



USAID
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ADS Chapter 349

International Agreements

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ADS 349 – International Agreements
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ADS 349 – International Agreements

349.1 OVERVIEW

Effective Date: 08/15/2022

This chapter establishes the policy directives and required procedures for processing international agreements.

For purposes of this chapter, international agreements are agreements governed by international law, which include USAID's agreements with partner foreign governments. More detailed information about specific types of international agreements can be found in other ADS chapters, including [ADS Chapter 350, Grants to Foreign Governments](#).

349.2 PRIMARY RESPONSIBILITIES

Effective Date: 08/15/2022

a. The **Office of the General Counsel (GC)** maintains this chapter and advises Agency officials on the substance, negotiation, and execution of international agreements.

b. **Assistant Administrators, Mission Directors, and other Principal Officers** are responsible for the negotiation and execution of international agreements in accordance with their delegated authorities.

349.3 POLICY DIRECTIVES AND REQUIRED PROCEDURES

349.3.1 Types of USAID International Agreements

Effective Date: 08/15/2022

USAID international agreements are organized into two categories: (1) framework bilateral agreements and (2) implementing agreements.

349.3.1.1 Framework Bilateral Agreements

Effective Date: 08/15/2022

Framework Bilateral Agreements are agreements between the U.S. Government and the partner government that:

- Establish the USAID Mission as a Special Mission;
- Identify the privileges and immunities that the partner government will provide to USAID personnel and the Special Mission;
- Implement USAID's long-standing policy (and statutory provisions) that assistance should be exempt from partner government taxes by setting forth the privileges and exemptions from taxes and duties for USAID-financed assistance and implementing partners; and

- List other general terms and conditions for USAID assistance.

349.3.1.2 Implementing Agreements

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Consistent with Section 635(b) of the [Foreign Assistance Act of 1961, as amended \(FAA\)](#), USAID negotiates agreements with partner governments and others to implement USAID's activities and programs. These are called implementing agreements. The most common types of implementing agreements with partner governments are:

- Development Objective Agreements (DOAGs) (formerly known as Strategic Objective Grant Agreements (SOAGs) or Assistance Agreements) (see [ADS 350](#)), and
- Limited Scope Grant Agreements (LSGAs) (see [ADS 350](#)).

Other examples of implementing agreements with partner governments are program assistance agreements, bilateral project agreements, commodity import grant agreements, cash transfer grant agreements and guarantees, and other credit program agreements, many of which are discussed in [ADS 350](#), with accompanying templates.

Where there are specific ADS or other standard Agency provisions for a particular type of international agreement, Operating Units (OUs) must apply those provisions. Where there are no applicable ADS or Agency provisions, OUs are authorized to use other types of international agreements, subject to the clearance of the appropriate Resident Legal Officer (RLO) or Assistant General Counsel in GC.

349.3.2 Circular 175 Procedure

Effective Date: 08/15/2022

- a. International agreements are subject to the "Circular 175 Procedure" in [11 FAM 720](#). Circular 175 authorization from the Secretary of State is necessary before any international agreement is negotiated and concluded. USAID has blanket Circular 175 authorization for its framework agreements and for its implementing agreements with a Total Estimated Contribution (TEC) of more than \$25 million. For more information about the Secretary of State's blanket Circular 175 authorization to USAID, see [ADS 349maa, Blanket C-175 Request for USAID to Negotiate and Conclude Certain International Agreements](#).

Implementing agreements with a TEC less than \$25 million do not require Circular 175 authorization. Under the terms of USAID's blanket Circular 175 authorization, USAID is not required to prepare separate Circular 175 authorization for:

- a. Framework Bilateral Agreements. However, the agreement text must be cleared with the relevant offices of the Department of State, Office Legal Advisor (State/L), relevant regional and other offices of the Department of State, and other agencies, as appropriate.
- b. Implementing agreements, unless the agreement involves unique political, legal, or funding issues, as determined by the appropriate RLO or the cognizant regional Assistant General Counsel (AGC) in consultation with the Assistant Legal Advisor for Treaty Affairs (State/L/T), as appropriate.

If a separate Circular 175 authorization is required, OUs must request this authorization through USAID to the Secretary of State at treatyoffice@state.gov, using the action memorandum format in [11 FAM 724.3, “Request for Authorization to Negotiate and/or Sign Action Memorandum”](#) (also see [ADS 349maa, Blanket C-175 Request for USAID to Negotiate and Conclude Certain International Agreements](#)).

349.3.3 Transmission of International Agreements to the Assistant Legal Advisor for Treaty Affairs (State/L/T)

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This section outlines USAID’s procedures for complying with the requirements for transmitting international agreements to State/L/T for further transmission to Congress in accordance with the [Case Act, 1 USC § 112b](#) and [11 FAM 720](#) (specifically 11 FAM 725.7 through 11 FAM 725.10, and 11 FAM 726).

