

# Compliance

## **COMPLIANCE**

An NGO, in addition to abiding by local laws and its own constitution or articles of association, must also comply with the terms and conditions of donors who want to ensure that award funds are spent wisely.

By entering into an agreement with USAID, an organization agrees to guarantee that all aspects of its project implementation are in line with the Agency's policies, rules and regulations. Not fulfilling these obligations can result in penalties. The terms and conditions of an organization's award are outlined in a Cooperative Agreement or other legally binding document the organization signs.

This section, combined with section 2, on Financial Management, offers ways to put into practice USG cost principles and standard provisions that may apply to an award. It also looks at the essential elements of a procurement system, requirements for travel and environmental issues under USAID-funded programs, as well as issues related to gifts to or lobbying USG employees.

### Topics:

- 5.1 Overview of Procurement Policies
- 5.2 Procurement Processes and Allowability
- 5.3 Procurement: Solicitation and Selection
- 5.4 Procurement: Restricted and Prohibited Items
- 5.5 Source and Origin Restrictions, Geographic Codes, Vendor Restrictions and Waivers
- 5.6 Vehicle Procurement
- 5.7 Excluded Parties and Terrorism Searches
- 5.8 International Travel Planning and Requirements
- 5.9 Travel Expenses and Reimbursement
- 5.10 Gifts to and Lobbying USG Employees
- 5.11 USAID Environmental Requirements

# Overview of Procurement Policies

## Q What policies governing purchasing goods, supplies and services does our organization need to effectively manage USAID funds?

**A** The U.S. Government (USG) has procurement regulations that dictate what items you can buy, where you can buy them, how to buy and ship them, what taxes are applicable and what documentation is required. Although other articles in this section (5.4 and 5.5) will cover certain specific regulations, this issue discusses the overall procurement considerations to guide and administer your organization's purchasing process and practices.

## Establishing Good Procurement Policies, Procedures and Practices

As a recipient of USG funds, one of your goals is to make sure this money is used to deliver needed services to beneficiaries as efficiently and cost effectively as possible. To do this, an organization needs an effective and efficient procurement policy, as well as procedures and practices to operationalize it. A sound procurement policy helps your organization:

- establish and maintain control procedures;
- seek open competition to obtain the best value for the money;
- ensure that staff do not mishandle funds;
- avoid purchasing dangerous or low-quality goods that could potentially cause more harm than good;
- avoid purchasing unnecessary items; and
- protect itself and its beneficiaries.

## Policy Elements, Procedures and Practices

### Standards of Conduct

Develop written standards of conduct for employees and officers in your organization involved in selecting and overseeing procurement. These standards of conduct should address:

- **Conflict of Interest.** Employees should not be involved in selecting or overseeing procurement if there is a real or perceived conflict of interest. This includes situations where the employee, any member of the employee's immediate family or the employee's partner has a financial or other interest in the business being considered or selected for an award. This includes any organization that employs or is about to employ the employee, family member or the employee's partner.
- **Gratuities.** Employees must not request or accept gratuities, gifts, favors or anything of monetary value from vendors, subagreement contractors or parties. However, you may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value.
- **Disciplinary Actions.** The standards of conduct must outline the disciplinary actions to be applied to employees who violate these rules.

### DEFINITIONS

**Allowable Cost**—A cost incurred specifically to support or advance the objectives of your award, which USAID will permit to be reimbursed.

**Procurement**—The process of acquiring goods, services and/or consultants in support of program activities.

**Micro-Purchase Threshold**—The amount your organization sets under which your procurement process may be simplified. For example, if your micro-purchase threshold is US\$1,000, you may be required to secure a minimum of three bids on items above that amount, but not on items equal to or below that amount.

**Unallowable Costs**—Costs the USG will not reimburse, either because of regulations or because the cost is not reasonable or appropriate.

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*Procurement policies are meant to ensure that your organization does not mishandle funding or use it to purchase dangerous or low-quality goods that could potentially cause more harm than good.*

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### Free and Open Competition

To encourage free and open competition to the maximum extent possible, be sure to take into account the following:

- **Unfair Competitive Advantage.** Vendors that help you develop statements of work should be barred from bidding on that work.
- **Clear Evaluation Criteria.** Solicitations should be clear about what criteria your organization will use to evaluate bids.

### General Procurement Procedures

To help assure that you are managing your money well, include the following in your procurement policy:

- Consider both lease and purchase alternatives, and select the most appropriate for your situation.
- Include in all solicitations:
  - eligibility to participate in the procurement process;
  - description of technical requirements;
  - criteria to be used in evaluating bids;
  - minimum acceptable performance standards;
  - specific features of required items;
  - preference for products and services that use the metric system of measurement; and
  - preference for energy-efficient items and products that conserve natural resources.

### Procurement Instruments

Specify when to use various procurement instruments, such as fixed-price contracts, cost-reimbursable contracts, and purchase orders. Your policies should prohibit the use of “cost-plus-a-percentage-of-cost” or “percentage-of-construction-cost” contracts, which are agreements where the contractor is paid the actual costs of the project and a set percentage profit.

### Contractor Evaluation

Clearly state that you will only enter into contracts with vendors that you believe can successfully complete the work required. Your policy should consider contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources. Your policy should also include a process for ensuring suppliers are not listed on the U.S. Excluded Parties List ([www.epls.gov](http://www.epls.gov)).

### Documentation Procedure

Include a process that records some form of price or cost analysis with every procurement action. The cost analysis should include the allowability test. (See *Compliance 5.2*)

### Micro-Purchase Threshold

You may wish to establish different procedures and practices under your policy for procurements of different financial amounts by adopting a micro-purchase threshold. This will allow you to have more rigorous treatment for larger purchases and simplified treatment for smaller purchases.

For example, if your micro-purchase threshold is US\$1,000, you may be required to secure a minimum of three bids on items above that amount, but not on items equal to or below that amount. There is no USG requirement concerning what the micro-purchase threshold amount should be; it should be set as part of your overall procurement policy based on the local context.

### Records for Large Purchases

At a minimum, keep records with the following information on all procurements that exceed your micro-purchase threshold:

- basis for contractor selection;
- justification for lack of competition when competitive bids were not obtained (often referred to a sole source procurement);

- documentation on terrorism searches; and
- basis for award cost or price.

This information can be included in a memo for the purchase file.

### **Contract Administration System**

Include a system for ensuring contractors meet the terms, conditions and specifications in the contract. Each procurement above the micro-purchase threshold should have a formal contract in place. You should also have a process for evaluating contractor performance that documents whether the contractor met the terms, conditions and specifications of the contract.

### **U.S. Small, Minority and Women-Owned Businesses**

Prime U.S.-based recipients when working in the United States should try to use U.S. small businesses and minority- and women-owned firms. To achieve this, your policies should:

- Consider whether a firm intends to subcontract with small, minority or women-owned businesses in your evaluation process.
- Encourage contracting with consortiums of small, minority- or women-owned businesses when a contract is too large for any single firm to handle individually.
- Use the services of various USG agencies and organizations, such as the Small Business Administration and the Department of Commerce's Minority Business Development Agency, in your solicitation process.

### **USG Pre-Award Review**

If your organization does not have procurement policies in place that meet the minimum standards listed above (for example, if USAID had pre-award survey findings to this effect), your funding agency may impose increased monitoring of your award procurements, for example, by requiring a review of various documents (for example solicitation, cost estimates) for any procurements of US\$10,000 or more.

#### **REFERENCES**

OMB Circular No. A-122 – U.S. Office of Management and Budget Circular that establishes cost principles for non-profit organizations.  
[http://www.whitehouse.gov/omb/circulars\\_a122\\_2004/](http://www.whitehouse.gov/omb/circulars_a122_2004/)

Small Business Administration  
<http://www.sba.gov/>

Department of Commerce's Minority Business Development Agency  
<http://www.mbda.gov/>

# Procurement Processes and Allowability

## DEFINITIONS

**Allowable Cost**—A cost incurred specifically to support or advance the objectives of your award, which USAID will permit to be reimbursed.

**Procurement**—The process of acquiring goods, services and/or consultants in support of program activities.

**Micro-Purchase Threshold**—The amount your organization sets under which your procurement process may be simplified. For example, if your micro-purchase threshold is US\$1,000, you may be required to secure a minimum of three bids on items above that amount, but not on items equal to or below that amount.

**Unallowable Costs**—Costs the USG will not reimburse, either because of regulations or because the cost is not reasonable or appropriate.

**Q** What is the process for purchasing goods and services using USAID funds? How do we know when a cost is allowable?

**A** The U.S. Government's (USG) procurement regulations exist to ensure that a recipient of USG funding uses it to advance the purpose of the award, spends it wisely and does not procure anything in conflict with the public's interest. To achieve this, recipients are required to carefully document their organization's procurements and make sure that this process is in line with USG requirements. This article reviews the procurement process and the steps your organization must follow when purchasing items with USG funds.

