AWARDING FIXED OBLIGATION GRANTS TO NON-GOVERNMENTAL ORGANIZATIONS

An Additional Help Document For ADS Chapter 303

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I. PURPOSE

The purpose of this additional help document is to provide Agreement Officers (AO) and Agreement Officer’s Technical Representatives (AOTR) with guidance on how to draft, award and administer Fixed Obligation Grants (FOG) to Non-Governmental Organizations (NGO), particularly non-U.S. NGOs with limited or no previous USAID experience. The guidance should help AOs and AOTRs ensure that

- Risks are assessed and mitigated
- The recipient can fulfill the objectives of the grant
- USAID can close out the grant and evaluate the results

II. USE OF FIXED OBLIGATIONS GRANTS

When used appropriately, a FOG provides several advantages for both USAID and the recipient. It focuses on outputs and results, limits risk for both parties, and requires only limited financial and management capacity.

Appropriate activities for FOGs include, but are not limited to:

- Conferences
- Studies
- Surveys
- Workshops
- Policy papers
- Disaster or humanitarian relief and assistance
- Technical development assistance when costs can be segregated by milestone

Development sectors that lend themselves to the use of FOGs include, but are not limited to, education, health, agricultural development, and disaster assistance. As stated in ADS 303.3.25, FOGs are not appropriate for infrastructure or construction projects.

FOGS and institutional capacity building. A FOG can be used for many activities and can be awarded to grantees with any level of experience. However, when awarding to a non-US NGO with little or no experience in receiving and implementing USG grants, a FOG can provide a manageable vehicle for both USAID and the recipient and assist in building institutional capacity as the recipient completes the grant activities. During the period of a FOG, these NGOs, including local and community organizations, have the opportunity to strengthen and improve their internal procedures, systems, and policies. By doing so, they can then improve their ability to access and manage resources from USAID or other donors.

An organization with limited or no experience in receiving USG grants, as a recipient of a FOG, will often need the assistance of USAID at all stages, including pre-award and post-award, for compliance with USAID requirements and successful completion of the grant. Relevant Mission or Bureau staff should provide assistance
and guidance to these NGOs to help them improve their own organization, accounting and other systems, and overall institutional capacity. This assistance will help NGOs to qualify for future funding from USAID and other donors and for larger amounts on a reimbursable basis. These considerations should be part of the overall program implementation strategy. Due diligence in the planning and pre-award stages is essential to a successful activity under a FOG.

III. SETTING MILESTONES AND STRUCTURING PAYMENTS

When drafting a FOG, the milestones do not necessarily reflect costs incurred by the recipient, but the combined total of the milestones must reflect the expected costs incurred. Instead, milestones are based on a verifiable product or goal of the recipient. The recipient may need to procure equipment or property (excluding real property) for its own use or for beneficiaries of its program in order to accomplish a milestone. When this is the case, the milestone(s) must be structured to identify any equipment or property the recipient needs to accomplish the purposes of the grant. The terms of the grant must authorize the recipient to procure the identified equipment or property, state that title is with the recipient, and include disposition instructions. The AO and technical office must ensure that any purchases comply with (1) USAID source, origin, or nationality rules (ADS 310, 311, and 22 CFR 228) or that appropriate waivers are in place, and (2) policies for restricted commodities (ADS 312). By establishing the recipient’s equipment or property procurement needs during the development of the milestones and then ensuring that waivers and approvals are properly in place as soon as possible, the AO and technical officer/AOTR facilitate the recipient’s performance of the grant.

Allocation of payments based on milestones should enable the recipient to move forward with the activity and help obtain assets needed for the next milestone. The milestones should provide an incentive for the recipient to complete activities through the end of the grant.

The initial milestone is critical for providing the recipient with financial liquidity and the ability to continue activities. Generally, it should reflect some realistic accomplishment that can be verified by the AO or AOTR.

Examples of initial milestones are:

- Drafting and submitting an implementation plan for the grant as whole, if one was not included with the application and used to determine the milestones themselves
- Purchase orders of supplies or materials
- Recruiting and training new staff

When making an award to a non-U.S. NGO with limited or no previous USAID experience, the recipient may have limited resources to initiate the activity or maintain a sufficient reserve of funds during implementation and through the completion of the grant. The AO and activity manager are encouraged to work with the recipient to structure milestones payments that facilitate an initial mobilization of
the grant and provide sufficient liquidity for the recipient to achieve the next milestone. The initial milestone should be established reasonably early in the grant period, for example, 14 days after the award of the grant, and generally no later than 30 days after award. Subsequent milestones should be established as frequently as is reasonable for the recipient’s program and the period of the grant. Frequent milestones, such as every 30 days, reduce risk for both the recipient and USAID and allows for effective oversight of the grant. Generally, milestones should be set quarterly or more frequently.