OUs must transmit the following to State/L/T:

- a. All Framework Bilateral Agreements and amendments.
- b. Implementing agreements which are considered significant because, upon initial signature, they have a TEC of more than \$25 million. An implementing agreement with a TEC that is \$25 million or less does not need to be transmitted initially. However, if the TEC is subsequently raised above \$25 million, OUs must transmit both the implementing agreement and the amendment reflecting the increase. Incremental funding actions do not need to be transmitted unless they are included as part of an amendment that also raises the TEC above \$25 million. Once an OU has transmitted an implementing agreement because its TEC is more than \$25 million, the OU must transmit the agreement again each time its TEC increases by more than \$25 million. OUs do not need to transmit TEC increases of \$25 million or less.
 - i. Example 1: A DOAG with a TEC of \$50 million with an initial obligation of \$5 million would be transmitted upon signing because the TEC is above \$25 million, but a subsequent \$27 million incremental funding action would not be transmitted because the original \$50 million TEC

- stayed the same.
- ii. Example 2: A DOAG with a \$15 million TEC would not be transmitted regardless of the amount of the initial obligation because the TEC is under the reporting threshold, but if the TEC were later increased to \$30 million, both the DOAG and the amendment raising the TEC would be transmitted.
 - iii. Example 3: A DOAG with a \$30 million TEC would be transmitted to State L/T upon signing, and if the TEC is then raised by \$26 million in an amendment the next year, that amendment must also be transmitted. However, if the TEC were raised by only \$15 million, the amendment would not have to be transmitted because the increase would be under the reporting threshold.
- c. An agreement, regardless of amount, if it otherwise qualifies as an international agreement as described in section **349.6**. For example, an agreement could qualify as an international agreement regardless of the amount if it involves unique political, legal, or funding issues, as determined by the RLO in consultation with the AGC of the relevant Regional Bureau.

As soon as possible after an international agreement, which must be transmitted to State L/T, has been signed, and in any event within 24 hours of the last signature, Overseas OUs must send the following information electronically to State L/T at **treatyoffice@state.gov**:

1. The title of the international agreement or the subject matter and names of the parties, and
2. The date of signature and the place where the international agreement was signed.

Also as soon as possible, but no later than 20 calendar days after signing by both parties, OUs must transmit the following documents to State L/T:

- The original agreement, including any annex or attachment to the agreement. If the original is not available, transmit a copy of the agreement certified in the following manner:

Type the following statement as a separate document and attach it to the agreement, or type the statement on the agreement itself at the bottom of the page:

"This agreement [and accompanying annexes/attachments] is certified to be a true and accurate copy of the original signed by [names and titles of signatories]." The statement must be signed and dated by a duly commissioned and qualified Foreign Service Officer (see

[11 FAM 725.8, 725.9 and 725.10](#) for more details).

- A brief statement identifying the nature of the agreement, e.g., "This Development Objective Agreement grants \$30 million to the Government of Country X for child survival activities."
- Any other papers accompanying the agreement, such as agreed minutes, exchanges of notes, plans, etc. (indicating the full names of persons who signed), in accordance with [11 FAM 725.7](#).

For agreements that do not have to be transmitted to State L/T, OUs must follow their internal record-keeping procedure, consistent with the policy in [ADS 502, The USAID Records Management Program](#).

349.4 MANDATORY REFERENCES

349.4.1 External Mandatory References

Effective Date: 08/15/2022

- [1 USC § 112b, United States International Agreements; Transmission to Congress](#)
- [11 FAM 700 series, Treaties and Other International Agreements, particularly 11 FAM 721, and 11 FAM sections 724 through 726](#)
- [Coordination, Reporting and Publication of International Agreements,” particularly section 181.2, “Criteria”](#)
- [Section 635\(b\) of the Foreign Assistance Act of 1961, as amended \(FAA\)](#)

349.4.2 Internal Mandatory References

Effective Date: 08/15/2022

- [ADS 308, Agreements with Public International Organizations](#)
- [ADS 349maa, Blanket C-175 Request for USAID to Negotiate and Conclude Certain International Agreements](#)
- [ADS 350, Grants to Foreign Governments](#)
- [ADS 351, Agreements with Bilateral Donors](#)

349.5 ADDITIONAL HELP

Effective Date: 08/15/2022

- [ADS 201, Program Cycle Operational Policy](#).

- b. [ADS 220, Strengthening the Capacity of Partner Governments through Government-to-Government \(G2G\) Assistance](#)
- c. [ADS 308saa, Sample Cover Letter and Schedule for Cost-type Agreements with Public International Organizations](#)
- d. [ADS 502, The USAID Records Management Program](#)

349.6 **DEFINITIONS**
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See the [ADS Glossary](#) for all ADS terms and definitions.

Framework Bilateral Agreements

These agreements between the U.S. Government and the partner government establish the USAID Mission as a Special Mission, identify the privileges and immunities to be provided to USAID personnel and the Special Mission, implement USAID's long-standing policy (and statutory provisions) that assistance should be exempt from partner government taxes by setting forth the privileges and exemptions from taxes and duties for USAID-financed assistance and implementing partners, and list other general terms and conditions for USAID assistance. **(Chapter 349)**

Implementing Agreements

Agreements with partner governments and others under which specific activities and programs financed with USAID-administered foreign assistance funding are implemented, consistent with the Foreign Assistance Act. **(Chapter 349)**

International Agreements

Agreements between two or more states, international organizations, intergovernmental organizations, or state agencies that are significant, specific, intended to be legally binding, and governed by international law. Non-binding instruments do not constitute international agreements, nor do agreements which state they are not governed by international law, such as USAID's agreements with public international organizations (PIOs), including regional PIOs with which USAID concludes Regional Development Assistance Agreements (RDOAGs). **(Chapter 349)**

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