

Ask the Procurement Executive Questions
February 13, 2020

1. How important are HUBzone and SDVO contracting/subcontracting targets to Mission OAA and Program Office staff? We know USAID has not met those targets, even where they are getting better at meeting the small biz mission targets. So, when they are reviewing proposals, are there places/missions that are likely to pay special notice to those two less common SB categories when weighing awards?

Response: Each small business category is important, and this message is conveyed throughout USAID to its contracting and technical staff. Our contracting staff also understand that there is no order of precedence for awarding contracts among the small business programs established by statute: Service Disabled Veteran Owned Small Business (SDVOSB), Historically Underutilized Business Zone (HUBZone), 8(a) Program, and Woman-Owned Small Business (WOSB). The Office of Small and Disadvantaged Business Utilization (OSDBU) and contracting staff work in unison to ensure that our large partners' subcontracting plans include each small business category that has a goal established by law. As an international development agency we continue to grapple with balancing the need to increase our cadre of capable small businesses while meeting the annual goal for each socio-economic program. However, we will continue to work with the Missions, as well as the Bureaus, to identify full and partial set-asides for small businesses.

2. USAID continues to use new and innovative mechanisms for engaging partners. Can USAID provide information on guidance around Choice of Instrument, particularly the USAID Mission use of co-creation, multi-phase procurements and BAAs?

Response: During the external listening tour undertaken as part of the EPPR process to formulating the reform agenda, it became clear that USAID's partners and A&A practitioners felt that enhanced guidance regarding BAA formulation was needed to most effectively leverage the instrument. The A&A Lab, in conjunction with M/OAA and EPPR, is currently refining a tool kit for A&A practitioners in the field. Similarly, the Lab, EPPR, and M/OAA are exploring opportunities to support phased competition, including the use of voluntary down-select. The intent in all of these efforts is not to affect the selection of instrument but to enhance collaboration at all phases of design, procurement, and implementation.

3. USAID procurements use adjectival ratings to score offers, however, other USG agencies/departments provide very specific definitions of what each "Adjective" means.

Can USAID consider introducing procurement-by-procurement guidance on the specific definition of these adjectival ratings or provide guidance for staff on how to use adjectival ratings?

Response: Similar to other agencies, USAID provides guidance to COs and Technical Personnel on adjectival definitions as well as best practices and use. These are outlined in the Source Selection Plan (SSP) see [Source Selection Plan Guidance and Template \(Contains Standardized Adjective Rating Table for Evaluation\)](#). While the Agency provides guidance and tools for their contracting staff we allow COs the latitude to revise definitions as needed to suit their procurement needs.

4. Can USAID please provide clear and consistent instructions when a Performance Work Statement is used for the technical approach of proposals, specifically requirements for language that does not identify the applicant or their partner organizations? In the absence of clear instructions, it is very difficult to demonstrate experience and partnerships that are foundational to the design of approaches and interventions.

Response: There are numerous sources available on PWS and the most important takeaway is that a PWS has two mandatory features which are (1) the work is stated in terms of outcomes or results, rather than methods of performance and (2) measurable performance standards and a method of assessing contractor performance against those standards. The Contracting Officer of the PWS would be able to provide clear and consistent instructions regarding the various requirements to include language. [Linked here is one resources to get started with](#). If an RFP is unclear or inconsistent regarding PWS instructions, offerors are to submit questions in accordance with the RFP. Each RFP provides unique proposal instructions, and questions related to clarity and inconsistencies are to be addressed by the issuing Contracting Officer.

5. How is OAA dealing with increases in grants within assistance programming--especially when dealing with the Administrator's push to use more small and medium-sized grants for more private sector engagement within host countries where managing so many smaller and multiple grants require more procurement oversight?

Response: The Administrator approved hiring additional Civil Service staff and Foreign Service Officers. We need to increase our Acquisition and Assistance workforce to responsibly manage our development and humanitarian programming. In the short- to medium- term, we are asking Foreign Service Contracting Officers to actively support each other to balance workload globally, across traditional boundaries (e.g., Mission; region).

While some centralization of support services is inevitable in the current staffing posture, supporting each other across country and regional boundaries will help ensure that we preserve bilateral support as the proven model that delivers the best development results and the most development impact. Additionally, we provide TDY support to the field and have FSNs come to Washington so we are proactive in trying to manage workload and to have more strategic posturing overall.

6. If State Dept. decides to ramp up support for any post-peace agreement programming in Libya, is USAID prepared to staff those RFPs and will Tunisia continue to serve as the operational platform for Libya programming and procurements?

Response: Any increase of assistance and procurement support would be coordinated out of the USAID presence in the Libya External Office in Tunis with substantial support from the Middle East Regional Platform where our CO/AO for Libya is based, as well as some of the key technical staff who would be drafting the statements of work and program descriptions.

7. Should a peace agreement with the U.S, GIRoA and Afghan Taliban be achieved in the next few months, does USAID have enough procurement officers in the field to staff any ramped-up programming thereafter such drastic cuts at the Kabul Mission and Embassy?

Response: We are working with the Mission and the Bureau to develop alternate models to support our important programs in Afghanistan. We anticipate that we will continue to rely upon the talent that we have in our Acquisition and Assistance workforce to support the Agency's development initiatives.

8. We acknowledge the revision to ADS 303.3.18a effective August 1, which requires the completion of a Performance Review for Assistance Awards, and which is in line with EPPR recommendations. We take very seriously the responsibility that taking US taxpayer dollars has in achieving our mission and fully support the Agency's initiative to ensure greater accountability in award performance. We would like to voice our concern regarding the lack of a provision for recipient review-and-comment with the Performance Review for Assistance Award process. Can USAID please clarify its intent in this regard and the extent to which any consideration can be given to further revisions to the ADS to allow for a more collaborative review process, in line with existing regulations related to Contractor Performance and Risk Assessments (CPARs)?