## Procurement Phases

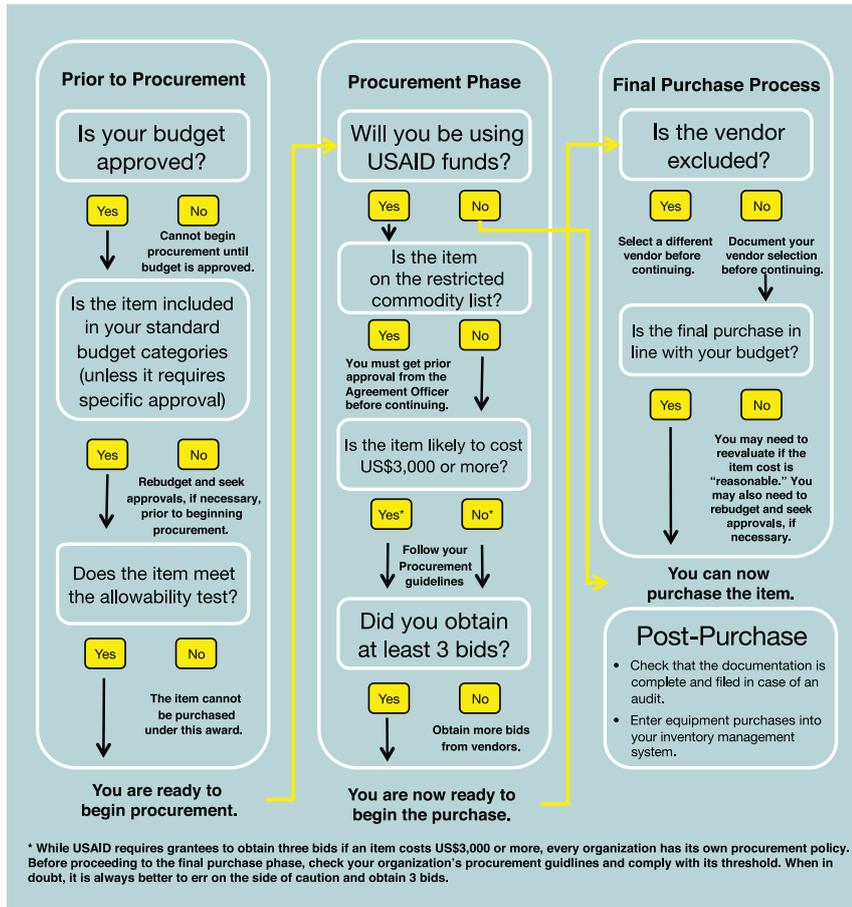
The procurement process can be broken down into four phases:

- 1. Prior to procurement.** Before you begin to procure an item, you must have an approved budget with a budget category appropriate to cover it. You also need to seek and obtain approval from your AOR. Then, check that the item is an allowable cost and is not a restricted or prohibited commodity before you begin the procurement.
- 2. Procurement phase.** This is the process just before purchasing when you have the funding and begin planning for the specific purchase. Depending on the dollar amount, this may involve soliciting a minimum of three bids, acquiring pricing information and reviewing different vendors. Your own internal procurement policy guides much of this process. (See *Compliance 5.1*)
- 3. Final purchase process.** An evaluation committee should review the bids and select a vendor based on best price or best value depending on your organization's needs. Once the committee has made a decision and settled on a price, you must confirm that the vendor is not on the Excluded Parties List. Then, execute a purchase order, blanket purchase agreement or other procurement method, and ensure that the documentation of the selection process is in place.
- 4. Post purchase.** Upon receiving goods and services, certify completion through documentation, such as a goods received note or certification of completion. Enter the relevant information into your inventory tracking system, if applicable.

If you do not have a procurement policy, it is critical that your organization adopts one to ensure that all goods, services and/or consultants it procures will be allowable under your award.

The diagram that follows is a procurement process map. It summarizes and highlights the major steps in a procurement process. Depending on your organization's procurement policy, there may be additional and/or more detailed steps, which you must follow.

## The Procurement Process



## Allowability

The most important concept in procurement under USAID-funded awards that you need to understand is what costs are and are not allowable. Allowable costs are costs of things you are allowed to purchase or spend money on under your Agreement. A number of rules address what is allowed and what is not allowed, including U.S. laws, funding agency regulations, host country rules and agreement restrictions.

A good way to keep track of these is to develop lists of allowable and unallowable items. An example list, based on the cost principles in 2 CFR 230, may be found on [www.NGOConnect.NET](http://www.NGOConnect.NET) and customized with specifics from your agency and Agreement. You will notice that some items are **restricted**, meaning they are only allowable with specific written permission (for example, vehicles, pharmaceuticals, agricultural commodities and used items). Other items, however, are **prohibited**, and you cannot purchase them under any circumstance (for example, alcoholic beverages). (See *Compliance 5.4*)

## Source/Nationality Regulations

FAR regulations that apply to your organization are included in your Cooperative Agreement.

Additionally, USAID partners will be assigned a "geographic code," which designates specific countries from which you are authorized to procure. (See *Compliance 5.5*)

Any procurement exceeding US\$5,000 that was not in the original approved proposal budget must receive AO approval prior to purchase.

## PROCUREMENT BEST PRACTICES

- Establish and follow your written procurement policies and procedures.
- Conduct annual procurement planning that includes office and program equipment, supplies and services.
- Link procurement planning to budget and work-planning processes.
- Provide for open competition to the fullest extent possible.
- Obtain quotations, review quotations against established criteria, use evaluation committees and justify vendor selection in writing.
- Ensure vendors are not on the excluded parties list by checking [www.epls.gov](http://www.epls.gov).
- Issue goods received notes or certificates of completion indicating receipt of purchased goods or acceptance of services performed.
- Document every step in the procurement process.
- Keep an inventory of all equipment purchased and update it regularly, noting condition and location of items (also known as an asset register).
- Ensure that your subrecipient has an appropriate procurement policy in place prior to award if you are a prime.

*Review your procurement policy and funding agency regulations closely and make sure that your staff and subrecipients understand them. Subrecipients are held to the same funding agency procurement requirements as prime recipients.*

#### REFERENCES

22 CFR 226. 40-49, Procurement Standards (USAID)  
[http://www.access.gpo.gov/nara/cfr/waisidx\\_07/22cfr226\\_07.html](http://www.access.gpo.gov/nara/cfr/waisidx_07/22cfr226_07.html)

Excluded Parties List System (EPLS)  
<https://www.epls.gov/>

## Allowability Test

The allowability test poses four questions for determining whether you can purchase an item. These questions apply to all costs associated with the award, including direct and indirect costs.

- **Is the cost reasonable?** Is the cost comparable to what other organizations or prudent business persons are paying for the same item or service? Have you followed your organization's procurement policy, for example, with regard to getting bids and reaching a fair price?
- **Can you allocate the cost to this specific award?** Is the cost required to advance the work under your award?
- **Is the cost consistent?** Have you been consistent in assigning costs across all the work your organization does, regardless of the source of funding? For example, do you pay the same consultants the same rates for similar activities under your USG-funded award as you do under projects funded by other donors?
- **Does the cost conform to the rules and regulations of the award?** Is the cost in compliance with limitations and exclusions contained in the terms and conditions of your award? Have the individuals responsible for the expenditure acted ethically in carrying out the procurement?

Be sure to document your answers to these questions during the procurement process. Put the questions on a form, along with a place to fill in the item, budgeted amount, date and who in your organization filled out the form. Record the answers, making any necessary notes and then file the forms for future reference in case of an audit.

# Procurement: Solicitation and Selection

**Q** How does our organization ensure that its procurement process is transparent, impartial and equitable?

**A** Whenever your organization buys goods or services or hires consultants using U.S. Government (USG) funds, it must take steps to ensure that the procurement process is objective and encourages fair and open competition. In addition to being a core principle underlying USG procurement regulations, competition promotes innovation, motivates vendors to perform better, drives costs down and helps curtail fraud and waste. It is, therefore, in your organization's best interest to make the process of soliciting and selecting vendors as transparent, impartial and equitable as possible.

Although your organization should establish a procurement policy that works for your staff and country context, the following covers the best practices your organization can employ to achieve open competition.

These include:

- preparing a competitive solicitation;
- gathering and logging proposals;
- establishing an evaluation committee;
- reviewing and evaluating proposals;
- documenting your selection; and
- issuing a purchase order or contract.

## Preparing a Competitive Solicitation

Once your organization has gone through the necessary pre-procurement steps to determine that an item or service is covered in your approved budget and passes the allowability test, you are ready to solicit proposals or quotations from vendors or consultants. (See *Compliance 5.3*)

Depending on the estimated cost and the local context, your solicitation can be sent to a targeted group, advertised in the newspaper or posted on your website or elsewhere online. However you distribute a solicitation, make sure all of the information it contains is the same for all potential respondents.

The best solicitations:

- provide detailed information on exactly what you seek to buy;
- contain clear instructions for vendors on what to include in their proposals or quotations, how to submit them and by when; and
- list how each proposal will be evaluated.

The solicitation should begin with complete, concise terms of reference, also known as a statement of work (SOW). It should also establish the basis of selection and evaluation criteria, which should be determined at the beginning of the procurement process and not during the evaluation itself. This ensures that the selection is transparent and vendors know how they will be evaluated.

