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ADS Chapter 350

Bilateral Assistance Agreements

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ADS 350 – Bilateral Assistance Agreements

350.1 OVERVIEW

Effective Date: 01/30/2024

This chapter establishes standard provisions and other requirements for grants to foreign partner governments as made through Bilateral Assistance Agreements (BAAs). This chapter does not apply to agreements with public international organizations (PIOs), including regional organizations designated as PIOs ([ADS 308, Agreements with Public International Organizations](#)), other bilateral donors ([ADS 351, Agreements with Bilateral Donors](#)), or P.L. 480 agreements. This chapter must be read in conjunction with [ADS 201, Program Cycle Operational Policy](#), which provides guidance on how USAID operationalizes development policy through the Program Cycle to achieve and sustain development results in a given country or region. [ADS 220, Strengthening the Capacity of Partner Governments through Government-to-Government \(G2G\) Assistance](#) provides guidance on the use of reliable partner country systems for direct management and implementation of Government-to-Government (G2G) assistance.

[Section 635\(b\) of the Foreign Assistance Act of 1961, as amended \(FAA\)](#) provides the legal authority for this chapter. Section 635(b) provides as follows: “The President may...make and perform agreements...with any...friendly government or government agency...in furtherance of the purposes and within the limitations of this Act.”

The term “grant” is used broadly throughout this chapter and must be construed to mean any type of agreement executed between USAID and a foreign partner government that is covered by this chapter. As used in this chapter, a “grant” to a foreign partner government is not intended to be subject to the Federal Grants and Cooperative Agreements Act, 2 CFR Parts 200 and 700, or [ADS 303, Grants and Cooperative Agreements to Non-Governmental Organizations](#). Accordingly, the use of “grant” herein must not be confused with the narrower use of the term as contemplated by [ADS 303](#). The foreign partner government may be referred to as the “Grantee” in this chapter and in the agreements governed by this chapter, but other terms may also be used to refer to a foreign partner government depending on the specific agreement.

The BAAs covered by this ADS chapter are international agreements governed by the Case-Zablocki Act if they are over \$25 million. For additional information regarding the applicability of the Case-Zablocki Act to BAAs, see [ADS 349, International Agreements](#).

350.2 PRIMARY RESPONSIBILITIES

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- a. Within their delegated authorities (see [ADS 103, Delegations of Authority](#)), **Bureaus and other Operating Units (OUs)** prepare, negotiate, sign, and implement agreements with foreign governments, including BAAs.
- b. The **Bureau for Planning, Learning, and Resource Management (PLR)** establishes high-level Agency policy for implementation of Strategic Plans and their

respective Development Objectives (DOs).

c. The **Office of the General Counsel (GC) and Resident Legal Officers (RLOs)** provide guidance on the use of BAAs covered by this chapter, including Development Objective Agreements (DOAGs), Bilateral Project Agreements (BPAs), Program Assistance Agreements (PAAs), and Limited Scope Grant Agreements (LSGAs). GC and RLOs provide guidance on the legal and policy effects of grant provisions; and assist OUs in drafting, negotiating, interpreting, and implementing BAAs; and approving non-substantive exceptions. RLOs and Assistant General Counsels (AGCs) may clear substantive changes approved by Mission Directors or principal officers of OUs, with RLO clearance subject to consultation with the cognizant AGC (see section **350.3.6**).

350.3 POLICY DIRECTIVES AND REQUIRED PROCEDURES

350.3.1 Bilateral Assistance Agreements (BAAs)

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A BAA is an assistance agreement between USAID and a foreign partner government or its subdivision. Types of BAAs include:

- a. DOAGs;
- b. BPAs;
- c. LSGAs; and
- d. PAAs.

OUs may use DOAGs with clearance from the cognizant RLO or GC attorney. Use of other types of BAAs require consultation with the cognizant AGC. Regional Development Objective Agreements (RDOAGs) are grants to regional organizations that are PIOs for the purpose of supporting regional activities, and are not BAAs covered by this ADS chapter (see [ADS 308](#)). Memoranda of Understanding, Declarations, and similar documents that are non-binding instruments and are not covered by this ADS chapter.

350.3.2 Development Objective Agreement (DOAG)

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The DOAG is the principal form of BAA used by USAID. A DOAG grants funds to a foreign partner government for the achievement of one or more approved DOs. Funds are then subobligated into awards with third-party implementing partners or with the host country government (e.g., G2G). If a DOAG includes more than one DO to be achieved, funds must be obligated and recorded by each individual DO, per [ADS 201](#).

As an obligating instrument, all necessary pre-obligation and planning requirements must be met before a DOAG is signed (see [ADS 201](#)). A DOAG is composed of the Principal

Text, Annex 1, “Amplified Description” and Annex 2, “Standard Provisions” (see [ADS 350mac, Development Objective Agreement \(DOAG\) and Bilateral Project Agreement Template](#)).