Can USAID also discuss how they see this change advancing or hindering the agency's broader objective to advance the J2SR?

Response: This template was put in place pursuant to an audit recommendation to aid the AO's risk assessment as required under 2 CFR 200 and it is not a CPARS evaluation. The review and evaluation of a recipient's performance and the requirement to review the risk posed by applicants are not new requirements. As part of the review the Federal awarding agency may consider "The applicant's record in managing Federal awards, if it is a prior recipient of Federal awards, including timeliness of compliance with applicable reporting requirements, conformance to the terms and conditions of previous Federal awards, and if applicable, the extent to which any previously awarded amounts will be expended prior to future awards." (2 CFR 200.205(c)(3)). The Agency has mandated the use of a template (Performance Review Template (PRT)) to assist Agreement Officers and Agreement Officer's Representatives in collating information to assess risk. The PRT serves as part of a risk-based approach in evaluating risks posed by applicants. The PRT allows Agreement Officers (AOs) and AORs to assess recipient performance information in a timely manner. AOs and AORs can access and use PRTs to inform future risk assessments for a recipient or applicant. Additionally, the PRT may serve as a step toward government-wide goals in consistency and shared performance data. Prior to putting this template in place, we consulted with OMB regarding their efforts to put a past performance assessment system in place for the entire Federal Government to use. OMB indicated that this was under consideration and that individual agency should hold off on pursuing individual systems. The Performance Review template is available here:

<https://www.usaid.gov/work-usaid/resources-for-partners/performance-review-template-assistance-awards>

The Journey to Self Reliance requires creative approaches to program design and partnering. The Agency's new risk management posture acknowledges the need to change how USAID does business in order to achieve that creativity. Accurate and timely performance ratings will provide key feedback on the efficacy of these approaches to program design and partnering mechanisms.

9. Can USAID please discuss OMB's proposed changes to its uniform grant guidance, per 85 Fed.Reg. 3766-3809 (January 22, 2020), and how grantees could be prepared to engage with USAID to identify successes, challenges, and feedback on implications of these revisions.

Response: The proposed revision to 2 CFR 200 is open for public comment through March 23, 2020. Partners should submit comments through the Federal Register as

indicated in the “Addresses” section of the proposed rule. It would be premature for the Agency to discuss proposed changes to 2 CFR 200 before public comments have been received and adjudicated, and before the final rule is issued.

10. In 2019, USAID revised ADS 303 to impose a new requirement for AORs to prepare a Performance Review (PR) form for each assistance award within 45 days of its "completion date". The completed form is to be retained in the Agency's ASIST database and used for assistance award recipient/applicant risk assessments. A form dated July 2019 was created containing the Template to be filled out by the AOR and reviewed by the AO; some very limited guidance is provided in ADS 303 as well as the Template itself. As of the date this question is being prepared, the hyperlink for the Template connects only with USAID's intranet rather than the internet; implementing partners and other interested members of the public cannot access it. The lack of access and limited guidance, combined with the major potential impact of the new form on assistance recipients and applicants, have generated concerns among our member organizations. These include, but are not limited to, the following:

Our understanding of USAID's policy as stated (among other places) in ADS 156.1 and 156.3 is that when stipulations being considered for Agency adoption affect the rights and interests of "outside parties" including the general public, a rulemaking will generally be conducted. It does not appear that any procedure was undertaken with respect to the PR. Our members urge USAID to involve the public in matters of this type and obtain their input before guidance - - even sub-regulatory guidance, is issued.

Implementing partners who perform acquisition instruments tell us that major issues have arisen in connection with the CPAR forms and procedures applied to procurement contracts. Problems exist in both policy and practice despite highly detailed guidance in the FAR, supplemented by GSA government-wide guidance and agency-specific guidance issued by Federal agencies such as USAID. Our members are concerned that similar problems are likely to be encountered in the context of PRs that will have to be resolved in a regulatory vacuum.

For example, procedurally, the FAR stipulates that contractors are to be given formal notice of the proposed content of a CPAR as well as an opportunity to comment extensively before the document is finalized. An administrative process is specified according to which a contractor may request review and revisions both in ratings and narratives at a level above the Contracting Officer. Assessments can also be contested under the Contract Disputes Act. Implementing partners believe that these fundamental "due process" rights are essential to ensuring fairness.

However, no such processes or rights are provided for in the PR Template or the ADS 303 changes issued to date. It is not clear that the recipient or applicant will receive any notice of the completed PR forms posted on ASIST. Our members would very much appreciate USAID reconsidering the current stipulations with a view to establishing the same (or, at a minimum, comparable) protections for assistance.

The extensive guidance concerning performance assessment for contracts also contain many other substantive precepts that in actual practice help maintain the fairness of the system and the validity of the resulting narrative ratings and scores. Among these are (1) repeated instructions for Contracting Officers to limit the evaluation to facts rather than opinions; (2) requirements to avoid consideration of "stale" information; (3) admonitions against reducing ratings to punish contractors for exercising their legal rights such as the right to file claims or disputes; (4) recognition that ratings should reflect a contractor's actions with respect to matters within its reasonable control, along with acknowledgment that some factors result from the U.S. government's own acts or the actions of other parties involved in the process. None of these or other important points are mentioned in the documents currently available to our members.

Considering all of this, does USAID plan to issue further guidance on these or other aspects of the PR process soon? Our members would very much appreciate your doing so and would welcome an opportunity to provide feedback on such guidance in draft and/or on additional issues in this area that would merit consideration by the Agency.