## DEFINITIONS

**Procurement**—The process of acquiring goods, services and/or consultants in support of program activities.

## ITEMS TO CONSIDER

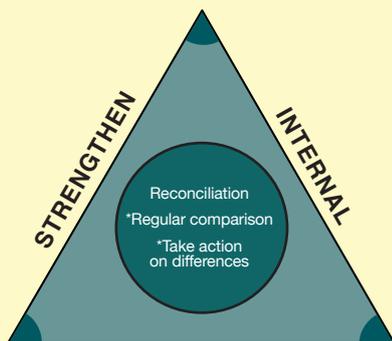
### Segregation of duties

It is important to note that many of the tasks undertaken throughout the procurement process—specifically the approval/authorization of the purchase, the receipt/custody of goods and services, and the recording and reconciliation of expenses—should not be completed by the same person. By segregating the roles and responsibilities of staff and mandating that multiple people are involved in every financial transaction, an organization strengthens its internal controls and can reduce, prevent and detect fraud and error on a timely basis.

#### Approval / Authorization

\*Approving transactions

\*Signature authority



#### Custody

\*Physical possession

\*Physical control

#### Recording

\*Control of recordkeeping

\*Control of computer processing

## Sample Evaluation Criteria and Analysis

Criteria	Points
Technical Specifications	35
Past Performance/Experience	15
Timetable	10
Price	30
Warranty/Maintenance/Service	10
<b>Total</b>	<b>100</b>

If necessary, the evaluation criteria may be broken down into even smaller units to assist with scoring. For example, you can split the past performance/experience section into smaller sections, such as years of experience and reference checks.

Generally, proposals are evaluated on the basis of cost or value. If you are seeking the lowest cost, proposals that meet the minimum specifications listed in the solicitation are reviewed, and the one with the lowest price is selected. If you are seeking the best value, proposals are evaluated on set criteria established in the solicitation—for example, price, past performance, technical elements, timetable, staff qualifications of vendor, creativity or any other criteria your organization deems a priority—and the most advantageous bid is selected.

### Questions

If your solicitation indicates that you will answer questions, make sure to distribute the questions and answers the same way you distributed the solicitation, or by sending them to all of the parties that expressed interest in the procurement so that all potential respondents have access to the same information to make sure the procurement process fair.

## Gathering and Logging Proposals

Upon receiving proposals or quotations, record the date and time in a log book and provide a receipt to the vendor. Consider all of the proposals confidential, keep them in a secure location and do not share details of a proposal with anyone. There should also be a clear plan to address proposals received after the submission deadline and be sure it is consistently implemented.

## Establishing an Evaluation Committee

Every organization should have a policy for when an evaluation committee is appropriate. For example, an organization can institute a policy where an evaluation committee is used every time a solicitation is issued publicly or every time a solicitation is over a specified value (US\$5,000 or above).

Although an evaluation committee needs at least two members, an odd number is best, for example three or five staff members, to avoid deadlock. The committee should include staff who have experience with procurement or administration and at least one person who is familiar with the technical specifications of the goods or service being sought. If no technical expert is available on staff, you may want to invite someone from outside the organization. All members of an evaluation committee should confirm in advance that they have no real or perceived conflict of interest related to the particular procurement.

## Reviewing and Evaluating Proposals

Committee members can review the proposals as a group or individually, but should meet together at least once to discuss the procurement and analyze the bids. The first thing to look at is whether each proposal provides all the information requested in the solicitation and meets all the minimum criteria. If not, a bid should be deemed non-responsive and excluded from consideration.

The most important aspect of the review process is ensuring that evaluation is based on the *specifications and criteria outlined in the solicitation* and does not change after proposals are received. If you decide to select the vendor with the lowest price, the selection process is relatively simple. If you are basing selection on best value, you must decide the weight of each evaluation criterion. An easy way to do this is to create a vendor analysis form, which lists each criterion and assigns a point value reflecting its importance similar to the sample displayed on page 96.

## Documenting Your Selection

When you have made the final selection, the committee should fill out an evaluation form to document its recommendation and the justification for the selection. An evaluation form usually includes:

- the bid analysis/assigned scoring of the proposals by the criteria;
- an explanation for why each respondent was given a certain score;
- a clear statement on the advantages of the chosen respondent, justifying the selection (this may be only a sentence or two);
- documentation that the selected respondent is not an ineligible supplier; and
- the signatures of the evaluation committee members.

Along with supporting documentation to demonstrate that the vendor meets the source/nationality requirements and is not an ineligible supplier, the evaluation form should then go to the Project Director, who will review the selection process and authorize the purchase. (See *Compliance 5.4* and *5.5*)

## Issuing a Purchase Order or Contract

Upon selecting a vendor or consultant and getting approval for the procurement, your organization should issue a written purchase order or contract. The purchase document should contain:

- contact information for the purchaser and the vendor;
- period of performance;
- description of goods or services provided;
- quantities to be purchased;
- prices (clearly state if tax is included or excluded);
- payment terms, including if it is a fixed-price agreement or time and materials agreement;
- delivery terms and address as applicable;
- donor clauses (including specific donor clauses, such as anti-terrorism clauses); and
- suspension/termination clauses in the event that the vendor does not deliver the goods or services in accordance with the terms of the agreement.

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*The most important aspect of the review process is ensuring that evaluation is based on the specifications and criteria outlined in the solicitation and does not change after proposals are received.*

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*It is in your organization's best interest to make the process of soliciting and selecting vendors as transparent, impartial and equitable as possible.*

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#### REFERENCES

22 CFR 226. 40-49, Procurement Standards (USAID)

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Excluded Parties List System (EPLS)

<https://www.epls.gov/>

Review the document with the vendor to ensure that both parties are in full agreement and have a mutual understanding of the content, then have authorized individuals from both parties sign it.

Remember that all subawards require approval from your AO.

## Payment

When goods are received or services rendered, inspect and/or evaluate them carefully to confirm that they were received on time from the appropriate vendor or consultant, meet the specifications and/or quantities listed in the purchase order/contract and have not been damaged or lost (in the case of goods). This may be documented on a Goods/Services Received Note, which serves as an important source of supporting documentation to the procurement process.

When the payment terms outlined in the purchase order or contract have been satisfactorily met and an invoice submitted by the vendor, payment should be made. It is always preferable to pay in full *after* the delivery of goods and services, but some vendors may negotiate incremental payments of fixed amounts upon completion of certain tasks over the course of the period of performance. If incremental payment is agreed upon, it is good practice to specify that a significant amount will be withheld until the all goods and services have been rendered to protect you and the vendor.

# Procurement: Restricted and Prohibited Items

## Q What are restricted and prohibited items?

A U.S. Government (USG) funding comes with many stipulations on how it may and may not be spent. These include limitations on:

- particular goods and services;
- where the item was manufactured or procured;
- who you can purchase goods and services from; and
- how you can ship them to your project site.

Items that are restricted are generally not allowable unless you receive specific written permission (for example, vehicles). Items that are prohibited cannot be purchased under any circumstance (for example, alcoholic beverages).

Below is a discussion of the most common types of restricted and prohibited items. Consult your agreement to clarify what specific regulations apply to you.

## Restricted Commodities

The following seven restricted commodities may be purchased with USG funds, but require prior *written* approval from the Agreement Officer (AO) who will issue a waiver:

- agricultural commodities
- motor vehicles
- pharmaceuticals
- pesticides
- used equipment
- U.S. Government-owned excess property
- fertilizer

A **waiver** may be granted *if all three of the following conditions are met*:

1. The item complies with the assigned geographic code in terms of source and nationality;
2. It has been identified and incorporated in the program description or amendments to the award; and
3. Its costs have been incorporated in the approved budget of the award.

If the AO approves, she or he will provide written authorization. If you procure the item prior to receiving written authorization, you risk paying for the item yourself.

## DEFINITIONS

**Restricted Items**—Goods or services that cannot be purchased without specific written permission in advance.

**Prohibited Items**—Goods or services that cannot be purchased under any circumstances.

**Commodity**—Any item that can be bought or sold, usually a product or raw material (for example, lumber, wheat, coffee, metals).

## IN YOUR NOTICE

USAID Cooperative Agreements contain procurement-related requirements under the Standard Provisions. In particular, review the standard provisions entitled “Ineligible Goods and Services” and “Restricted Commodities.”

## CONSEQUENCES OF MISUSE OF FUNDS

The USG reserves the right to require you to refund any amount that is not spent in accordance with the terms and conditions of the award (that is costs not allowable under the regulations). Be sure to keep records for at least three years after you submit your final report, in case of an audit.

## REFERENCES

USAID ADS Chapter 312 Eligibility of Commodities

<http://www.usaid.gov/policy/ads/300/312.pdf>

USAID Standard Provisions for U.S.-Based Partners / Non-U.S.-Based Partners

<http://www.usaid.gov/policy/ads/300/303mab.pdf>

OMB Circular A-122 – Cost Principles for Non-Profit Organizations

[http://www.whitehouse.gov/omb/circulars\\_a122\\_2004/](http://www.whitehouse.gov/omb/circulars_a122_2004/)

## Prohibited Items

The following *cannot* be purchased with USG funds under any circumstances:

- military equipment—goods or equipment to be used to meet the cooperating country’s military requirements;
- surveillance equipment—equipment such as microphones, transmitters and recording devices (does not include general use audio-visual equipment, as long as there is a clear purpose and need for that equipment in your program);
- commodities and services for support of police or other law enforcement activities;
- abortion equipment and services;
- luxury goods and gambling equipment, including alcoholic beverages, jewelry or expensive textiles; and
- weather modification equipment.