350.3.2.1 DOAG Principal Text – Substantive Requirements

Effective Date: 01/30/2024

Except as provided below or unless there is an exception, the Principal Text must address in substance the following (see [ADS 350mac](#)):

a. Article 1: Purpose

The Purpose must state the understanding of the parties regarding the DO(s) described below.

b. Article 2: DO(s) and Results

- 1. DO(s).** The Principal Text must describe the DO(s).
- 2. Results.** The Principal Text or Annex 1 must describe the significant Results. If the Principal Text contains Results, there must be a provision on how the Results can be amended; for example, by formal amendment of the DOAG or by Implementation Letter (IL).
- 3. Annex 1, Amplified Description.** The Principal Text must provide that Annex 1 amplifies the DO or DO Results. The Principal Text must state whether Annex 1 can be amended without formal amendment of the DOAG and any limitations on such amendments; that is, Annex 1 amendments must be within the DOAG description of the DO or the DO Results.

c. Article 3: Contributions of the Parties

- 1. Section 3.1(a), USAID Contribution.** The Principal Text must state the amount being granted (obligated). For example, “USAID hereby grants to the Grantee under the terms of this Agreement \$_____ (the “Grant”).” The Grant refers to the cumulative amount obligated to date, including all incremental fundings.
- 2. Section 3.1(b), Total Estimated Contribution (TEC) and Incremental Funding.** This paragraph identifies USAID’s TEC over the grant’s lifetime, subject to the availability of funds, which is usually higher than the initial USAID contribution. DOAGs often include a provision in this section describing the option of incremental funding towards the TEC. Any statement on future funding increments by USAID must be made subject to the availability of funds to USAID for that purpose.

Additionally, future funding increments must be made subject to either:

- The mutual agreement of the Parties, at the time of each subsequent increment, to proceed (in which case use the first bracketed option in the DOAG template text); or
- The unilateral obligation of funds against the TEC by USAID; provided that the unilateral obligation of incremental funding must not change the major purpose, the program description, or the terms and conditions of the existing DOAG.

Methods of unilaterally obligating incremental funding into a DOAG include, but are not limited to, one of the following options:

- A unilateral amendment for incremental funding (see the discussion of documentary evidence for obligations of grants to foreign governments in [ADS 621, Obligations](#), and compare to the guidance for unilateral amendments to assistance awards in [ADS 303](#));
- An [incremental funding notice sent to the Grantee](#); or
- An IL in limited circumstances, with clearance from the RLO, or cognizant AGC in Washington.

The unilateral obligation option allows USAID to incrementally fund and therefore legally obligate funds into the DOAG without the host government's countersignature or approval, which then allows immediate subobligations into award mechanisms. Unilaterally incrementally obligating funds into a DOAG is preferred where appropriate, and DOAG text permitting this option should be considered for inclusion even if incremental funding by unilateral obligations is not contemplated at the time of the original obligation. While USAID must provide the Grantee with written notice of all unilateral incremental obligations into a DOAG, in some instances, it may also be desirable for an OU to seek written acknowledgment of a notice of unilateral funding action. However, in seeking such acknowledgment from the Grantee, care should be taken to maintain the validity of the unilateral incremental obligation and not create an impression that such acknowledgment is a requirement to obligate funding.

- 3. Section 3.1(c), Unilateral Deobligation.** This provision gives USAID the unilateral right to reduce the Grant if the amount of the Grant is more than can reasonably be committed for achieving the objective during the current or next fiscal year. In other words, it allows for deobligation of funds from a DOAG should the need arise. In order that any deobligation not change the scope of the DOAG or USAID's intent to ultimately obligate the full amount originally anticipated, the Principal Text must contain a provision stating that any reduction does not reduce USAID's total estimated contribution in section 3.1(b)

or, if not incrementally funded, in section 3.1(a), subject to the availability of funds to USAID for this purpose and the mutual agreement of the Parties, at the time of each subsequent increment.

In circumstances where a DOAG has been fully funded at its inception (and thus does not contain a provision on incremental funding as provided in section 3.1(b) described above), OUs wishing to unilaterally deobligate funds should consult with their cognizant RLO or AGC to consider additional language and the possibility of future incremental funding actions after the deobligation has been completed.

4. **Section 3.2, Grantee Contribution.** The foreign partner government may be required to provide financial contributions pursuant to FAA section 110, or as a policy matter when FAA section 110 does not apply. Consideration of a potential partner government financial contribution, and initial socialization with the partner government, should normally occur at an early point, such as during Country Development Cooperation Strategy (CDCS) development or project design. The Grantee contribution can then be finalized in the DOAG. Where the DOAG contains a requirement for a Grantee financial contribution, it must be stated in section 3.2(b), and, where appropriate, amplified in Annex 1 or in ILs. Because there can be substantial variability in the approaches to satisfying this requirement in each country, the various approaches discussed in [ADS 350maf, Host Country Financial Contribution](#) and [ADS 350mac](#), are not considered substantive exceptions to the requirements of this chapter for purposes of section 350.3.6 (see [ADS 350maf](#), [ADS 350mac](#), and [Sections 110 and 124\(d\) of the Foreign Assistance Act of 1961, as amended \(FAA\)](#)).

d. Article 4: Completion Date

1. The Principal Text must state a specific Completion Date; that is, the date by which the Parties estimate that all activities necessary to achieve the Results will be completed. Although in practice, the Parties may agree to amend the Completion Date from time to time, the Principal Text should provide for USAID's unilateral right to agree to change the Completion Date ("except as USAID may otherwise agree in writing"). Such agreement may occur before, or (if unavoidable) a reasonable time after, the current Completion Date.
2. The Principal Text must provide that, except as USAID may otherwise agree in writing, USAID will not issue or approve any disbursement documentation resulting in a disbursement for goods or services furnished after the Completion Date. This means that in practice, as discussed in [ADS 350mag, Development Objective Agreement \(DOAG\) Completion Date Guidance](#), USAID can unilaterally approve disbursement in appropriate circumstances.
3. The Principal Text must provide that the Grantee must provide requests for disbursement no later than nine months after the Completion Date, or such

other period as USAID may agree to in writing. After this period, USAID may give notice and reduce the amount of the Grant by all or part of the amount for which requests for disbursement were not received on a timely basis.

e. Article 5: Conditions Precedent to Disbursement.