Response: The review and evaluation of a recipient's performance and the requirement to review the risk posed by applicants are not new requirements. As part of the review the Federal awarding agency may consider "The applicant's record in managing Federal awards, if it is a prior recipient of Federal awards, including timeliness of compliance with applicable reporting requirements, conformance to the terms and conditions of previous Federal awards, and if applicable, the extent to which any previously awarded amounts will be expended prior to future awards." (2 CFR 200.205(c)(3)). The Agency has mandated the use of a template (Performance Review Template (PRT)) to assist Agreement Officers and Agreement Officer's Representatives in collating information to assess risk. The PRT serves as part of a risk-based approach in evaluating risks posed by applicants. The PRT allows Agreement Officers (AOs) and AORs to assess recipient performance information in a timely manner. AOs and AORs can access and use PRTs to inform future risk assessments for a recipient or applicant.

Additionally, the PRT may serve as a step toward government-wide goals in consistency and shared performance data.

As always, the Agency will consider issuing guidance when necessary to assist AOs and AORs with their duties and responsibilities.

11. Submission of single audit reports through the Federal Audit Clearinghouse for non-US recipients. Per M. 2, “The recipient must have an annual audit, consistent with 2 CFR Part 200, Subpart F...(1) The audit report must be submitted to USAID within 30 days after receipt of the auditor’s report, but no later than nine months after the end of the period audited...” Does this requirement apply only to instances where the Non-US recipient is a direct recipient of USAID funds? Are primes able to submit the reports of any Non-US subrecipients to USAID for review?

Response: This requirement to submit audit reports through the Federal Audit Clearinghouse only applies to U.S. based recipients who have prime awards with USAID. This requirement does not apply to Non-US recipients at all.

No, primes are not able to submit the reports of any Non-US subrecipients to USAID for review because this is the prime recipients responsibility to review the sub awardees reports and resolve any audit findings.

12. Would OAA confirm that this additional requirement does not obviate the requirement of 2 CFR 200.512 Report submission, (b)(1) which requires that the auditee must submit the SF-SAC through the Federal Audit Clearinghouse within 30 days of issuance of the report?

Response: The review and evaluation of a recipient’s performance and the requirement to review the risk posed by applicants are not new or additional requirements. The Performance Review Template (PRT) assists Agreement Officers and Agreement Officer’s Representatives in collating information to evaluate risks posed by applicants, including “Reports and findings from audits performed under Subpart F—Audit Requirements of this part or the reports and findings of any other available audits.” (2 CFR 200.205(c)(4)) The requirement for the recipient (as the auditee) to submit required data elements as described in Appendix to Part 200 is a government-wide requirement and is unaffected by the Agency’s internal use of a template to review performance. The use of the PRT does not remove the requirements of 2 CFR 200.512 for the auditee’s report submission.

13. There is growing interest among implementers in purchasing carbon offsets for approved international and local flights and vehicle mileage under USAID programs. There is a question as to whether carbon offsets would be an allowable cost under these programs.

The cost of a carbon offset appears to be allocable, one test of allowability, since it would be incurred in direct relation to the approved cost of the trip. The nominal cost of a carbon offset per metric ton of emissions suggests reasonableness, another test of allowability.

An additional demonstration of allowability can be found at 2 CFR 200.300, which states in part that Federal agencies must manage and administer Federal awards in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with U.S. statutory and public policy requirements, including, but not limited to, those protecting the environment. Federal Regulations (22 CFR 216 or “Reg. 216”) and USAID’s Automated Directives System (ADS), particularly Parts 201.3.12.2.b and 204 and require, in part, that the potential environmental impacts of USAID-financed activities are identified prior to a final decision to proceed and that appropriate environmental safeguards are adopted for all activities and will be monitored according to the approved Environmental Mitigation and Monitoring Plan (EMMP). Additional bases include the Clean Air Act and Executive Order 13677 “Climate-Resilient International Development”. By purchasing carbon offsets, implementers can assist USAID in protecting the environment in accordance with applicable statutory and public policy requirements, as well as help further USAID’s own Climate Risk Management (CRM) efforts.

Given this, would the Procurement Executive consider issuance of an agency-wide determination of allowability of carbon offsets and, if possible, promulgation of recipient/contractor implementing guidelines?

Response: There is no mention of carbon offsets in 2 CFR 200, the Federal Acquisition Regulation, or the Federal Travel Regulation; consequently, the costs would not be allowable for USAID-funded travel. Considering the complexity of carbon offset claims (16 CFR 260.5) and the current administration’s goal of balancing environmental protection with economic output, the decision to accept carbon offsets as allowable costs should probably be addressed at a higher level than the USAID Procurement Executive.

14. Our members would appreciate greater clarity on the factors scrutinized by USAID when NGOs employ non-competitive procurement options. Would USAID consider issuing more guidelines on their interpretation of the four noncompetitive procurement options and what their expectation is of NGOs for adequately documenting their use of these options? For instance, if an NGO determines a needed service is only available from one consultant, what is the level of scrutiny USAID would apply and what factors do they look to?

Response: The Agency follows 2 CFR 200.320 and does not have additional guidance on this topic. If there are specific issues that are being encountered, we would encourage organizations to engage with their CO/AO. And if this question relates to large inconsistencies please let us know and we can look at it more broadly.

Specifically to the question on non-competitive options -- a compelling justification is what is required to meet these requirements of 2 CFR 200.320(f). It has to be something in which there was no other option - it is persuasive. When we do justification to limit competition, I'm looking at is it compelling and persuasive? For example, to say that no market research that has been performed would not be a compelling answer for noncompetitive status because market research has to have been performed to come to the conclusion that there is no market competition. Each case is specific.

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from limited sources and may be used only when one or more of the following circumstances apply:

- (1) The item is available only from a single source;
 - (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
 - (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity;
- or
- (4) After solicitation of a number of sources, competition is determined inadequate.