## Other Types of Restrictions

The above-described restrictions and prohibitions are applicable to most development funding and are part of U.S. law and agency regulations. Further guidance is provided in OMB Circular A-122, *Cost Principles for Non-Profit Organizations*, which details rules for 52 specific goods and services, including when they can and cannot be paid for with USG funds. It is a good idea to scan this list and familiarize yourself with all items relevant to your program.

In addition, further restrictions may be included in your Cooperative Agreement. The best way to keep track of all restricted and prohibited items is to create a table and fill it out based on the agreements and guidance documents applicable to your program. If you receive funding through multiple grants, you may find different limitations on different funding streams. Be sure to note which agreement each restriction applies to.

## Use of Private Funds

When private funds are used to procure *restricted* goods and services, this can be used as part of a cost-share requirement. However, private funds used to purchase *prohibited items* (such as alcohol) *cannot* be counted toward your cost-share commitment.

However, in some circumstances, it is possible to use cost share creatively to use your funds more efficiently. For example, you may purchase a used vehicle with private funds and shift your USG funds into other program costs. If this results in significant rebudgeting, you will need to get approval first. (See *Financial Management 2.4.*)

## Requirements for Subawards

Almost all procurement limitations apply both to prime recipients and subrecipients on an award. USAID requires that subagreements with procurements over US\$5,000 include certain procurement-related standard provisions.

Review your procurement-related clauses closely to ensure that your staff understand the limitations and that your subrecipients understand them as well.

# Source Restrictions, Geographic Codes, Vendor Restrictions and Waivers

## Q What procurement provisions and/or restrictions apply to goods and services you can buy with USAID funds?

- A** USAID funding comes with many conditions on how the money can and cannot be spent. These limitations cover:
- *What* particular goods and services are allowable;
  - *Where* an item is purchased—referred to as its **source**; and
  - From *whom* (i.e., vendors) you can purchase goods and services.

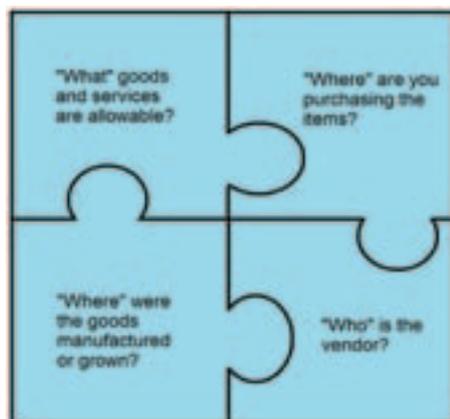
This article covers restrictions on where you purchase goods, in other words their *source*. It also discusses restrictions that apply to vendors or those from whom you purchase items. (See *Compliance 5.3* and *5.4*)

## General Source Restrictions

Organizations receiving U.S. government funding and working within and outside the United States are subject to the *Buy American Act* and the *Foreign Assistance Act*, which give priority to U.S. manufactured goods and services. These Acts also extend to procurements made by a headquarters office located in the U.S. that is purchasing goods to be used domestically.

The principal Regulation that governs purchases made overseas is the 22 CFR 228, Procurement of Commodities and Services Financed by USAID Federal Program Funds, known as the “Source and Nationality.”

USAID grantees are assigned a “geographic code” that designates specific countries from which you are authorized to purchase goods and services. The two principal geographic codes typically assigned are 937 and 935.



**The Procurement Puzzle**

## DEFINITIONS

**Commodities or goods**—Any material, article, supply, good or equipment.

**Commodity-related services**—delivery of services and/or incidental services.

**EPLS**—The Excluded Parties List is a database of organizations that for one reason or another are not eligible to receive USG funds, even as a supplier.

**Nationality**—The place of legal organization, ownership, citizenship or lawful residence of suppliers of commodities and services.

**Source**—The source country is the one in which you procure an item or a service, regardless of where it was originally manufactured (country of origin). This is typically the location of the vendor.

*USAID grantees are assigned a “geographic code” that designates specific countries from which they are authorized to purchase goods and services.*

#### EXPEDITED PROCUREMENT PROCEDURE FOR PEPFAR GRANTEES

USAID has set up a special expedited procurement procedure (EPP) for purchasing or leasing non-U.S.-manufactured vehicles and ARVs, which is applicable to PEPFAR-funded programs (see *Procurement Executive Bulletin No. 2008-05* ([http://www.ngoconnect.net/documents/592341/749044/Procurement+Executive's+Bulletin+\(PEB\)+No.+2008-05](http://www.ngoconnect.net/documents/592341/749044/Procurement+Executive's+Bulletin+(PEB)+No.+2008-05))).

This special procedure is in effect from February 14, 2008 through February 13, 2013 and *applies only to USAID grantees receiving HIV/AIDS funds*. USAID grantees with funds from other programs must still follow the standard procedure.

#### Geographic Code 937

Geographic code 937 authorizes grantees to purchase goods and services from the U.S., the recipient country or other developing countries. As of February 2012, geographic code 937 will be assigned automatically unless otherwise specified in your Cooperative Agreement. As a result, procurements from the recipient country and other developing countries are on equal footing with procurements of goods and services from the U.S.

#### Geographic Code 935

Geographic code 935 authorizes grantees to purchase goods and services from any country, *except* the prohibited source countries, if any, named in the List of Prohibited Source Countries, A Mandatory Reference for ADS Chapter 310.

### Rules and Waivers for Specific Restricted Commodities

If your geographic code is 937 or 935, you may purchase the goods and services in your approved budget with the following three exceptions. The following items must be produced or manufactured in the U.S.:

- Agriculture Commodities
- Motor Vehicles
- Pharmaceuticals

Within a limited scope, it is possible to request a waiver from your Agreement Officer (AO) to purchase these commodities that have been manufactured or grown outside of the U.S. However, you will need to provide a reason that is consistent with USAID policy for selecting a non-U.S. product.

One such reason that your AO *might consider* granting a waiver is if a U.S.-manufactured product is not available on the local market, while an equivalent non-U.S. product is. In this case, perhaps the additional shipping costs would dramatically increase the cost to purchase U.S.-manufactured products. Prior to purchasing any of the above named commodities from any other than a U.S. source, be prepared to document the reasons before contacting your AO.

In some circumstances, your Agreement Officer's Representative (AOR) or the AO may still require you to purchase U.S.-manufactured items despite any additional costs. This may be the case with certain pharmaceuticals, especially when there is a concern about the quality or safety of specific pharmaceuticals manufactured outside of the U.S.

### Subawards, Other Geographic Codes and Local Procurement

The implementation of the source and nationality procurement regulations may be different for subawards under your award when, for example, the prime recipient is U.S.-based and the subrecipient is based in a different country.

For a complete explanation of the USAID source and nationality rules, including other geographic codes, local procurement rules and restrictions applicable to subawards, please review the USAID Automated Directive System (ADS) Chapter 310—Source/Nationality and 22 CFR 228 and USAID Acquisition and Assistance Policy Directive (AAPD) 12-03.

## Vendor Restrictions

In addition to *what* you buy and *where* you can buy it, another set of procurement regulations restricts from whom you can purchase goods or services.

No procurement is allowed from suppliers listed on the Excluded Parties List System, a database of organizations that, for one reason or another, are not eligible to receive USG funds, even as a supplier. Using this system to check vendors prior to purchasing is part of your responsibility under the Terrorism Financing clause in the Special Provisions section, listed under Attachment A—Schedule of your USAID Cooperative Agreement, as well as the provisions of Executive Order 13224 and USAID Eligibility Rules for Goods and Services. (See *Compliance 5.3*)

To document that you have checked that your supplier is not included in the Excluded Parties List System, visit [www.epls.gov](http://www.epls.gov).

## Consequences of Misuse of USG Funds

The USG reserves the right to require you to refund any amount that is not spent in accordance with the terms and conditions of the award (i.e., costs not allowable under the regulations). Be sure to keep your records for at least three years after submitting your final report, in case of an audit.

### REFERENCES

Buy American Act  
[http://www.seia.org/galleries/pdf/CRS\\_Report\\_-\\_The\\_Buy\\_American\\_Act\\_3.13.09.pdf](http://www.seia.org/galleries/pdf/CRS_Report_-_The_Buy_American_Act_3.13.09.pdf)

ADS 310 – Source and Nationality Requirements for Procurement of Commodities and Services Financed by USAID  
<http://www.usaid.gov/policy/ads/300/310.pdf>

List of Prohibited Countries, A Mandatory Reference for ADS Chapter 310  
<http://www.usaid.gov/policy/ads/300/310mac.pdf>

Extended Parties List System (EPLS)  
<http://www.epls.gov>

USAID Acquisition Regulation (AIDAR)  
<http://www.usaid.gov/policy/ads/300/aidar.pdf>

# Vehicle Procurement

## DEFINITIONS

**Restricted Commodities**—Goods or services that cannot be purchased without specific written permission in advance.

**Vehicle**—“...[S]elf-propelled vehicles with passenger carriage capacity, such as highway trucks, passenger cars and buses, motorcycles, scooters, motorized bicycles and utility vehicles” (22 Code of Federal Regulations 228.13 (b)).

