



Deviation Language for Post-Award Partner Vetting of Urgently Needed Humanitarian Assistance

A Mandatory Reference for ADS Chapter 319

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In instances in which the B/IO/M undertakes an assistance solicitation for urgently needed humanitarian assistance awards, the Agreement Officer (AO) must insert the following in the solicitation document:

Partner Vetting Pre-Award Requirements

- (a) The U.S. Agency for International Development (USAID) has determined that any award resulting from this assistance solicitation is subject to vetting in accordance with USAID's [insert applicable Vetting Mission Order or Vetting Standard Operating Procedures]. Given the urgently needed nature of the humanitarian assistance USAID will fund, the Agency might need to complete vetting after issuing the award.
- (b) In addition to the [insert applicable Vetting Mission Order or Vetting Standard Operating Procedures], the following vetting procedures apply for this solicitation:
 - 1) Prospective applicants review the USAID Partner Information Form, USAID Form 500-13, and submit any questions about the Form or these procedures to the AO by the deadline in the solicitation.
 - 2) The AO notifies the applicant when to submit the USAID Partner Information Form. For this solicitation, USAID will vet [insert in the provision the applicable stage of the selection process at which the AO will notify the applicant(s) to be vetted]. Within the timeframe set by the AO in the notification, the applicant must complete and submit the USAID Partner Information Form to the Vetting Official. The designated Vetting Official is the following:

Vetting Official: [Insert B/IO/M's Vetting Official name]
Address: [Insert applicable address]
Email: [Insert applicable email address]
 - 3) The applicants must notify any proposed sub-recipient(s) and contractor(s) of this requirement when the sub-recipient(s) or contractor(s) are subject to vetting. Note: Applicants who submit by using non-secure methods of transmission do so at their own risk.
- (c) Selection proceeds separately from vetting. USAID conducts vetting independently from any discussions the AO might have with an applicant. The applicant and any proposed sub-recipient(s) or contractor(s) subject to vetting must not provide vetting information to anyone other than the Vetting Official. The applicant and any proposed sub-recipient or contractor subject to vetting will communicate only with the Vetting Official regarding the vetting submission(s), and not with any other USAID or U.S. Government (USG) personnel, including the AO or the AO's Representative(s). The AO designates the Vetting Official as the only individual authorized to clarify the vetting information from the applicant and proposed sub-recipient(s) and contractor(s).

- (d) 1) The Vetting Official notifies the applicant that it: (i) is eligible based on the vetting results; (ii) is ineligible based on the vetting results; or (iii) must resubmit the USAID Partner Information Form with additional information within the number of days the Vetting Official specifies in the notification.
- 2) The Vetting Official will coordinate with the Agency that provided the data being used for vetting prior to notifying the applicant or releasing any information. In any determination for release of information, USAID will take into consideration the classification and sensitivity of the information, the need to protect sources and methods, and the status of ongoing law-enforcement and intelligence-community investigations or operations.
- (e) Reconsideration:
- 1) Within seven calendar days after the date of the Vetting Official's notification, an applicant that vetting has determined to be ineligible may request in writing to the Vetting Official that USAID reconsider the vetting determination. The request should include any written explanation, legal documentation, and any other relevant written material for reconsideration;
- 2) Within seven calendar days after the Vetting Official receives the request for reconsideration, the Agency will determine whether the applicant's additional information merits a revised decision; and
- 3) The Agency's determination of whether reconsideration is warranted is final.
- (f) Revisions to vetting information:
- 1) Applicants who change key individuals, whether USAID has determined the applicant previously eligible or not, must submit a revised USAID Partner Information Form to the Vetting Official. This includes changes to key personnel that result from revisions to the technical portion of the application; and
- 2) The Vetting Official will follow the vetting process of this provision for any revision of the applicant's Form.
- (g) Award: At the time of award, or as soon after award as possible, the AO will confirm with the Vetting Official that the apparently successful applicant is eligible after vetting. If USAID completes vetting prior to making the award, the AO may award only to an apparently successful applicant deemed eligible. If USAID completes vetting after making the award, an ineligibility determination will be considered a material failure to comply with the terms and conditions of the award and could subject the recipient to suspension or termination. In that event, USAID could disallow all costs for the same, potentially including previously incurred costs.