15. At a recent IAPG meeting in Brussels, members discussed:
- a. Joint Procurement (multiple NGO agree on BOQ/SoW and Criteria and launch one tender that results in multiple contracts with same vendors (Vendor 1 <-> NGO1, NGO2, NGO3 etc)
 - b. Piggybacking clause – one NGO solicits the contract and other NGO can use the same contract under same conditions when and if needed. Both discussions

come from the fact that almost all NGOs do independent tendering for the same categories of goods/services and often among a rather limited number of suppliers (i.e. USAID/OFDA pharmaceuticals prequalified wholesalers list) that result in a huge amount of effort, time and money with often similar results.

The benefits of the above two models:

- a. Savings in cost: 1) consolidated volumes usually ensure better prices and 2) some NGO are known to have lower volume of spend in certain categories which prevents them from achieving better prices (volume discount) and this would open the door for them to benefit from larger NGOs buying and negotiation power; and
- b. Savings in time and energy: when we consider that each tender including preparation (market assessment against needs) and tendering (solicitation, advertisement, analysis of offer, Legal review and contracting, etc.) takes 4-6 months and if we multiply this by number of NGO (ie 30) and number of Contract types (categories ie medical, IT, vehicles) we get combined years of effort and this happens every year/few years depending on contract duration cycle.

What is the USAID's stand on above two points, and would it be approved under USAID to conduct these types of procurements? Would the auditors accept them as valid (conditional they are obtained following USAID procurement principles? Is USAID considering adapting HPC (Humanitarian Procurement Center) concept, like DG ECHO has? If not, what may be the reason?

Response: Both Acquisition & Assistance instruments have regulations/policies regarding proper procedures for prime contractors issuing subcontracts and how Grantee/Agreement holders' issues subawards/contracts. Those contractors and Grantee/Agreement holders would have to ensure that they are following those regulations/policies, their internal policies and document the decision-making methodology.

We are unfamiliar with the EU's laws/regulations/policies/procedures regarding procurements by contractors and/or Grantee/Agreement holders (Partners) to decide as to whether USAID would be able to adapt/apply Humanitarian Procurement Center concept given US statutes/laws/regulations.

16. What is USAID's position regarding the new proposed OMB changes to 2 CFR 200.414(h) that would, if implemented, require USAID Cooperative Agreement Recipients to make public their proprietary, confidential Negotiated Agreements for Indirect Costs Rates? Has USAID considered the impact such disclosure would have on competition both for Cooperative Agreements and Contracts if NICRAs are required to be made public?

Response: The proposed revision to 2 CFR 200 is open for public comment through March 23, 2020. Partners should submit comments through the Federal Register as indicated in the "Addresses" section of the proposed rule. It would be premature for the Agency to discuss proposed changes to 2 CFR 200 before public comments have been received and adjudicated, and before the final rule is issued.

17. In recent RFPs/RFTOPs, we witnessed a complete shift by USAID from the scoring/assigning point values methodology for evaluating technical proposals to a qualitative methodology that does not use a points system, and in some cases relies on a "level of confidence" judgement.

- a. Please clarify the process by which Missions and Operating Units (OUs) determine the evaluation methodology for a particular Technical Proposal.
- b. How does the Agency ensure a fair evaluation of offerors' proposals using qualitative methodologies when these can be seen as more subjective than qualitative methods?

Response: USAID does not have the statistics on the various evaluation methodologies being utilized by the various Missions and USAID/Washington office; however, it is possible that particular COs or technical areas are utilizing specific methodologies more consistently. There is no mandatory policy or stated preference on the methodology to be used, as one method is not considered inherently better than the other. As long as the requirements of FAR 15 are met. The Agency ensures that the requirements of FAR 15 are met, and utilizes the best value continuum as described in FAR 15 to design competitive acquisition strategies suitable for the specific circumstances of the acquisition.

Agency also has templates and guidance on the use of adjectives. Similar to other agencies, USAID provides guidance to COs and Technical Personnel on adjectival definitions as well as best practices and use. These are outlined in the Source Selection Plan (SSP) see [Source Selection Plan Guidance and Template \(Contains Standardized Adjective Rating Table for Evaluation\)](#). While the Agency provides guidance and tools for their contracting staff we allow COs the latitude to revise definitions as needed to suit their procurement needs.

18. We have heard from multiple COs that they are being pressured to lower CPAR scores, particularly to Satisfactory ratings and/or stop giving out Exceptional ratings. Does the Agency have any guidance on this topic that has gone out to COs/CORs? When we have received Exceptional and Very Good in past, and then the comments are essentially the same, but the rating is now Satisfactory, it appears that we are not performing to past high quality, which is not the case. This is not only important for the management of the current project, but critical to past performance reviews in the bid process.

Response: There has been no pressure or guidance coming from M/OAA or Agency leadership to lower scores. We are emphasizing ensuring that the standards that are applicable across the federal government in the different categories, provided in the systems, and as trained to, are more appropriately understood and complied with, but there is no pressure, etc to dictate a particular score or level.

The OIG's report "USAID's Award Oversight is Insufficient to Hold Implementers Accountable for Achieving Results" concluded that USAID does not adequately adhere to CPARs rating processes. Further, OIG also called CPARs ratings that were submitted "questionable." The OIG stated, "None of the sampled acquisition awards received a rating less than satisfactory (the average rating was 4, or 'very good')—regardless of their performance. For example, one implementer received satisfactory ratings despite the CO indicating that the services rendered did not meet USAID standards and the award had to be extended twice to improve the quality of work." The OIG went on to observe that programs that failed to achieve results generally rated higher than those that did achieve 100% of desired results and that the two worst-performing programs audited received satisfactory ratings. These findings and a desire to strengthen the Agency's partner base, prompted USAID to "do a hard reset" on how CPARs is used in evaluating performance. Enhanced and now-mandatory training on CPARs is designed to ensure that ratings are more in line with federal standards and that performance can be assessed objectively across the Agency. It is possible, then, that shifts in ratings any one partner may observe may not be the result in shifts in that partner's own performance but, rather, reflective of a broader standardization of ratings across the Agency.