### EXPEDITED VEHICLE PROCUREMENT PROCEDURE FOR HIV/AIDS GRANTEES

There is a special expedited vehicle procurement procedure for purchasing or leasing non-U.S.-manufactured vehicles, which is applicable to PEPFAR-funded programs (see *Procurement Executive Bulletin No. 2008-05*, [www.ngoconnect.net/documents/592341/79044/Procurement+Executive's+Bulletin+\(PEB\)+No.+2008-05](http://www.ngoconnect.net/documents/592341/79044/Procurement+Executive's+Bulletin+(PEB)+No.+2008-05)).

In circumstances where there are no U.S.-manufactured vehicles available locally that fit your program's needs, or there is a lack of adequate service facilities or spare parts for U.S.-made vehicles, you need only to provide documentation of this to your AO. You do not need to wait for AO approval of a waiver request once you have submitted the required documentation, but be sure to maintain it in your own procurement file.

This special procedure is in effect until 2013 and applies only to USAID grantees receiving HIV/AIDS funds. Contact your AO for a special Motor Vehicle Documentation Form to help you document your procurement. USAID grantees with funds from other programs must still follow the standard procedure.

Q

**What steps are necessary to procure a vehicle with USAID funding?**

A

In many programs, procuring a vehicle is the largest single item in the budget. This issue describes the key considerations and rules for the USAID procurement process and what to keep in mind after procurement.

As explained below, USAID has very specific regulations covering vehicle procurement.

## Purchasing a Vehicle with USG Funds

Even if you have the funding, do not move forward on vehicle procurement until you have approval in writing from your Agreement Officer (AO).

Vehicles—along with pharmaceuticals, agriculture commodities, pesticides, used equipment, USG-owned excess property and fertilizer—fall under the category of “restricted commodities.” Items under this category require specific approval to purchase. (See *Compliance 5.4*).

A vehicle purchase is considered approved when 1) it is of U.S. source/origin; 2) it has been identified and incorporated in the program description, schedule of the award (initial or revisions) or amendments to the award; and 3) the costs related to it are incorporated in the approved award budget.

## Source and Origin Rules for Vehicle Procurements

U.S.-made vehicles are required by USAID unless they are not available, are significantly more expensive—at least 50% more than a non-U.S.-made vehicle—or there is some other sound reason, in which case you may request a waiver to purchase a vehicle made outside the U.S.

To request a waiver, write a letter to your AO and attach the price quotes and documentation gathered following your organization's procurement procedure.

Do not move forward with your purchase until you have written approval. (See *Compliance 5.5*)

## New versus Used Vehicle Procurements with USAID Funds

Used vehicles are generally not approved by USAID. The primary concern is the risk of mechanical problems and inflated used vehicle prices.

However, if a used vehicle is purchased with cost-share or matching funds, there is no restriction on purchasing a used vehicle. If the used vehicle is purchased with cost-share funds, you can use the USG funds originally

budgeted for the vehicle purchase for service delivery or other program costs. Check your agreement terms for the re-budgeting process to determine if you need prior approval.

## Post-Procurement Checklist

After you purchase the vehicle, do not forget to:

- Mark your vehicle in accordance with your approved marking plan, if applicable;
- Enter the vehicle into your fixed-asset management system;
- Have a policy for maintaining the vehicle on a regular schedule;
- Set a policy requiring the driver and all passengers to use seatbelts;
- Make sure you have proper insurance to cover the vehicle; and
- Set up a vehicle trip log that includes the starting mileage for the day, the name of the person using the vehicle, the reason for the trip, the destination and point of return and the number of miles driven (this should be signed by the driver at the end of each day).

## Taxes and Duties

You may or may not be required to pay taxes or duties under local law. (See *Financial Management 2.6* and *Compliance 5.7*)

### REFERENCES

ADS Chapter 312, Section E312.5.3b, Eligibility of Commodities: Motor Vehicles  
<http://www.usaid.gov/policy/ads/300/31251m.pdf>

22 CFR Section 228, Rules on Source, Origin, and Nationality for Commodities and Services Financed by USAID  
[http://www.access.gpo.gov/nara/cfr/waisidx\\_02/22cfr228\\_02.html](http://www.access.gpo.gov/nara/cfr/waisidx_02/22cfr228_02.html)

# Excluded Parties and Terrorism Searches

## DEFINITIONS

**Excluded Parties List System (EPLS)**—A searchable database that provides a comprehensive list of individuals, firms and organizations that are not eligible to receive USG funds. Grant recipients are responsible for using this online database to check vendors prior to contracting for services or making any purchases.

**Unallowable Costs**—Costs the USG will not reimburse, either because of regulations or because the cost is not reasonable or appropriate.

**Q** How do we know if a potential consultant, employee, vendor or subcontractor is prohibited from receiving USAID funds?

**A** All USAID-funded grantees are responsible for making certain that the consultants, staff, vendors and subcontractors they use or contract with are not listed as ineligible suppliers, organizations and individuals that have been formally excluded, blocked or disbarred from receiving U.S. Government (USG) funds. This ensures that you do not provide material support or resources to any persons or organizations that are involved in terrorism. (For more information, see Executive Order 13224, <http://www.state.gov/s/ct/rls/other/des/122570.htm>, on terrorism financing).

Below, we review the process of how to conduct and document excluded party and terrorism searches and how to proceed with procurement once you have the results of your search.

## Where to Search for Ineligible Suppliers

Before purchasing goods and services or hiring staff and consultants with USG funds, you are required to check the following three sources and document that your proposed vendor does not appear on the following lists:

1. **Excluded Parties List System (EPLS)**—A searchable database of individuals, firms and organizations that, for one reason or another, are prohibited from receiving USG funds, even as a supplier. Using this system to check vendors is part of your responsibility under the Terrorism Financing clause in the Special Provisions section (listed under Attachment A—Schedule) of your Cooperative Agreement—<http://www.epls.gov>;
2. **U.S. Department of Treasury** List of Specially Designated Nationals and Blocked Persons—<http://www.ustreas.gov/offices/enforcement/ofac/sdn/>; and
3. **United Nations** Al-Qaida and Taliban Consolidated List—<http://www.un.org/sc/committees/1267/consolist.shtml>.

## Conducting Your Search

Although the search function on each of the three websites mentioned above is slightly different, it is easy to check if your prospective consultant, staff, vendor or subcontractor is ineligible. For example, to begin a search of the EPLS ([www.epls.gov](http://www.epls.gov)), click on *Advanced Search* in the upper left section of the homepage. After reading the information in the *Important EPLS Advanced Search Information* page and checking the box at the bottom, you will be able to search by *firm, entity or vessel* or *individual* under the *Name Search Type* dropdown menu.

## EPLS Advanced Search

Choose the appropriate search type, enter the full or partial name of the supplier or individual as instructed, and click “Search” at the bottom of the screen.

### Name Search Type

If you receive an exact match for the individual or firm you are investigating, you must find a new consultant, staff member, vendor or subcontractor. If you choose to continue procuring goods and services from this vendor or hiring this individual, the costs will be *unallowable* and you will not be reimbursed by the USG.

If you receive a partial match, and it is clearly *not* the supplier you are considering, you may want to perform a more precise search. This time, place quotation marks around the name (“name”) of the vendor in which you are interested. For example, if you search for *So and So*, the database will return a match of John Tse-So Ning in Louisiana. But when you place quotation marks around the name, such as “So and So,” the database returns no results.

If you receive results that you are unsure of, call 1-866-472-3757 or email support@epls.gov to request additional help. If you receive no matches, then print the page and keep it in your files to document your search. This page shows the date and time of your search and the term you searched under.

### EPLS Results Page

A similar process should be followed for the U.S. Department of Treasury List and the UN Consolidated List.

### REFERENCES

Excluded Parties List System (EPLS)  
<http://www.epls.gov>

Executive Order 13224 on  
 Terrorism Financing  
<http://www.state.gov/j/ct/rls/other/des/122570.htm>

United Nations Al-Qaida and Taliban  
 Consolidated List  
<http://www.un.org/sc/committees/1267/consolist.shtml>

U.S. Department of Treasury List  
 of Specially Designated Nationals  
 and Blocked Persons  
<http://www.ustreas.gov/offices/enforcement/ofac/sdn/>

# International Travel Planning and Requirements

## DEFINITIONS

**Fly America Act**—A U.S. Government provision that applies to all USG-funded travel and requires the use of U.S. flag air carriers, with a few exceptions.

**International Travel**—Any travel between two countries.

**Per Diem**—The maximum amount of money that the USG reimburses per day to cover *lodging* and *meals* and *incidental expenses* when traveling in connection with your program.

**M&IE**—Meals and incidental expenses.

**Incidental Expenses**—Expenses incurred during travel, such as gratuities and tips for services, laundry, toiletries, etc.

**Authorized Class of Service**—Unless travel falls under certain exceptions, air travel purchased with USG funds requires the customary standard commercial airfare (economy class or equivalent).