1. This article must contain any conditions precedent specified in the applicable authorization document or otherwise determined to be required. If there are conditions precedent to initial or additional disbursements, the Principal Text could provide for the following, as further elaborated in ADS 350mac Article 5:
 - Objectively stated condition(s) precedent, to be met in a form and substance satisfactory to USAID.
 - Terminal date(s) for satisfaction of any conditions precedent. The Principal Text may provide that USAID may in its sole discretion agree to extend the date or dates by which the conditions precedent must be satisfied (“except as USAID may otherwise agree in writing”).
 - The right of USAID to terminate the DOAG if the condition(s) precedent to the subject disbursement are not met by the terminal date(s).
 - The right of USAID to cancel the undisbursed balance of the Grant, to the extent not irrevocably committed to third parties, and to terminate the DOAG, if the condition(s) precedent to any disbursement are not met by the terminal date(s).
2. Best practice is to condition both the substance and the date(s) of conditions precedent with the phrase “except as USAID may otherwise agree in writing.” Conditions precedent should contain or reference a carefully considered balance between an appropriate degree of specificity and flexibility. Article 5 may provide appropriate details of conditions precedent by referencing other portions of the DOAG, such as Annex 1 (Amplified Description), or other documents that may be prepared and agreed upon at a later date, including but not limited to ILs. Where an activity is designed subsequent to obligation of funds into a DOAG and conditions precedent to disbursement are considered necessary for that activity, it may be appropriate to amend Article 5 of the DOAG or to include such conditions precedent in an IL. Best practice is to carefully match conditions precedent to the activities to which they are relevant.
3. If an OU feels receiving legal opinion assurances is advisable, best practice is to require the delivery of such an opinion prior to, or concurrent with, signature and/or entry into force into the DOAG. Legal assurances prior to signature of the DOAG can include: an opinion of counsel acceptable to USAID that (i) the DOAG has been duly authorized or ratified by, and executed on behalf of the

Grantee, and (ii) constitutes a valid and legally binding obligation of the Grantee in accordance with all of its terms, and (iii) all internal actions and approvals necessary to give effect to the DOAG have been obtained by or on behalf of the Grantee.

4. As discussed below, in g.5, Section 7.5, “Entry Into Force,” if partner government procedures require further action to be taken after signature for the DOAG to fully enter into force, it is recommended that the Parties acknowledge the DOAG is to be applied provisionally pending its entry into force. OUs should consult with their RLO or cognizant AGC if they have questions.

f. Article 6: Special Covenants

1. Special covenants are generally in force for the duration of the DOAG and they constitute binding promises to act or refrain from acting in a particular way in connection with the activities being implemented with funds granted in the DOAG. If it is essential that certain actions take place before USAID makes one or more disbursements, and the agreement itself is conditional upon the achievement of those actions, those should be included as conditions precedent in Article 5 rather than covenants.
2. Article 6(a) includes a special covenant regarding the foreign partner government’s commitment to facilitate operational matters. In addition to Article 6(a), this article can contain any special covenants specified in the applicable authorization document or otherwise determined to be required. Covenants may reference other portions of the DOAG, such as Annex 1 (Amplified Description) or other documents in order to provide appropriate details.
3. Covenants should contain or reference an appropriate degree of specificity and flexibility, including responsibilities and dates, where appropriate.
4. Best practice is to provide that covenants are “except as USAID may otherwise agree in writing” to highlight that USAID may waive a covenant under appropriate circumstances.

g. Article 7: Miscellaneous

1. **Section 7.1. Communications.** There must be a provision designating physical and/or electronic addresses for communication between the Parties. It should provide that delivery to the designated address(es) constitutes delivery to the Party.
2. **Section 7.2. Representatives.** There must be a provision:
 - a. Designating the representatives of the Parties for taking actions under the

DOAG; and

- b.** Providing for the designation of Additional Representatives and the limitations, if any, on the authority of Additional Representatives (for example, the DOAG might state that Additional Representatives can amend Annex 1, but not amend the definition of the DO).
- 3. Section 7.3. Standard Provisions Annex.** The Agreement must state that the Standard Provisions Annex (Annex 2) forms part of the DOAG.
- 4. Section 7.4. Language of Agreement.** If the Parties sign a foreign language version, the Agreement must state that the English language version controls in the event of ambiguity or conflict.
- 5. Section 7.5. Entry into Force.** It is preferable that a DOAG enters into force upon signature by all the Parties. However, if the DOAG will not fully enter into force upon signature of the Parties (*i.e.*, partner government law requires Parliamentary or Presidential ratification for effectiveness), this section should describe the necessary condition(s) for entry into force.