Our goal is to make sure individual Contracting Officers and their representatives understand the federal standards and that apply them in a more consistent basis across the board.

19. In the last two years, USAID has released a number of Broad Agency Announcements with the stated goal of encouraging collaboration with the private and public sector when facing a development challenge that does not have a clear solution and when there appears to be an opportunity for innovation. In the last 18 months, USAID has released several BAAs within the democracy, human rights, and governance sector. On this topic, we have the following specific questions about the use of BAAs:

- a. Has OAA conducted any stock-taking or reflection to analyze whether these BAA processes have met their goals, resulted in projects with more innovative or alternative program designs than might have been achieved through alternative solicitation processes, or had more beneficial results in some sectors than in others?
- b. What percent of BAAs resulted in funded projects?
- c. Are there any lessons learned from these BAA processes that might be shared to the broader development community continuing to participate in these processes with the Agency?

Response: During the EPPR external listening tour within the partner community, a consistent theme centered on the potential over-reliance on the BAA mechanism and questions regarding its efficacy in a variety of scenarios. Internal working groups, as part of the EPPR process, examined when and how often USAID employed BAA's and how well the mechanism achieved desired results. Since that time, M/OAA and USAID General Counsel have been drafting guidance regarding the use of BAA and the A&A Lab has been developing a field guide for A&A practitioner use on the topic of co-creation tools, including and beyond BAA. Concurrently, EPPR is actively developing guidance around the use of other collaborative mechanisms such as Global Development Alliance (GDA), Annual Program Statements (APS), multi-step requests for RFP and RFA and Statements of Objectives (SOO). EPPR reforms have also prompted the Agency to change the way we look at conference memos and justifications to restrict eligibility in an effort to increase collaborative exchange earlier in the program design and procurement processes.

Highlighted below are the total number of awards and obligations issued through BAA in FY 2018 and FY 2019.

FISCAL YEAR	OBLIGATED AMT	# of AWARDS
FY2018	\$63,257,950.68	44

FY2019	\$67,301,650.67	17
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Grand Total	\$130,559,601.35	6
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20. Is there a new policy out of OAA regarding holding contractors to the line items in their proposal budgets? We are seeing a trend with COs/CORs where for CPFF contracts, they are holding us to the budget in our cost proposal. The budget is an estimate, but the CO/CORs are holding us to each line item amount. EX: We budget X as a blended rate for an Economist. We identify someone, and USAID rejects them because their rate is above the blended rate in the proposal.

Response: The new policy related to line items implements the requirements in FAR subpart 10.4 on the uniform use of line item structure in the award. It is available in [ADS 302mbn, Uniform Use of Line items](#). This policy specifies how the contract line items should be stated in the contract award. Subsequent monitoring of costs is based on the amounts specified in the contract budget and not on the contractor's cost proposal.

21. USAID awards include an AIDAR clause or a standard provision that addresses reimbursement and reporting of VAT. The standard award language leads implementers to believe missions have established procedures to seek reimbursement, yet in 60 of 116 countries where USAID implements foreign assistance there are no reimbursement procedures. What can USAID do to revise/clarify award language for those missions that have no procedures and to develop established procedures? PSC is supportive of the Journey to Self-Reliance and believe one initial step in implementation is the reimbursement of VAT.

Response: USAID issued a Procurement Executive Bulletin (PEB) in 2017 that includes guidance to staff on VAT. You can access the [PEB here](#). It is noted that Embassies, other U.S. government agencies, and program implementers should refer to the relevant State Department point of contact with any questions regarding the appropriate format for reporting and for clarification of the accounts subject to reporting.

22. Has guidance and/or training been provided to Mission contracts staff regarding the new biodata form and determining compensation? If so, it would be helpful if this could be shared so that we understand the parameters they are working with. [We continue to get very strange and difficult requests, such as for current salary (current salary isn't

HISTORY, it's current!) and general reluctance to accept market data as anything that isn't a third-party national salary survey with the exact same title/position listed.].

Response: We held a worldwide conference call for our staff when we issued the new form. We also shared the full list of questions we received from the partner community with our staff.

Given that we removed the consistent data element - salary history, the determination of the rate is within the COs discretion after considering the market, among other factors and may include salary history. We are collecting input from our A&A staff and plan to provide a Webinar in the future to cover any remaining questions on this topic.

We will also engage the community further on this issue and are welcome to additional insights or feedback.

23. Can USAID please comment on expectations for recent and upcoming requirements for IT security, cloud computing, and ICT purchases, including Security Assessment and Authorization, FISMA/NIST standards and FedRamp certification? As a small business, we just don't have the bandwidth or funds to fulfill some of these requirements (i.e. a 3PAO approval, etc). What are plans? Is it possible to provide some language that would reduce applicability of the clauses based on company size, or purchase threshold, or exclude normal office computer, mobile phone and internet service purchases that don't directly touch USAID systems?

Response: Currently, USAID does not have a plan to reduce the applicability of federal information security requirements for solutions that a contractor may develop in support of an award or for direct Agency use. Normal office computers, mobile phones and ISPs that don't directly touch USAID systems must follow the applicable information security guidelines and federal prohibitions but as a general rule, Security Assessment and Authorization, FISMA/NIST standards and FedRamp certification do not usually apply to these.

All contractors should work with their COR to determine the applicability of different standards and mandates. The Office of the CIO works with CORs to provide specific technical support as necessary to ensure compliance with the applicable requirements.