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*For official business travel, both domestic and international, you must use economy class (also referred to as coach class).*

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**Q** What are the general rules we need to follow when planning for and traveling internationally for our program?

**A** Although implementing a USAID-funded award, you may need to travel beyond your borders for a conference, field visit, workshop or other purpose. To prevent excessive and overly expensive travel, your USG agreement contains a number of rules and regulations you are required to follow when travelling internationally for your project. Below you will find an explanation of the approvals, documentation and requirements you must meet when arranging international travel under your award.

## Prior Approval Is Essential

Your organization must have USAID prior approval *in writing* from the Agreement Officer (AO) for every trip. If specifically included in your approved Cooperative Agreement budget, then a trip is considered approved. If not, you must request approval from the AO (unless travel approval authority has been delegated to the Agreement Officer's Representative (AOR)).

When requesting approval for international travel, provide the following information:

- dates of travel and return;
- destination country or countries; and
- purpose of trip.

Written approval, which can be via email from your AO/AOR, should be saved for future reference and included in your documentation. Alternatively, your AO/AOR may allow you to submit a list of trips to be taken in the annual workplan and approve them all at once. *Please note that business class travel always must be approved individually by USAID.* (See exceptions allowing business class travel in limited circumstances on page 109.)

## Travel Notification

Neither the USAID Mission nor the U.S. Embassy requires Country Clearance for employees or subawardees of USAID Cooperative Agreement recipients. However, if the primary purpose of the trip is to work with in-country USG personnel, you must notify your AOR and in-country USAID mission prior to your travel—at least two weeks in advance.

This notice should include your award number, the AOR's name, the traveler's name, date of arrival and purpose of the trip. You may send the notice by email, but be sure to save a copy of the notification in your records.

In addition, where security is a concern in a specific region, it is a good idea to notify the U.S. Embassy of the traveler's presence when she or he has entered the country. This is especially important for long-term postings.

## The Fly America Act

The Fly America Act states that you must fly on U.S. flag air carriers or U.S. airline code share on foreign flag air carriers, as long as they travel to your destination, **except** as follows:

- If no U.S. flag air carrier provides service on a particular leg of the route, you may use a foreign air carrier service, but only to or from the nearest interchange point to connect with U.S. flag air carrier service.
- You may fly a foreign air carrier if the service on a foreign air carrier would be three hours or less and using the U.S. flag air carrier would at least double your travel time.
- If a U.S. flag air carrier offers nonstop or direct service (no aircraft change) from your origin to your destination, you must use the U.S. flag air carrier service unless such use would extend your travel time, including delay at origin, by 24 hours or more.
- If a U.S. flag air carrier does not offer nonstop or direct service (no aircraft change) between your origin and your destination, you must use a U.S. flag air carrier on every portion of the route where it provides service unless, when compared to using a foreign air carrier, such use would do at least one of the following:
  - increase the number of aircraft changes you must make outside of the U.S. by two or more;
  - extend your travel time by at least six hours or more; or
  - require a connecting time of four hours or more at an overseas interchange point.

## Economy Seating Requirement

For official business travel, both domestic and international, you must use economy (coach) class (unless paid for personally or through frequent flyer benefits).

Exceptions that allow you to fly business class include circumstances when:

- Regularly scheduled flights between origin/destination points (including connecting points) provide only first-class and business-class accommodations.
- No space is available in economy-class accommodations in time to accomplish the mission, which is urgent and cannot be postponed (be sure to include documentation of urgency and importance).
- When use of business-class accommodations is necessary to accommodate your disability or other special need as substantiated in writing by a competent medical authority.
- Security purposes or exceptional circumstances as determined by your agency make the use of business-class accommodations essential to the successful performance of the agency's mission.
- Economy-class accommodations on an authorized/approved foreign air carrier do not provide adequate sanitation or health standards.

Please note that although these exceptions exist, they in no way promote the use of business class travel, which should be used only when such exceptional circumstances are met.

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*Where security is a concern in a specific region, it is a good idea to notify the U.S. embassy of the traveler's presence when she or he has entered the country.*

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### NOTE

The use of a non-U.S. air carrier may *not* be justified solely based on cost savings.

*If you do not have written policies regarding travel costs, the standard for determining the reasonableness of reimbursement for overseas allowance will be the standardized regulations published by the U.S. Department of State.*

## REFERENCES

U.S. State Department  
Foreign Per Diem Rates  
[http://aoprals.state.gov/web920/per\\_diem.asp](http://aoprals.state.gov/web920/per_diem.asp)

Federal Travel Regulations  
[www.gsa.gov/fttr](http://www.gsa.gov/fttr)

## Procurement Documentation

As when procuring any other item or service using USG funds, you must follow USAID procurement regulations and carefully document the process you used to purchase airline tickets. This means providing proof that the procurement of tickets was a competitive process and verifying that you traveled to the specified destination by submitting airline boarding passes or ticket stubs.

In addition, if your travel qualifies as an exception to the Fly America Act and you do not fly a U.S. flag air carrier, you must provide a certification and any other documents required by your funding agency. Without these, your funding agency will not reimburse your organization for any transportation costs for that service. The certification must include:

- traveler's name;
- travel dates;
- the origin and the destination of the travel;
- a detailed itinerary of your travel, name of the air carrier and flight number for each leg of the trip; and
- a statement explaining why you met one of the exceptions outlined above or a copy of your agency's written approval deeming that foreign air carrier service was a necessity.

## File a Trip Report

Following international (and domestic) travel, it is a good idea to write a short report to capture what you have learned and enable you to share it with others easily. There is no set format or protocol for writing a trip report. However, it usually describes where you went, when you went, why you went, who was with you and what you did and learned.

As you are writing your report, imagine how it will be used by the people who will read it. Here are some simple guidelines:

- Begin with a short paragraph stating the purpose of the trip (why).
- Summarize your activities while on the trip. Be concise and factual. Remember, the reader is usually not interested in a detailed minute-by-minute account of what happened. Instead, write a clear and concise outline of your trip (where, when, who and how).
- Point out important information you feel should be highlighted or stressed (what you learned).
- If appropriate, end by stating any recommendations and any follow up that should occur.

# Travel Expenses and Reimbursement

**Q** What are the USAID rules covering reimbursement of expenses when traveling for our project? Does our NGO need a travel policy?

**A** Travel in country or across borders—whether for a conference, field visit, workshop or other purpose—is often necessary to implement your USAID-funded award. Accordingly, your Cooperative Agreement contains several travel-related requirements, which should be checked before planning your trip. If your NGO has its own written travel policy, you should also review its directives when making any travel arrangements. This article focuses on the value of having a travel policy, what it should address and the USG rules and regulations for travel per diem.

## Why put a travel policy in place?

A well-thought-out travel policy defines procedures for authorizing official travel, helps control business travel costs and provides clear guidelines about the types and amounts of expenses that may be reimbursed. A written travel policy also helps ensure that all employees are treated fairly and equitably.

A travel policy should address:

- **Approval**
  - The process for an employee to request your organization's approval to travel, including the appropriate form to be completed by the traveler, the amount of time in advance that the form should be submitted, and to whom the form should be submitted. (Remember: In addition to your internal approval process, USAID approval also must be received prior to international travel.)
- **Advances**
  - How advances of funds to be used for travel will be calculated. For example, some policies state that advances cannot be issued for more than a specific percentage of the total estimated travel costs.
  - When outstanding advances will be reconciled. It is good practice to allow for only one outstanding advance at a time and to establish a deadline (for example, within two weeks to one month) by which employees must reconcile their advance upon returning from their trip.
- **Reimbursement**
  - The types of costs that will be reimbursed (for example, transportation costs, visas, lodging, currency conversion, telephone calls, Internet).
  - Whether expenses will be reimbursed on the basis of actual receipts or per diem or a combination of the two. If a per diem basis is selected, then a per diem policy needs to be clearly defined for both domestic and international travel.
  - How employees will account for their travel expenses upon returning from their trip. Many NGOs create an expense report template using Microsoft Excel, which employees fill out after every trip.

## DEFINITIONS

**International Travel**—Any travel between two countries.

**Per Diem**—The maximum amount of money that the USG reimburses per day to cover *lodging* and *meals* and *incidental expenses* when traveling in connection with your program.

**M&IE**—Meals and incidental expenses.

**Incidental Expenses**—Expenses incurred during travel, such as gratuities and tips for services, laundry, toiletries, etc.

*Although your organization's policy regarding the maximum amount for which you may be reimbursed may differ from U.S. Government (USG) policy, it is important to note that you will not be reimbursed by the USG for an amount above the maximum set by the USG.*

*You must apply your organization's policy uniformly to both USG-funded and other activities, unless the specific contractual agreement under which the travel is being conducted calls for different procedures/ requirements.*

#### GOOD PRACTICE

Allow one travel advance at a time; do not issue any new travel advances until the outstanding travel expenses/reimbursement request and trip report have been submitted by the traveler.

#### • Exchange Rates

- What rate to use for changing foreign currency to local currency. For example, some NGOs use the in-country exchange rate using official exchange documents as supporting documentation, while others use the exchange rate of a trusted online source, such as [www.oanda.com](http://www.oanda.com).