OUs should determine at an early point in negotiations whether partner government procedures require further action beyond signature for entry into force because that may affect the date that funds are obligated into a DOAG. OUs could consider requesting a legal opinion prior to obligation. Please note that previous versions of the model DOAG template had provided as an optional condition precedent to disbursement an opinion of counsel acceptable to USAID that (i) the DOAG has been duly authorized or ratified by, and executed on behalf of the Grantee, and (ii) constitutes a valid and legally binding obligation of the Grantee in accordance with all of its terms, and (iii) all internal actions and approvals necessary to give effect to the DOAG have been obtained by or on behalf of the Grantee. This provision is no longer recommended as an optional condition precedent to disbursement. Requiring the delivery of such a legal opinion after the DOAG is signed and/or enters into force but before the initial disbursement of funds could undermine the binding nature of the foreign partner government's signature, which USAID generally accepts at face value.

Other than signature of the DOAG by the appropriate official with delegated authority, USAID procedures do not require further action for entry into force. If partner government procedures require further action to be taken after signature for the DOAG to fully enter into force, it is recommended that the Parties acknowledge the DOAG is to be applied provisionally pending its entry into force.

- h. Signatures and Dates.** The Parties must sign and date the DOAG. The signatures should also include a line for the place of signature (city, country). [ADS 103](#)

requires that a DOAG be signed by a USAID officer with appropriate authority. This signature binds the U.S. Government (USG) to the terms of the DOAG and obligates the funds that the USG is contributing under the DOAG.

350.3.2.2 DOAG Annex 1 – Amplified Description

Effective Date: 01/30/2024

The Amplified Description must be included as Annex 1 to the DOAG. Except as provided below or unless there is an approved exception, the Amplified Description must address in substance the following:

- a. An explanation of the problem(s) being addressed at the macro, sectoral, or sub-sectoral level;
- b. Financial plan or budget, including the Grantee's contribution (if applicable);
- c. Expected Results and the means for measuring Results; for example, indicators, targets, and performance guidelines;
- d. A sufficiently specific and definite description of activities planned to be financed, and/or objective criteria and procedures for USAID approval of actual activities planned to be financed, such that the DOAG satisfies the documentary requirements for a valid obligation of funds in accordance with 31 U.S.C. 1501 and the requirements for adequate planning of foreign assistance under section 611(a)(1) of the FAA. The DOAG must be clear as to the basic approach to be taken and what the Grantee must do to cause the obligated funds to be expended. A DOAG may not be so indefinite and unspecific in its basic terms and approach that it risks characterization as a mere "agreement to agree." If specific activities to be financed under a DOAG have not been identified and approved at the time such funds are proposed to be obligated in a DOAG, the obligation may proceed on the basis of illustrative activities or types of activities to be financed, with indicative funding levels specified in the DOAG, and objective criteria for selecting and approving such activities;
- e. Roles and responsibilities of the Parties, including measures to involve customers and, where applicable, other partners;
- f. Ensure that the environmental consequences of activities financed under the DOAG are identified and considered and that appropriate environmental safeguards are adopted; and
- g. Monitoring and evaluation.

Note that for purposes of inclusion in the Amplified Description, the financial plan or budget may be illustrative. That plan or budget does not have to specify the fiscal year or account of appropriation or the program areas or elements of USAID's contribution.

350.3.2.3 DOAG Annex 2 - Standard Provisions

Effective Date: 01/30/2024

Except as provided below or unless there is an approved exception, the following standard provisions are mandatory (the actual text of the provisions is in [ADS 350mac](#)):

a. Article A

1. **Section A.1. Definitions.**
2. **Section A.2. Implementation Letters.**

b. Article B: General Covenants.

1. **Section B.1. Consultation.**
2. **Section B.2. Execution of Agreement.**
3. **Section B.3. Utilization of Goods and Services.**
4. **Section B.4. Taxation.** This clause reflects the common approach under most USAID Framework Bilateral Agreements or U.S. Post tax arrangements under the leadership of the U.S. Embassy. It clarifies and adds specificity to that approach. However, because there can be variations in approaches to this issue in each country, the specific Framework Bilateral or any other applicable arrangements should serve as the baseline for all terms and conditions related to tax issues in connection with USAID assistance. If the specific Framework Bilateral or any other applicable arrangements provide more in the way of exemptions than section B.4, the OU must attempt to negotiate a provision incorporating those exemptions in the DOAG. If, on the other hand, the specific Framework Bilateral and any other applicable arrangements confer less than what is in place under the common approach, and the OU cannot negotiate the additional exemptions in section B.4, the head of the OU may approve an alternate clause, subject to the clearance of the cognizant RLO, in consultation with the cognizant AGC. In such a case, the OU must record the reasons for the alternate clause and inform USAID/W of the feasibility of reopening negotiations on this issue (see [ADS 155, Privileges, Immunities and Tax Exemptions](#) for additional information).
5. **Section B.5. Reports and Information, Agreement Books and Records, Audits, and Inspections.** This clause provides that "agreement books and records" be kept in accordance with generally accepted accounting principles prevailing in the United States. Subject to the approval of the cognizant OU Controller, OUs are authorized to modify the clause or issue an IL to provide for international, local, or other accounting principles (see the discussion of audits of Foreign Organizations and Host Government Entities in [ADS 591, Financial](#)

[Audits of USAID Contractors, Recipients, and Host Government Entities](#) for general audit requirements. Also, see [ADS 591maa, USAID Financial Audit Guide for Foreign Organizations](#)).