24. USAID has made significant progress with small business contracting goals. Are there target goals for HUBZones, Women-Owned Small Businesses, and Economically Disadvantaged Women-Owned Small Businesses at Mission and

headquarter bureaus. What steps does USAID plan to increase contracting in these areas? Will any USAID contracts be set-aside for WOSB, SDVOSB, etc?

Response: Fiscal Year (FY) 2019 marked the tenth consecutive year that USAID exceeded its Small Disadvantaged Business (SDB) goal with awards totalling \$387.6 million, or 7.17 percent. The Agency also exceeded its Women-Owned Small Business (WOSB) goal of 5 percent with awards equating to \$297.7 million, or 5.50 percent. There were slight increases in the Historically Underutilized Business Zone (HUBZone) and Service-Disabled Veteran owned small business (SDVOSB) programs as well. Agency leaders will continue to support activities that facilitate inclusion of small businesses during the acquisition planning process. Prior to conducting market research, acquisition staff cannot determine if a procurement will be set aside for a specific small business program. However, OSDBU will continue to work closely with technical staff and contracting officials to identify procurements that meet the small business set aside criteria.

25. What are USAID's views of the recently adopted final SBA revised rules on limitations on subcontracting? (SBAIC welcomes SBA's efforts to address our concerns; the final rules are more expansive than our specific requests, and we are still analyzing them and formulating our views.)

Response: We are aware of the U.S. Small Business Administration's rules, including the one adding exceptions to the limitations on subcontracting. While we are still reviewing other rules, we wanted to use this opportunity to remind that any revisions to the Federal Acquisition Regulations will be going through the standard rulemaking process, including coordination with civilian agencies and OMB.

26. What efforts is USAID undertaking, beyond regular training and orientation activities, to address inherent and often unfounded perceptions and hence bias on the part of some Missions and/or Contracting Officers (COs) that U.S. small businesses are not well-suited for implementing large, complex programs? We would suggest that training is needed for contract officers and for technical project officers who sit on Technical Evaluation Committees to mitigate subjective biases against small businesses that influence their evaluations, to really drive home USAID's emphasis on small business contracting as part of the New Partnerships Initiative.

Response: In October 2019, the Agency's newly appointed Industry Liaison, a member of the Bureau for Management, Office of Acquisition and Assistance (M/OAA), teamed

with the Office of Small and Disadvantaged Business Utilization (OSDBU) to enhance the Agency's partnership engagement material and activities. In addition, the Industry Liaison has collaborated with the OSDBU and Agency leadership to refine the New Partnerships Initiatives (NPI) small business messaging, and to ensure that small business interests are included in NPI's primary key approaches. The Bureau for Management, Professional Development and Training (PDT) and the OSDBU training for acquisition staff includes the elements of NPI. It is the Agency's policy to require annual training for staff involved in Acquisition and Assistance (A&A) planning, including members of Technical Evaluation Panels.

27. Can USAID update the forecast regularly for all upcoming opportunities? For some opportunities, USAID provides information only through the Q&A and does not update the forecast regularly for all opportunities. Receiving updates every 3-6 months only via the Q&A makes it difficult to plan.

Response: With USAID's live feed Business Forecast we encourage Contracting and Agreement Officers review information on a regular basis. We use our quarterly question and answer sessions as an opportunity for partners to ask questions about specific opportunities. We will do continued outreach to our staff to ensure that they are updating the Forecast in a timely manner.

28. We understand that as part of Procurement Reform, USAID is using new procurement mechanisms and tools. Can you provide some examples beyond the ADS process and co-creation tools?

Response: In response to much of what EPPR learned through its external listening tour, the Agency has worked to expand use of procurement mechanisms underutilized by USAID. For example, as part of the New Partnerships Initiative, the Agency has begun employing mechanisms like strategic sub-awards in which at least 50% of award is pass to a sub-partner. NPI has also solicited partnerships using leverage, where a partner mobilizes non-US government resources drawn from, potentially, a foundation, philanthropy, or other donor sponsorship. Small Business Applied Research (SBAR) grants visibility will benefit from its new position within the NPI umbrella of resources. Outside of NPI, EPPR is prompting the Agency to explore increased Grants Under Contracts (GUCs) thresholds, reinvestment of program income, phased competitions, pay for results models, evergreening of proposals such as used in DIV, deployable and scalable innovations, expanded use of GDA, and other adaptive management tools. Changes to policies on conference memos and justification to restrict eligibility will enable the Agency

to continue to engage partner communities early in the engagement to maintain a consistent dialogue on the effectiveness of this stable of procurement mechanisms and others employed throughout the development community and federal government.

29. Regarding the update to ADS 303.3.18a and the requirement for the AOR to conduct a written performance review, will the award recipient have an opportunity to review and comment on the review? As these will be maintained in a permanent and accessible record within USAID to inform future risk assessments, it would be helpful for recipients to understand how they are being reviewed as an opportunity to improve performance, and/or provide additional information or context for the record. Additionally, since this is similar to the CPAR (Contractor Performance and Risk Assessment), which requires that reviews are shared with the contractor, we would like to propose a similar approach with USAID for assistance awards.

Response: The Agency has mandated the use of a template (Performance Review Template (PRT)) to assist Agreement Officers and Agreement Officer's Representatives. The PRT serves as part of a risk-based approach in evaluating risks posed by applicants. The PRT allows Agreement Officers (AOs) and AORs to assess recipient performance information in a timely manner. AOs and AORs can access and use PRTs to inform future risk assessments for the recipient or applicant. The PRT requires no new or additional information from recipients but is based on available data and an AOR's normal monitoring and evaluation function. Unlike CPARS, the PRT is not a method for assigning prescribed ratings to a recipient's performance. It is an information-collating tool for use in the Agency's responsibility to assess the risk posed by applicants.