**NOTE:** Once travel rules have been adopted, your organization's policy must be uniformly applied to both USG-funded and other activities, unless the specific contractual agreement under which the travel is being conducted calls for different procedures/requirements.

## What if an organization does not have a written travel policy?

If you do not have a written travel policy, the standard for determining the reasonableness of reimbursement is the regulations published by the U.S. Department of State. Rates are published monthly by country (and cities within a country) at [http://aoprals.state.gov/web920/per\\_diem.asp](http://aoprals.state.gov/web920/per_diem.asp).

## Does a traveler need approval/authorization?

Your travel policy should require that travelers complete and submit a travel request form specifying reasons for the travel, dates, estimated cost and so on to the supervisor.

## May a traveler request a travel advance?

A traveler may wish to request funds in advance of a trip to cover the per diem (or actual expenses depending on organization policy) and any other business-related expenses. The amount of the advance and format for the request (for example, travel advance form) should be addressed in the organization's policy.

**NOTE:** A common audit finding is that travel advances are not issued according to the organization's own policy.

## What is per diem?

A per diem allowance is a daily maximum amount for which a traveler may be reimbursed for each day away from his or her regular workplace on official business.

The per diem allowance is usually composed of two parts:

1. **Lodging**—a ceiling or maximum rate that may be reimbursed for lodging; lodging is almost always reimbursed based on actual cost incurred up to the maximum allowable USG rate. Remember: original receipts must be submitted when requesting reimbursement for all lodging costs.
2. **Meals and incidental expenses (M&IE)**—a fixed daily rate for meals (breakfast, lunch, dinner and related tips and taxes) and incidental expenses (for example, gratuities and tips, laundry, toiletries).

Below is an example of the U.S. Department of State per diem rates for Botswana accessed from [http://aoprals.state.gov/web920/per\\_diem.asp](http://aoprals.state.gov/web920/per_diem.asp).

Country Name	Post Name	Season Begin	Season End	Max. Lodging Rate	M&IE Rate	Max. Per Diem Rate	Footnote	Effective Date
Botswana	Francistown	01/01	12/31	US\$172	US\$54	US\$226	N/A	12/01/2009
Botswana	Other	01/01	12/31	US\$103	US\$44	US\$147	N/A	12/01/2009

If the city you are going to is not listed under the Post Name, use the “Other” rate (see column 2, above) that is published for that country.

Travel costs may be charged on an actual cost basis, on a per diem basis or a combination of the two (for example, using the actual cost for lodging and a per diem basis for meals and incidental expenses), provided the method is applied to an entire trip and not only to selected days of a trip.

**NOTE:** To get reimbursed for lodging and other travel-related costs of US\$25 or more, the traveler must save and submit all original receipts, boarding pass stubs and invoices to document the expenses. For meals and personal expenses that fall under M&IE, receipts are not required by the USG, but your organization’s per diem policy may require them.

## When is a traveler entitled to the M&IE allowance?

The M&IE allowance is calculated on a daily basis. On the day of departure and on the last day of travel, travelers are entitled only to a percentage (based on your organization’s policy or the USG default amount of 75%, whichever is less) of the applicable M&IE rate of the authorized travel location. Employees on local day trips are only eligible to receive an M&IE allowance if the time away exceeds 12 hours.

## What if a meal is provided free of charge (for example, by another organization) during the trip?

The M&IE allowance should be adjusted if meal(s) are provided free of charge during one’s travel for business purposes. The website for calculating reductions to the M&IE for the U.S. State Department per diem rates can be found at <http://www.state.gov/www/perdiems/breakdown.html>. If you develop your own organizational per diem policy, it is recommended that it include a discussion about how the M&IE will be reduced should breakfast, lunch and/or dinner be provided free of charge. The amount generally should not be adjusted if complimentary meals are provided by common carriers (such as airlines or trains) or hotels (such as when the hotel rate includes breakfast).

*The USG covers reimbursement of amounts up to but no more than the USG per diem rates established for the location. Any excess charge(s) would have to be paid by the traveler.*

*A common audit finding is that travel advances are not issued according to the organization's own policy.*

## What if someone travels to a number of different countries (or posts within a country) on the same trip and each has a different per diem rate?

The per diem reimbursement rate is determined based on where lodging is obtained. If lodging is not required, the applicable M&IE rate to be used is the rate for the location. If a traveler visits more than one location in a single day, the location with the highest M&IE rate should be used. If a traveler visits more than one country on a trip, then the rate for each country should be used for the days in country.

## What if the actual lodging cost or your M&IE costs exceed the maximum allowable USG rates?

Although your organization's policy regarding the maximum amount for which you may be reimbursed may differ from USG policy, it is important to note that if lodging or M&IE exceeds the USG per diem rates established for the location, the excess charge(s) will have to be paid by the traveler. The one exception to this is if you specifically request and receive approval in advance for "actual subsistence" at a higher rate, but this is granted only for special or unusual circumstances.

## What if a traveler stays in the home of a friend or a relative?

A traveler who stays in the home of a friend or relative while on official travel may not claim lodging expenses for reimbursement. Hence, where lodging is not required, the applicable M&IE rate to be used is the rate for the location.

Advances should be accounted for shortly after completion of the related trip. Failure to reconcile travel advances may result in the travel advance being deducted from the pay of the traveler. (Although this is good business practice, it is important that this be according to the organization's policy.)

## How does a traveler calculate expenses incurred with foreign currency?

In the case of international travel, most if not all of the expenses will be in foreign currency. To calculate these expenses, the traveler must provide appropriate receipts, with the currency rate(s) of exchange applicable for the period of time in country. To obtain the appropriate conversion rate, either use the rate provided at the time of exchange as documented in the exchange receipts or go to a reliable currency exchange website, such as <http://www.oanda.com/converter/classic>. Be sure to document the exchange rate you use by printing out the web page and submitting it with your expense report.

### REFERENCES

U.S. State Department Foreign Per Diem Rates  
[http://aoprals.state.gov/web920/per\\_diem.asp](http://aoprals.state.gov/web920/per_diem.asp)

Federal Travel Regulations  
[www.gsa.gov/fttr](http://www.gsa.gov/fttr)

# Gifts to and Lobbying USG Employees

## Q May we send our Agreement Officer's Representative flowers?

**A** Although your Agreement Officer's Representative (AOR) oversees your project and is your advisor, advocate and colleague, no matter how much she or he may deserve a big bouquet of flowers, this U.S. Government (USG) employee probably will not be able to accept it.

As a grantee of USAID, there are important ethical considerations that govern the relationship between the employees of your organization and employees of the U.S. Government, including your AOR and any other USG employees with whom you interact. You are also prohibited from using your USG funds to attempt to win or renew USG funding (see following page, Never Use USG Funds for Lobbying).

U.S. Government employees are expected to execute their work in an independent and impartial manner that maintains the public's confidence and the Government's integrity. To ensure that there is not even the appearance of inappropriate conduct, USG employees must abide by a very strict set of ethics rules, including specific regulations against accepting gifts, favors, entertainment or any other thing of monetary value from any prohibited source, including any person who has or is seeking to obtain contractual or other business or financial relations with the employee's agency, or has any other interests with the employee's agency. As a USG-funded organization, you fall under the category of "prohibited source."

There are a few exceptions to these rules and even some variations among USG agencies. However, a simple guideline to follow is to make sure that your interactions with USG employees do not give the appearance of trying to inappropriately influence their actions with gifts or favors.

## Exceptions to the Gift Rule

- Promotional or advertising items of nominal value, such as pens or note pads;
- Certain travel expenses, when provided as a service to the USG, while the employee is executing his/her official duties. For example, if your AOR is visiting your project site, it would be permissible to use your organization's vehicle to drive her/him to the site;
- Plaques or awards of nominal intrinsic value, meant primarily for display purposes;
- Items of nominal value (less than US\$20), such as a greeting card;
- Snack foods or beverages when given as part of a widely attended event. For example, if you have a project site opening ceremony where you invite the press, local officials, employees of other NGOs, your staff and USG in-country staff and you serve refreshments to all attendees, including the USG staff; and
- A gift given because of a close family or personal relationship when the circumstances are clear that it is the relationship, rather than business, that is the motivating factor.

## DEFINITIONS

**Gifts**—Any gratuity, favor, discount, entertainment, hospitality, loan, forbearance or other item having monetary value. It includes services as well, such as gifts of training, transportation, local travel, lodging and meals, whether provided in-kind, by purchase of a ticket, payment in advance or reimbursement after the expense has been incurred.

**Prohibited Source**—Any person who is seeking official action by the USG employee's agency, or does business or seeks to do business with the employee's agency.

**Lobbying**—Any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with any USG action, including the award, extension, renewal, amendment or modification of any USG contract, grant, loan or Cooperative Agreement.