6. **Section B.6. Completeness of Information.**
 7. **Section B.7. Other Payments.**
 8. **Section B.8. Information and Marking.**
- c. **Article C: Procurement Provisions.**
1. **Section C.1. Source and Nationality.** In section C.1.(a), Geographic Code 937 is the default, unless a waiver (to Code 935) applicable to the entire DOAG is approved before signing the DOAG. In some instances, Geographic Code 110 may be the default, unless a waiver (to Code 935) applicable to the entire DOAG is approved before signing the DOAG (see [ADS 310, Source and Nationality Requirements for Procurement of Commodities and Services Financed by USAID](#)).
 2. **Section C.2. Eligibility Date.**
 3. **Section C.3. Plans, Specifications, and Contracts.**
 4. **Section C.4. Reasonable Price.**
 5. **Section C.5. Notification to Potential Suppliers.**
 6. **Section C.6. Transportation.**
 7. **Section C.7. Insurance.**
 8. **Section C.8. U.S. Government-Owned Excess Property.**
 9. **Section C.9. Procurement and Disbursement of Funds.**
- d. **Article D: Disbursements.**
1. **Sections D.1, D.2, and D.3 are not mandatory.** While it is not mandatory to set forth specific types of disbursements in Annex 2, inclusion of this full section is useful. It encompasses a full range of disbursement options, including additional means as separately agreed to by the Parties (D.3). It also avoids the need for the extra step of setting forth and obtaining agreement of the Parties to disbursement means elsewhere.
 2. **Section D.4. Rate of Exchange.**

e. Article E: Termination; Remedies.

- 1. Section E.1. Suspension and Termination.**
- 2. Section E.2. Refunds.**
- 3. Section E.3. Nonwaiver of Remedies.**
- 4. Section E.4. Assignment.**

f. Article F: Miscellaneous. As noted below and in [ADS 350mac](#), some of the following provisions and/or parts of provisions may be included, omitted, or modified in a DOAG depending on the applicable circumstances, as determined by the cognizant RLO or GC attorney.

- 1. Section F.1. Investment Promotion.** Where investment promotion issues could be relevant, include the clause in section F.1, or, per [ADS 225, Program Principles for Trade and Investment Activities and the “Impact on U.S. Jobs” and “Worker’s Rights”](#) a substantive alternative in the agreement.
- 2. Section F.2. Abortion and Involuntary Sterilization Restrictions.** If the DOAG will finance any health activities, or democracy and governance activities that will support constitutional or health-related legislative reform, the OU is required to insert the language set forth in Section F.2 in the agreement:
 - a.** If family planning assistance is included in the scope of the DOAG, the OU must include the provision "Voluntary Population Planning Activities," in either an IL, or alternatively in the DOAG. The "Voluntary Population Planning Activities" provision can be found in the [ADS 220san, Cost Reimbursement Implementation Letter Template](#). If the OU elects to include the "Voluntary Population Planning Activities" provision in the DOAG, the OU does not need to include the "Abortion and Involuntary Sterilization Restrictions" provision in the DOAG. If the OU elects to include the "Voluntary Population Planning Activities" provision in the IL, the OU still needs to include the "Abortion and Involuntary Sterilization Restrictions" provision in the DOAG.
 - b.** If HIV activities are included in the scope of the DOAG, the OU must include the HIV-related provisions (found in [ADS 220san](#)) either in an IL, or alternatively in the DOAG.
 - c.** If it is necessary to consider substantive alternative language for any of the health-related provisions, the OU must consult the cognizant RLO and AGC in Washington.
- 3. Section F.3. Prohibition on Assistance to Drug Traffickers.** If the country is

a Major Narcotics Country, according to a yearly Presidential designation published on the U.S. Department of State website, include section F.3.(a), and see [ADS 206, Prohibition of Assistance to Drug Traffickers](#), which lists the required clauses to be included in agreements. Also check the provision on Post Advance Review Procedures in [ADS 206](#) for the vetting requirements for key foreign government individuals before signing a DOAG or DOAG amendment.

4. Section F.4. Workers' Rights. Where workers' rights issues could be relevant, include the clause in section F.4, or per [ADS 225](#), at the Agreement Officer's discretion, a substantive alternative in the agreement.

5. Section F.5. Terrorist Financing. Include this clause in all DOAGs.

350.3.3 Bilateral Project Agreements (BPA)

350.3.3.1 What is a BPA?

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A BPA is an obligating agreement that grants funds to a partner government for achievement of a purpose or objective at a level other than an approved DO. A BPA uses the DOAG format, substituting all instances of "Development Objective Agreement" with "Bilateral Project Agreement" and substituting all instances of "Development Objective" with "Project". A BPA was formerly USAID's main type of grant agreement with partner governments but is not often used.

