provision outlines standards of conduct of employees operating in foreign countries under

this award. It includes regulations governing the sale of personal property, which are designed to ensure that they do not profit by selling items that were brought into the country duty-free.

- *Applies To:* All Recipients

Reporting Foreign Taxes

Requires you to submit a report of any foreign taxes that have been assessed and reimbursed to your organization.

- *Applies To:* All Recipients
- *Action Required:* Submit report annually on April 16. (See **Foreign Tax Reporting**.)

Revision of Award Budget

This provision states that you must seek approval for **significant rebudgeting**, as well as other **major changes in your scope**.

- *Applies To:* All Recipients

Standards of Accessibility for the Disabled in Construction

For projects that include either new construction or renovation, the resulting structure must meet or exceed U.S. accessibility standards for the disabled.

- *Applies To:* Recipients with construction or renovation components in their program

Subagreements

The subagreements provision differs between U.S.-based NGOs and non-U.S.-based NGOs.

The provision in agreements with U.S.-based NGOs states that all communication with subrecipients, subrecipients, and contractors under the award must be directed through the recipient to USAID. These subrecipients are not to communicate with USAID directly for issues relating to this award.

The provision for non-U.S.-based NGOs states that subrecipients must be screened through the **Excluded Parties List**, and should be made only with responsible organizations that possess the potential ability to perform successfully under the terms and conditions of a proposed agreement. Further, this provision states that **subagreements must include certain required language and provisions**.

- *Applies To:* Recipients with subrecipients

Termination and Suspension

This provision provides the grounds and process for terminating the award.

- *Applies To:* All Recipients

Title to Property

There are five different provisions that are found in Cooperative Agreements that related to the title to, use and care of property. Non-U.S.-based NGOs may see provisions describing the restrictions on use of property that they retain the title to, and use and care of property when the title is with the USG or the cooperating country government. U.S.-based NGOs will see a provision describing the use and care of property in which the title remains with the cooperating country government.

See the **Equipment** section of the chapter on Procurement for more details on the use of property purchased under this award.

- *Applies To:* All Recipients

USAID Disability Policy

Requires that you not discriminate against men, women or children with disabilities in your programming.

- *Applies To:* All Recipients

USAID Eligibility Rules for Goods and Services

Summarizes procurement regulations and restrictions relevant to your award. These regulations and restrictions do not apply to procurements made with private sources of funds to meet any cost-sharing requirement under your award. (See Procurement.)

- *Applies To:* All Recipients

Action Required:

- Maintain records justifying certain procurement decisions.
- Ensure vendors are not ineligible by checking the Excluded Parties List.
- Include section in subagreements with procurements of \$5,000 or more.

Use of Pouch Facilities

In some cases, the in-country mission and U.S. Embassy may permit you to use the diplomatic pouch to transmit documents relating to your program, such as submitting hard copies of signed reports. The U.S. Embassy may also permit your employees to send and receive small amounts of personal mail, but not boxes or magazines. Please contact your in-country mission to see if the Embassy in the country you are working in permits such use of the pouch facilities.

- *Applies To:* All Recipients

Voluntary Population Planning Activities

There are two provisions relating to population or family planning. The first states that USG funds may not be used for involuntary sterilization or abortions. The second states that USG funds cannot be used to coerce someone into using a family planning method that is contrary to his or her moral beliefs. This provision has further detailed regulations around family planning that is important to understand if your NPI program, or a future USG-funded program you undertake, includes a family planning component.

- *Applies To:* All Recipients