## REFERENCES

OMB Circular A-122  
[http://www.whitehouse.gov/omb/circulars\\_a122\\_2004/](http://www.whitehouse.gov/omb/circulars_a122_2004/)

## Examples of Prohibited Gifts

- Any items that otherwise may be allowed, but are more than US\$20 in value. For example, an expensive promotional clock would not be allowed;
- Multiple, recurring items that might individually be allowed. For example, if a USG employee is working with you on site for a period of time, and you provide her/him with meals and refreshments throughout her stay. Though each meal may be less than US\$20, the recurring nature of the gift is considered inappropriate; and
- Gifts, favors or services provided to a USG employee's family, when it is given because of his/her relationship to the employee. For example, it would be inappropriate to hire a USG employee's family member who is not qualified for the position, if the only reason for hiring her/him is the relationship to the USG employee.

## Never Use USG Funds for Lobbying

Your organization is prohibited by law from using any of your USG funds to pay for any efforts to influence USG employees or members of the U.S. Congress to award, extend, renew, amend or modify any USG contract, grant, loan or Cooperative Agreement. Any activities that may be considered lobbying may not be paid for with USG funds under any circumstances.

For example, you cannot use your USG funds to pay for members of your Board of Directors to travel to Washington, DC, to meet with USG officials and members of Congress to discuss your programs in an effort to try to improve your chances of securing follow-on funding after your award expires. You may, however, use private funds for these activities.

## Conclusion

In the end, it is the USG employee's responsibility to make sure she or he complies with agency and USG ethical standards. But it helps if your organization's staff do not put their USG colleagues in the uncomfortable position of having to refuse a gift or meal—especially when your intention is simply to let them know you appreciate the help they have given your organization. A personal note or simple token, such as a photo of your staff, will mean more to them and will not be mistaken for an inappropriate gesture.

# USAID Environmental Requirements: Environmental Impact Assessment

## Q What environmental compliance assessment and/or documentation is our organization required to complete to comply with USAID regulations?

**A** Every USAID-funded program is required to comply with the U.S. Government's (USG's) environmental regulations (often referred to as, "Reg. 216"). Reg. 216 outlines the Environmental Impact Assessment (EIA) process that USAID has designed to identify potential effects—positive or negative—that a project or activity may have on the environment. The process is intended to prevent activities from taking place that are likely to cause significant environmental harm and to ensure that projects monitor and mitigate any negative effects on the environment. (For more information, see Title 22 of the Code of Federal Regulations and the administrative guidelines in Chapter 204 of USAID's Automated Directives System.)

Although USAID will sometimes conduct significant portions of the EIA process, an organization is typically responsible for assessing its project's compliance with Reg. 216 and submitting verification for USAID approval. This article will help you understand the EIA process and what you need to do to comply with USAID's regulations.

## Scope of an Environmental Impact Assessment

To begin the EIA, your organization must screen all proposed activities for a project. During this initial screening, program activities are divided into four categories:

- *Exempt*
- *Categorical Exclusion*
- *Initial Environmental Examination (IEE) Required*
- *IEE Required & High Risk*

The requirements and scope of your EIA depend largely on the category/categories under which your proposed activities fall.

### Exempt

A small portion of USAID's activities are exempt from environmental documentation. These are generally limited to international disaster or emergency relief activities; however, exemptions may be provided under other special circumstances. If all your program activities are exempt, you will not need to provide environmental documentation to USAID.

### Categorical Exclusion

USAID considers some types of activities to have such a low risk of adversely affecting the environment that they are categorically excluded from environmental review. Examples include: community awareness training, studies and information transfers. For a complete list of categorically excluded activities, see Reg. 216.2(C)(iii). If all of your program activities fall under this list, contact your Mission to request the appropriate exemption forms.

## DEFINITIONS

**Environmental Impact Assessment (EIA)**—A systematic process to identify potential effects—positive or negative—that a project or activity may have on the environment. It includes establishing plans to monitor and mitigate any negative effects as well as ways to prevent activities that are likely to cause significant environmental harm.

**Initial Environmental Examination (IEE)**—A survey of reasonably foreseeable effects of a proposed project or activity on the environment. It is a simplified version of a more comprehensive examination of environmental impacts called the Environmental Assessment.

**Environmental Assessment (EA)**—A detailed environment analysis that is necessary when an initial review of the program indicates that at least some program activities are likely to have a significant adverse effect on the environment.

**Environmental Mitigation Plan (EMP)**—Often included in the IEE, the EMP (sometimes called an Environmental Mitigation & Monitoring Plan (EMMP)) is a document that identifies potential environmental impacts of program activities and lays out a specific plan to monitor any negative impacts as well as the methods chosen to diminish them.

**Environmental Status Report (ESR)**—An annual report submitted to USAID examining a project's impact on the environment and describing what the organization has done to comply with its EMP.

**NOTE**

- Mission-specific requirements and preferences for demonstrating Reg. 216 compliance may vary. Ensure that you prepare the documents using the preferred approach and format, and contact the Mission before beginning the documentation process.
- USAID is ultimately responsible for ensuring that an IEE is completed. In some cases, USAID will complete the IEE. In other cases, the partner organization will be responsible for completing the IEE.

**IEE Required**

If any of your program's activities are not exempt or categorically excluded, an IEE should be conducted. An IEE is a review of the reasonably foreseeable effects of a proposed project or activity on the environment. USAID uses the IEE as the factual basis to decide whether to:

- require a more comprehensive analysis of the potential environmental impacts (called an Environmental Assessment (EA) by USAID); or
- proceed with the program using the plans to address and monitor any detrimental effects on the environment outlined in the Environmental Mitigation Plan (EMP), which is submitted with the IEE.

Please see below for how to conduct an IEE.

**IEE Required and High Risk**

USAID considers some types of activities to have such a high risk of adversely impacting the environment that those activities automatically trigger an Environmental Assessment. An EA is a detailed study of the reasonably foreseeable significant effects, both beneficial and adverse, of a proposed action on the environment of a foreign country or countries. Examples of such activities include: large scale agricultural mechanization, use of pesticides and new land development. For a complete list of activities that always require an EA, see Reg. 216.2(d)(iii).

**Capacity to Conduct an Environmental Impact Assessment**

Using publicly available resources and sector-specific guidance, such as the material available at: <http://www.encapafrika.org>, implementing partners normally are able to conduct the initial screening of their programs and an IEE on their own. Should your program require an EA, you will most likely need to hire an expert to conduct that detailed scientific study. You should plan for the expense of an EA when preparing your proposal budget if you believe you will need to conduct one.

**Environmental Impact Assessment Submission and Review Process**

A typical USAID EIA process proceeds in the following manner:

- The implementing partner conducts an initial screening of all of its activities.
- Unless all of the activities are exempt, the implementing partner submits a draft IEE or categorical exclusion request to the Mission. (Typically, the Mission Environmental Officer (MEO) is responsible for reviewing the documentation. If your Mission does not have an MEO, you should ask the Mission to whom you should send the documents.)
- The MEO may suggest revisions before he or she sends the documents to the Regional Environmental Officer (REO) and/or Bureau Environmental Officer (BEO) for approval.
- If the IEE indicates that your activities will have significant adverse impacts on the environment and you are not able to mitigate those impacts, the REO/BEO is likely to require an EA. He or she may also recommend changes to the EMP or other portions of the IEE.
- In most cases, the IEE will be sufficient, and an EA will not be required. If an EA is not required, and you have made any necessary changes to the IEE and EMP, the REO/BEO will approve your plan and your project can begin.

**PREPARING THE DOCUMENTATION**

Find plain language instruction on how to prepare the necessary documentation to comply with environmental regulations from initial screening to impact monitoring in the *USAID Environmental Procedures Training Manual*, produced by Environmentally Sound Design and Management for Partners and Programs in Africa (ENCAP).

Sector by sector guidance for preparing documentation can be found here.

## Compliance under an Umbrella IEE

If a USAID-funded project has many small-scale activities that will be carried out by subgrantees not yet selected when USAID awarded the funding to the prime recipient, an umbrella IEE may be used to expedite the compliance process. Under an umbrella IEE, subgrantees complete a condensed environmental review process. For more information on how to conduct this type of environmental review, see ENCAP's website.

Both prime recipients and subrecipients should keep in mind that USAID environmental regulations, just like other parts of the U.S. Code of Federal Regulations, flow down to all parties receiving USAID funds to carry out projects.

## Obligations during Program Implementation

Your responsibility to comply with USAID's environmental regulations does not end when your program begins. On an annual basis, you must complete an Environmental Status Report (ESR), detailing your project's impact on the environment, including how you monitored and complied with your mitigation plan. Based on the findings in your ESR, you may need to amend your approved environmental documentation.

In addition, since USAID requires that all proposed activities comply with its environmental regulations before the activities can be funded, your project will need to seek approval to modify any current activities or add new ones.

*It is in your interest to complete the EIA process as soon as possible... USAID requires an IEE or a Categorical Exclusion Request to be submitted along with proposals.*

### REFERENCES

Title 22 of the Code of Federal Regulations Part 216 (Reg. 216)  
[http://www.usaid.gov/our\\_work/environment/compliance/22cfr216.htm](http://www.usaid.gov/our_work/environment/compliance/22cfr216.htm)

USAID ADS Chapter 204  
<http://www.usaid.gov/policy/ads/200/204.pdf>

Environmentally Sound Design and Management for Partners and Programs in Africa: USAID Environmental Procedures Training  
<http://www.encapafrika.org/eptm.htm>