Additionally, the AO will insert the following language as a Special Provision within Section 1.13 for new urgently needed humanitarian-assistance awards and, as necessary, modifications to existing awards.

Partner Vetting

- (a) USAID has determined that this award is subject to vetting in accordance with USAID's [insert applicable Vetting Mission Order or Vetting Standard Operating Procedures]. The recipient must comply with the vetting requirements for key individuals under this award.
- (b) Definitions: As used in this provision, "key individual," "key personnel," and "Vetting Official" have the meaning contained in Section 701 of Title 22 of the Code of Federal Regulations (22 CFR 701).
- (c) Within 15 days, the Recipient must submit a USAID Partner Information Form, USAID Form 500-13, to the Vetting Official identified below when the Recipient replaces key individuals with individuals not previously vetted for this award. Note: USAID will not approve any key personnel who are not eligible for approval after vetting. The designated Vetting Official is the following:

Vetting official: [Insert B/IO/M's Vetting Official's name]

Address: [Insert applicable address]

Email: [Insert applicable email address] (for inquiries only)

- (d) 1) The Vetting Official will notify the Recipient that it: (i) is eligible based on the vetting results; (ii) is ineligible based on the vetting results; or (iii) must resubmit the USAID Partner Information Form with additional information within the number of days the Vetting Official specifies.

2) The Vetting Official will include information that USAID determines releasable. USAID will determine what information to release consistent with applicable law and Executive Orders, and with the concurrence of relevant Federal Agencies.
- (e) USAID could determine the inability to deem an applicant or recipient eligible as described in this award term to be a material failure to comply with the terms and conditions of the award, which could subject the recipient to suspension or termination as specified in the subpart "Remedies for Noncompliance" at Part 200 of Title 2 of the CFR.
- (f) Reconsideration:
 - 1) Within seven calendar days after the date of the Vetting Official's notification, the recipient or prospective sub-recipient or contractor that has not passed vetting may request in writing to the Vetting Official that the Agency reconsider the vetting determination. The request should include any written explanation, legal documentation, and any other relevant, written material for reconsideration.

- 2) Within seven calendar days after the Vetting Official receives the request for reconsideration, the Agency will determine whether the recipient's additional information merits a revised decision.
 - 3) The Agency's determination of whether reconsideration is warranted is final.
- (g) A notification that the recipient has passed vetting does not constitute any other approval under this award.
- (h) For an award, sub-award, or contract to an entity USAID subsequently determines to be ineligible for funding under the (insert applicable Vetting Mission Order or Vetting Standard Operating Procedures), the Agency reserves the right to (i) withdraw approval for the award, sub-award, or contract; and (ii) disallow all costs for the same, potentially including previously incurred costs. USAID will condition all approvals under this award for sub-awards and contracts on a vetting-eligibility determination.

Alternate I. When USAID will subject sub-recipients to vetting, add the following paragraphs to the basic award term: (i) When the prime recipient anticipates that it will require prior approval for a sub-award in accordance with Section 200.308(c)(6) of Title 2 of the CFR, the sub-award is subject to vetting. The prospective sub-recipient must submit a USAID Partner Information Form, USAID Form 500-13, to the Vetting Official identified in paragraph (c) of this provision. Given the urgently needed nature of the assistance USAID will provide, subject to sub-paragraph (h), above, the Agreement Officer may approve a sub-award to an organization that has not yet passed vetting, when required. (j) The recipient agrees to incorporate the substance of paragraphs (a) through (h) of this award term in all first-tier sub-awards under this award.

Alternate II. When specific classes of services are subject to vetting, add the following paragraph: (k) Prospective contractors at any tier that are providing the following classes of services must pass vetting. Given the urgently needed nature of the assistance USAID will provide, subject to sub-paragraph (h), above, recipients may choose to procure these services before they receive confirmation from the Vetting Official that the prospective contractor has passed vetting (end of award term).