350.3.3.2 When is a BPA used?

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The decision whether to use a BPA, a DOAG, or an LSGA is based on all the circumstances of a particular situation, although BPAs and LSGAs have been used infrequently. A BPA can be used for activities within, or outside, the scope of an approved DO. There is no definitive formula to decide which instrument to use. Some of the circumstances where a BPA, rather than a DOAG, might be considered include:

- Use of a BPA facilitates attention to, and agreement on, project-level considerations.
- A BPA may be useful for projects where there is no DO. This could include relief activities; country participation in a USAID/W world-wide activity; or an activity starting in advance of DO approval.

A BPA, rather than an LSGA, should be used for projects or activities larger or more complex than appropriate for an LSGA, or where the full, usual delineation of the roles and responsibilities of each party is appropriate.

A BPA may be used for both G2G and non-G2G assistance. A BPA should not be used as a subobligating instrument, such as to subobligate funds already obligated by a DOAG. A BPA should not be used to obligate funds for program assistance.

350.3.3.3 BPA Provisions

Effective Date: 01/30/2024

The guidance for DOAGs in section **350.3.2**, including health-related provisions, is applicable to BPAs.

350.3.4 Limited Scope Grant Agreement (LSGA)

Effective Date: 01/30/2024

OUs are authorized to use a LSGA for obligating funds for less complex activities, or activities where the Grantee has a distinct and limited role that does not require the detailed description of the activity or the Grantee's responsibilities, or inclusion of certain standard provisions, found in a DOAG or BPA (see [ADS 350mab, Limited Scope Grant Agreement Template](#)). LSGAs are generally used to fund a specific activity or result of limited scope and duration, whether within or outside of existing DOs. LGSAs are rarely used. When considered, the cognizant RLO or OU must consult with the cognizant AGC to discuss the suitability of the mechanism.

LSGAs do not require inclusion of considerations normally addressed in the Amplified Project Description Annex of DOAGs and BPAs. They may be useful for small activities outside a Mission's approved DOs or existing DOAGs that do not require these considerations, such as a relief activity or a commodity drop. LSGAs do not contemplate incremental funding or covenants and conditions precedent, nor do they describe procurement and disbursement requirements. Instead, they rely on ILs or Annex 2 (Activity Description) to describe any of the foregoing that might be needed. A DOAG's normal, detailed procurement provisions may not be needed, for instance, where a relief activity consists of USAID's procurement and delivery of specified relief supplies. LSGA Standard Provisions are designed to be used without the need for modification, other than as may be specified in Annex 2 (Activity Description). An OU may want to consider a BPA rather than a LSGA if significant effort would be required to reinsert omitted standard provisions into [ADS 350mab](#).

350.3.4.1 LSGA Title Page and Optional Annex 2 – Activity Description

Effective Date: 01/30/2024

Except as provided below or unless there is an exception, the Title Page or Activity Description Annex must contain or substantively address the following (see [ADS 350mab](#)):

- a. Activity Title and USAID Activity Number.**
- b. Description of the Results of Activity.**

- c. **Purpose.** A statement to the effect that USAID and the Grantee agree to carry out the Activity described in the Agreement in accordance with (a) the terms of the Agreement and (b) the agreement between the two governments regarding economic or technical cooperation (the Framework Bilateral Agreement). If applicable, it is preferable to state the specific title of the relevant Framework Bilateral Agreement.
- d. **USAID Contribution.** A statement as to the authority for the grant and the amount being granted. For example, "USAID, as authorized by the Foreign Assistance Act of 1961, as amended, hereby grants to the Grantee U.S.\$___(the "Grant") to be expended as described in this Agreement."
- e. **Grantee Contribution.** For guidance on use of this clause see section **350.3.2.1.c(4)** regarding DOAGs.
- f. **Completion Date.**
- g. **Contents.** A statement as to what constitutes the LSGA. For example, "This Agreement consists of (a) this Title Page, (b) Annex 1, Standard Provisions Annex, and (c) Annex 2, Activity Description;"
- h. **Addresses.**
- i. **Signatures and Dates.** The Parties must sign and date the LSGA.

350.3.4.2 LSGA Annex 1 - Standard Provisions
Effective Date: 01/30/2024

Except as provided below or unless there is an exception, the text of the following standard provisions is mandatory (the actual text is in [ADS 350mab](#)).

- a. **Article A: Definitions.**
- b. **Article B: Implementation Letters.**
- c. **Article C: USAID Contribution;**
- d. **Article D: Grantee Contribution;**
- e. **Article E: Completion Date;**
- f. **Article F: Utilization of Goods and Services;**
- g. **Article G: Taxation.** For guidance on the use of this clause, see section **350.3.2.**
- h. **Article H: Reports and Information, Agreement Books and Records, Audits,**

and Inspections. For guidance on the use of this clause, see section **350.3.2.2**.