30. Under the New Partnership Initiative, it appears that current U.S.-based partners are receiving funding to provide assistance to local organizations. Can you provide some information on how the partnership structure for the U.S. organizations is intended to work under the NPI, and how those procurement decisions were made to those U.S.-based organizations?

Response: NPI seeks to strengthen in country capacity to support the journey to self reliance.

Many local, U.S.-based, and international development partners operate locally in partner countries and deliver impactful development programs, often with significant private or non-USG assistance, but with little to no financial support

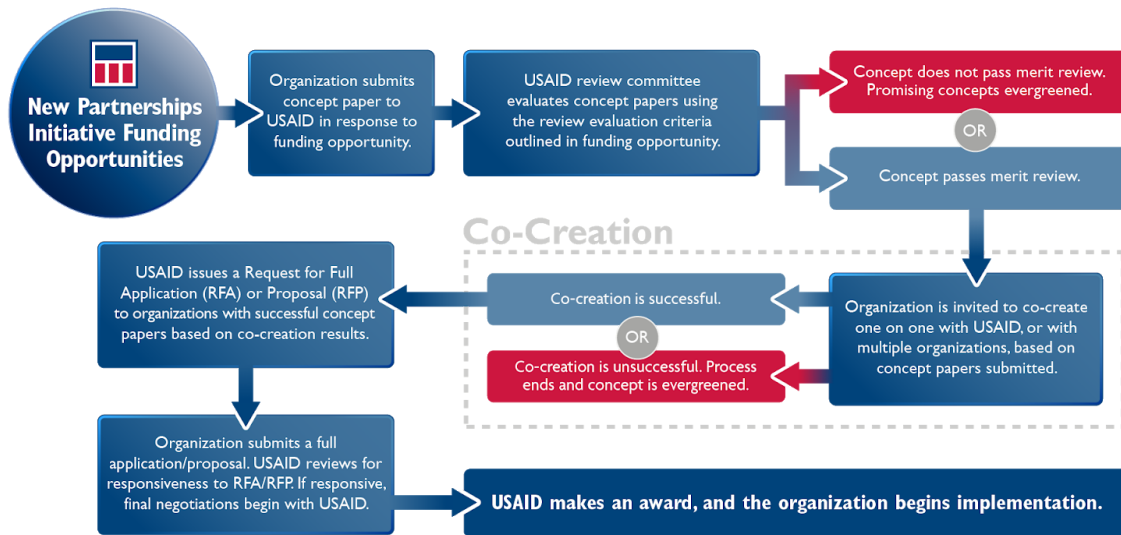
from USAID, especially in recent years. These organizations are essential to build long-term local capacity and provide services, accountability, and sustainability in the partner countries USAID prioritizes.

In addition, many of our well established USAID partners that are not local provide essential and effective support in building local capacity, managing compliance and technical oversight, while getting the job done with development outcomes. Last April, we created a new local partner category, locally established partners could capture this additional element of local partner capacity building. And we created four modalities of partnership that involve US and international organizations in various ways, either as local partners, or as established partners that can provide this capacity building support. So we priorities these different approaches in the following way:

To reach these organizations, USAID is prioritizing different approaches to partnerings:

- 1) Direct awards to new and underutilized organizations such as local entities, locally established partners, and U.S.- and locally based small businesses.
- 2) Sub-awards to new and underutilized organizations designed to support more facilitative partnerships for effective local engagement. We often call these “mentoring awards.” One good recent example is, under the Global Health NPI APS, Palladium was the awardee and has an award which will commit 60% of total funding to sub-awards to strengthen those local partners to lead in their implementation and become strengthened through the prime’s assistance.
- 3) Direct awards to partners to leverage significant private/non-U.S. Government funding to promote effective local engagement.

NPI works closely with Agency offices to define problem statements and craft APS solicitations. The below flow chart provides a guide on how this process has unfolded in NPI awards to date.



*Process may vary for different opportunities. Please read each opportunity for full details on process.

31. Will in-country co-creation processes be standardized going forward?

Response: The Journey to Self Reliance requires USAID to become less prescriptive in our awards and solicitations and offer more inclusive opportunities for partners in country to craft the approach that will meet our strategic imperatives, and, as appropriate, define an activity’s objectives. The Agency is committed to host-country-driven design, appreciating that achieving results and catalyzing sustainable solutions relies on tailored programs. As a result, co-creation, especially as realized through an expanding portfolio of mechanisms, cannot ever be truly standardized. In order to elevate best practices around co-creation, the A&A Lab will publish in the spring a co-creation field guide and toolkit, highlighting examples and resources for A&A practitioners. In fulfillment of multiple EPPR recommendations, M/OAA and the A&A Lab will support a community of practice and knowledge management platform for contracting and assistance officers around the globe to share knowledge and practices around co-creation. Stay tuned for the toolkit and for further policy guidance around co-creation.

32. Can USAID indicate in forecast updates if USAID will use a concept note/oral presentation/cocreation/full proposal or application process or just the standard full proposal or application process?

Response: USAID has requested Contracting and Agreements to include this information in the description section of the Agency's Business Forecast. We are also looking into how we can include this information as a searchable field in the future.

33. Can USAID be more mindful of holidays (i.e. Eid and Christmas/New Year) when releasing solicitations. While INGOs may be able to mobilize over holiday periods, issuing solicitations over this holiday period can make it more difficult to collaborate with local and/or underutilized partners who can provide critical inputs into project design for successful projects.

Response: Each year M/OAA leadership issues notices to Agency Contracting Officers to ensure that responses to solicitations or proposals take into account holidays. We will continue this practice in the future.