- i. Article I: Completeness of Information.**
- j. Article J: Other Payments.**
- k. Article K: Information and Marking.**
- l. Article L: Rate of Exchange.** The LSGA format leaves disbursement procedures to be described in Annex 2 (Activity Description) or an IL.
- m. Article M: Procurement of Goods and Services.** The LSGA format leaves procurement requirements to be described in Annex 2 (Activity Description) or an IL.
- n. Article N: Suspension, Termination, and Other Remedies.**
- o. Article O: Investment Promotion** (see [ADS 225](#) to determine whether this provision is relevant).
- p. Article P: Language of Agreement.** Mandatory only when the Parties will sign a foreign language version.
- q. Article Q: Health-Related Restrictions.** If the LSGA will finance any health activities or democracy and governance activities that will support constitutional or any health-related legislative reform, the OU is required to insert the language set forth in the first portion of Article P (“Agreement Language”) in the agreement. If the LSGA will finance family planning activities, it must also include the remaining text of Article P (“Implementation Letter”) in the agreement or an IL. If it is necessary to consider substantive alternative language, the OU must consult with the cognizant RLO and AGC in Washington.
- r. Article R: Prohibition on Assistance to Drug Traffickers.** If the country is a Major Narcotics Country according to a yearly Presidential designation published on the U.S. Department of State website, see [ADS 206](#) to determine if the clauses in **ADS 206.3.12** are required.
- s. Article S: Workers’ Rights.** See [ADS 225](#) to determine whether this provision is relevant.
- t. Article T: Terrorist Financing.** This provision must be included in all LSGAs.

350.3.5 Program Assistance Agreements (PAAs)

350.3.5.1 Program Assistance Effective Date: 01/30/2024

Program Assistance, historically known as Non-Project Assistance, is a general resource transfer (e.g., sector program assistance or balance of payments/budget support) to a foreign partner government. It is usually in the form of foreign exchange (dollars) and is frequently based on meeting defined benchmarks or performance indicators. Program Assistance is designed and implemented in accordance with [ADS 201](#) and [ADS 220](#).

350.3.5.2 Program Assistance Requirements

Effective Date: 01/30/2024

Program Assistance must be obligated separately from project assistance, and through a Program Assistance Agreement (PAA). Because of the differences in how USAID obligates and manages Program Assistance versus project assistance (see [ADS 220](#)), Program Assistance may not be subobligated under a DOAG or other type of BAA that is designed for project assistance. Consultation with the cognizant AGC is required to discuss the suitability of Program Assistance.

350.3.5.3 Additional Guidance.

Effective Date: 01/30/2024

Program Assistance and Program Assistance Agreements are subject to the following additional requirements:

a. Interest Earnings.

USAID’s policy is to minimize borrowing costs to the U.S. Treasury by not allowing foreign partner governments to retain interest earned on deposits of program assistance, including cash transfers and sector program assistance. This policy does not apply to Israel, Poland, or any other country for which an exception has been approved. Unless an exception has been approved, Program Assistance Agreements must contain the following language:

The [name of partner government] agrees that any interest earned on funds in the special account must be returned to the United States. Alternatively, the Parties may agree on a method of direct disbursement of grant proceeds by the United States in payment of certain debt or other obligations of the [name of partner government]. USAID will issue a Program Implementation Letter to provide instructions on effecting payment to the United States of any interest earned or on the alternative direct disbursement method.

Substantive exceptions must be based on a compelling foreign policy justification and approved by the cognizant regional Bureau and the Assistant Administrators for PLR and the Bureau for Management (M).

This portion of the ADS supersedes the interim guidance on this topic set forth in 94 State 205189 (“Cash Transfers and Interest Earnings”).

b. Cash Transfer Monitoring and Third Party Authorizations.

Before award of a cash transfer agreement and as part of the risk analyses that are required by [ADS 220](#), the OU must conduct and document an analysis to assess the Grantee's ability to comply with the reporting requirements in the Program Assistance Agreement and whether third party authorizations (for example, from Grantee's creditors) are needed to monitor the grant. If the determination is that third party authorizations are necessary, the OU must obtain them before approving documentation that would permit disbursement, whether through incorporation into the Program Assistance Agreement, Program Implementation Letter, or other appropriate documentation.

This portion of the ADS supersedes 2003 STATE 020049 ("Procedures for Implementation of Cash Transfer Grant Agreements") and applies only to cash transfer agreements, not to other forms of program assistance.

c. Reporting on Implementation.

The designated program manager must, over the life of the agreement, report periodically to senior OU management on grant implementation, such as during Project Implementation Reviews. The program manager must report to senior OU management more frequently in case problems arise.

This portion of the ADS supersedes 2003 STATE 020049 ("Procedures for Implementation of Cash Transfer Grant Agreements") and applies only to cash transfer agreements, not to other forms of program assistance.

350.3.6 Host Government Financial Contribution

350.3.6.1 Host Country Minimum 25 Percent Contribution

Effective Date: 01/30/2024

This section implements section 110 of the Foreign Assistance Act of 1961, as amended, (FAA) which states,

No assistance shall be furnished by the United States Government to a country under Sections 103 through 106 of this Act until the country provides assurance to the President, and the President is satisfied, that such country will provide at least 25 per centum of the costs of the entire program, project, or activity with respect to which such assistance is to be furnished, except that such costs borne by such country may be provided on an "in-kind" basis.

350.3.6.2 Host Government Benefit or Involvement

Effective Date: 01/30/2024

Even though the assistance may be initially obligated in a bilateral assistance agreement, section 110 does not apply unless there is "host government benefit or involvement." Therefore, it is necessary to determine whether an activity involves substantial host

government benefit or involvement. Host government benefit or involvement exists when there is substantial benefit to the host government or direct and substantial involvement by the host government in the administration, management, or control of the assistance.

For example, there is host government benefit or involvement:

1. When the assistance directly finances the costs of a government ministry or contracts to deliver goods or technical assistance to a host government ministry; or
2. Where the host government retains the right in the BAA to approve the detailed terms and conditions of a private sector activity or to predominantly control the personnel, site selection, budget, or program content of a private sector organization and its activity.

Therefore, absent substantial host government benefit or involvement, section 110 does not apply to BAA activities implemented through USAID grants, cooperative agreements, or contracts.

350.3.7 Exceptions to Mandatory Provisions

Effective Date: 01/30/2024

Unless otherwise specified elsewhere in this ADS chapter or in [ADS 220](#), exceptions to mandatory provisions in any of the different types of BAAs may be approved as follows:

- a. A change in the numbering, lettering, or title of provisions or moving provisions within and between parts of an agreement does not require an exception.
- b. The cognizant RLO or the cognizant AGC (for BAAs managed by a USAID/Washington OU) is authorized to approve non-substantive changes, which are those changes that do not substantially alter existing requirements.
- c. Mission Directors or principal officers of an OU are authorized to approve substantive exceptions, subject to the clearance of the cognizant RLO, in consultation with the cognizant AGC.
- d. Exceptions may be approved for a specific agreement or class of agreements.

The cognizant RLO or the cognizant AGC may also make determinations with respect to including or omitting any required as applicable or other BAA provisions that are not mandatory. Doing so does not require any of the additional approvals for exceptions to mandatory provisions described above.

350.4 MANDATORY REFERENCES

350.4.1 External Mandatory References

Effective Date: 01/30/2024

- a. [Sections 110, 124\(d\), and 635\(a\) and \(b\) of the Foreign Assistance Act of 1961, as amended \(FAA\).](#)

350.4.2 Internal Mandatory References

Effective Date: 01/30/2024

- a. [ADS 103, Delegations of Authority](#)
- b. [ADS 155, Privileges, Immunities and Tax Exemptions](#)
- c. [ADS 201, Program Cycle Operational Policy](#)
- d. [ADS 206, Prohibition of Assistance to Drug Traffickers](#)
- e. [ADS 220, Strengthening the Capacity of Partner Governments through Government-to-Government \(G2G\) Assistance](#)
- f. [ADS 225, Program Principles for Trade and Investment Activities and the "Impact on U.S. Jobs" and "Workers' Rights"](#)
- g. [ADS 349, International Agreements](#)
- h. [ADS 350maa, Guidance on Funding Foreign Government Delegations to International Conferences](#)
- i. [ADS 350mab, Limited Scope Grant Agreement Template](#)
- j. [ADS 350mac, Development Objective Agreement \(DOAG\) and Bilateral Project Agreement Template](#)
- k. [ADS 350mae, Development Objective Agreement \(DOAG\) Incremental Funding Notice Template](#)
- l. [ADS 350maf, Host Country Financial Contribution](#)
- m. [ADS 350mag, Development Objective Agreement \(DOAG\) Completion Date Guidance](#)
- n. [ADS 351, Agreements with Bilateral Donors](#)
- o. [ADS 591, Financial Audits of USAID Contractors, Grantees, and Host Government Entities](#)

350.5 ADDITIONAL HELP

Effective Date: 01/30/2024x

There are no additional help documents for this chapter.

350.6 DEFINITIONS

Effective Date: 01/30/2024

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

Bilateral Assistance Agreement (BAA)

A grant by USAID to a foreign government or a subdivision of the foreign government (for example, a ministry, or a local or state government or agency) in furtherance of a Development Objective or for other purposes. Bilateral Assistance Agreements include Development Objective Agreements (DOAGs), Bilateral Project Agreements (BPAs), Limited Scope Grant Agreements (LSGAs), and Program Assistance Agreements (PAAs). **(Chapter 350)**

Development Objective (DO)

Typically the most ambitious result to which a Mission, together with its development partners, will contribute through its interventions. **(Chapter 350).**

Development Objective Agreement (DOAG) (also known as Development Objective Grant Agreements)

The DOAG is the principal bilateral obligating document under which a USAID Mission may make subobligations for contracts, grants, and cooperative agreements, etc. for achievement of a USAID Development Objective (DO). It generally sets forth a mutually agreed-upon understanding between USAID and the partner government of the timeframe, results expected to be achieved and the means of measuring them, and the resources, responsibilities, and contributions of participating entities for achieving a clearly-defined objective. A DOAG is composed of the Principal Text; Annex 1, Amplified Description; and Annex 2, Standard Provisions. **(Chapter 350)**

Implementation Letter (IL)

Formal correspondence between USAID and another party following a formal agreement that obligates funding. Implementation Letters serve several functions, including but not limited to, providing more detailed implementation procedures, providing details on terms of an agreement, recording the completion of conditions precedent to disbursements, providing written notice to the Grantee of USAID's incremental, unilateral obligation to the DOAG (with RLO or AGC clearance; see [section 350.3.2.1.c.2.](#), above) and approving funding commitments and mutually agreed-upon modifications to program descriptions. **(ADS Chapters 201 and 220)**

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) (**ADS 349**).

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