34. Can USAID provide more transparency on how decisions are taken around the selection of funding mechanisms?

Response: The Agency has dedicated significant efforts to improve A&A determinations and has issued amplifying guidance, as well as revised policy to provide more clarity on how the selection of instrument decisions are made. As part of EPPR effort, we've also been advancing on the assistance side, the use of concept papers, on the acquisition side, we've been trying to advance more statement of objectives. We're also working on co-creation and collaborative process on the acquisition side. We're also working on additional guidance on phased or two step procurements. I think many of you are familiar with mandatory and voluntary down select that is possible to be utilized. We're trying to find ways to find ways for all of the partners to become more involved early on and engaged in the process earlier in the design of the solicitation process. We're hopeful that the more successful we are in this space, that the less concerns and issues will arise on selection of instruments.

USAID Operating Units (OUs), Planners, Contracting Officers (COs), and Agreement Officers (AOs) follow Agency policy, procedures, and guidance in [ADS 304, Selecting the Appropriate Acquisition and Assistance \(A&A\) Instrument](#) when making decisions on selecting the appropriate mechanism. The OU designates the Planner who, in consultation with the CO/AO, is responsible for drafting and documenting the recommendation for the selection of instrument. The CO/AO reviews the Planner's recommendation and supporting documents and makes the final determination on the selection of instrument in accordance with applicable statutes, regulations, and policies. The [Federal Grant and Cooperative Agreement Act \(FGCAA\)](#) requires an agency to use a contract as the appropriate legal instrument reflecting a relationship between the agency and the organization when: (1) The principal purpose of the instrument is to acquire property or services for the direct-use or the direct-benefit of the

United States Government; or (2) The agency decides, in a specific instance, that the use of a procurement contract is appropriate. The FGCAA requires an agency to use a grant or cooperative agreement as the legal instrument reflecting a relationship between the agency and the prime awardee when the principal purpose of such relationship is to transfer a thing of value to the prime awardee to carry out a public purpose of support or stimulation authorized by federal statute. Final OMB FGCAA implementation guidance on the agency decision structure for selection of instrument states, “The determinations of whether a program is principally one of procurement or assistance, and whether substantial Federal involvement in performance will normally occur are basic agency policy decisions. A determination that a program is principally one of procurement or assistance does not preclude the use of any of the types of instruments when appropriate for a particular transaction. Congress intended the Act to allow agencies flexibility to select the instrument that best suits each transaction.”

35. Can USAID provide an update on the number of IDIQ/IQC or LWA mechanisms issued in FY18 and FY19?

Response: Highlighted below are the numbers of IDIQ and LWA awards from FY 2018 and FY 2019.

FISCAL YEAR	PROC_INST_NM	# OF NEW AWARDS
FY2018	Associate Award	41
	Indefinite Quantity Contract	50
	Leader Award	12
FY2018 Total		103
FY2019	Associate Award	32
	Indefinite Quantity Contract	56
	Leader Award	5
FY2019 Total		93
Grand Total		196

36. There are examples where choice of instrument decisions appear to conflict with ADS 304. Is there a process in place for USAID to review the COI decision by an AOR/COR to ensure adherence to ADS 304, perhaps through the Ombudsman’s office?

Response: Ombudsman Implementing Partners should reach out to the Ombudsman if they believe the Agency did not follow ADS 304 in the Choice of Instrument decision.

The Agency is committed to following our ADS and will make all efforts to reconcile any conflicts.

37. Could the procurement executive provide some examples of what it would take to fulfill requirements for eligibility to bid on future work as a “locally established partner”, and whether we might expect any procurement with eligibility restricted to “local entities” will also include “locally established partners”?

With regard to an example of the above, it would be particularly useful to elaborate on examples of what it may mean to comply with:

- a. A portfolio of locally-implemented programs?
 - i. Would this mean signature by a local designated representative of any award, award modifications or similar?
- b. In general, what kind of local legal registration – or what kind of local registration would NOT qualify.
- c. Would having a locally established governing body be a requirement?

Response: It is appropriate to acknowledge that “local entity” is a congressionally designed definition while “locally established partner” is laid out in ADS.

A local entity is an individual or organization that:

1. Is legally organized under the laws of a country that is receiving assistance from USAID;
2. Has its principal place of business or operations in a country that is receiving assistance from USAID;
3. Is majority-owned by individuals who are citizens or lawful permanent residents of a country that is receiving assistance from USAID; and,
4. Is managed by a governing body, the majority of whom are citizens or lawful permanent residents of the country that is receiving assistance from USAID.

A locally established partner is a U.S. or international organization that works through locally-led operations and programming models. LEPs:

1. Have maintained continuous operations in-country for at least five years and materially demonstrate a long-term presence in a country through adherence or alignment to the following:
 - a. Local staff should comprise at least 50% of office personnel,
 - b. Maintenance of a dedicated local office,
 - c. Registration with the appropriate local authorities,

- d. A local bank account, and,
 - e. A portfolio of locally-implemented programs.
2. Have demonstrated links to the local community, including:
- a. If the organization has a governing body or board of directors, then it must include a majority of local citizens (i.e. in the host country, this is not required);
 - b. A letter of support from a local organization to attest to its work; and
 - c. Other criteria that an organization proposes to demonstrate its local roots.

Typically, to date, in the co-creation stage, with the submission of a concept note, a LEP would self-certify their locally established status. Should the process move forward to a call for applications, the Agency will exercise due diligence in order to verify LEP status in accordance with local regulations and practice. Round 2 of the Global Health NPI APS was specifically for locally established partners. To see how USAID provided a funding opportunity for this, please refer to “NPI GH APS Round 2 Expanding Health Partnerships” on Grants.gov:

<https://www.grants.gov/web/grants/view-opportunity.html?oppld=318376>