Advances may be authorized when providing liquidity through an initial financing milestone is not sufficient to meet implementation requirements, provided the recipient has the capacity to effectively manage U.S. Treasury advances, and meets the checklist capabilities presented in paragraph 6 of the FOG Entity Eligibility Checklist. Recipients not eligible for a Letter of Credit may utilize the working capital advance methodology. See ADS 636 and the Treasury Financial Manual, Volume I, Part 6, Chapter 2000, Section 2000.20 for additional procedural information. A working capital advance may be provided up to one time annually to meet liquidity needs. Advances will be liquidated based on completed milestones.

IV. COMPETITION

As is the case for all assistance instruments, FOG’s must be awarded through competitive procedures except when one of the exceptions to competition set forth in ADS 303.3.6.5 applies to the FOG.

When competing prospective FOGs, AOs are not restricted to using Requests For Applications and are encouraged to consider Annual Program Statements (APS) that cover a broad development sector. The use of an APS may be an efficient method for competing FOGs.

To be efficient, an APS should provide a streamlined process for applicants and USAID evaluators. One approach would be for the APS to request a preliminary budget of no more than two pages and a concept paper of no more than five pages. An SF-424 may be used but is not required. Evaluation of the concept paper should be on a pass/fail basis to avoid complex or numerous evaluation criteria. The evaluation process should be clear and transparent and include sufficient criteria to establish priority for funding.

When the Mission or Bureau has sufficient capability, applications may be submitted in the applicant’s native language without requiring a translated copy. However, in accordance with ADS 303.3.19, the APS or RFA should state that the official language of all awards will be English.

The Mission may consider holding a pre-bid meeting with potential applicants in order to explain the FOG application process.

V. FOG APPLICATION PROCESSING
After the technical office evaluates the concept papers, the AO then requests the selected organizations to submit an application with the minimum necessary information to determine responsibility consistent with the procedures in 303.3.25 and the FOG Entity Eligibility Checklist, set milestones, and make an award. When considering making an award to a non-U.S. NGO with limited or no previous USAID experience, the AO and Activity Manager should, when necessary and as appropriate, assist the organization with refining budgets and implementation plan details for the application.

In preparing the budget, sufficient cost information is necessary for the AO to negotiate milestones as well as ensure that the funds requested and provided in the FOG are a reasonable and realistic indication of the actual cost of the effort. A rigorous cost analysis of the activity is critical to the successful use of the FOG mechanism. The Controller and AO should work closely with the applicant to include all reasonable and realistic costs the applicant can expect to incur to complete the milestones.

In preparing the milestones, the Activity Manager and AO should work closely with the applicant to determine whether the proposed program will require the purchase of any equipment, goods or services that would require a waiver under 22 CFR 228, ADS 310 or ADS 311. If a waiver is required, the Activity Manager should begin the waiver process immediately, and the AO should condition the payment of the milestone related to the required purchase on the approval of the waiver.

VI. RISK ASSESSMENT

The AO uses the FOG Entity Eligibility Checklist to assess the NGO’s capacity and capabilities for accomplishing the milestones. If the assessment identifies weaknesses or deficiencies in the organization that call into question the ability of the organization to complete the proposed activity, the technical office and the AO, as part of the risk assessment required in ADS 303.3.25a, should document the weaknesses and deficiencies and describe the mitigation measures to reduce or eliminate the risk of failure to the organization and the Agency. Mitigation measures may include, but are not limited to the following: capacity building technical assistance, including but not limited to financial management and procurement functions; or, increased monitoring visits to confirm adequate progress on milestones.

VII. AWARD AND ADMINISTRATION OF FIXED OBLIGATION GRANTS

a. Post-award orientation meeting. After the award of the FOG, the AO and AOTR are encouraged to conduct a post-award orientation meeting with the recipient. The post-award orientation meeting is an essential tool to help USAID and the recipient achieve a clear and mutual understanding of the FOG’s requirements. The meeting helps a recipient with limited or no USAID experience understand the roles and responsibilities of USAID officials administering the grant and reduces performance risks and future problems. It is an opportunity to review, discuss and clarify key aspects of the grant and its administration, help the recipient meet the intended goals and outputs of the grant and contribute to building the recipient’s
institutional capacity. In addition, it should identify those areas where the recipient may need additional help in meeting the grant’s conditions.

Items to be discussed at the meeting should include, but not be limited to, the authority of USAID personnel who administer the grant, the specific terms and conditions of the grant, USAID’s monitoring and evaluation plans, milestones, requests for payment, voucher approval, and payment procedures.

b. Monitoring and Site Visits. Because monitoring of the recipient and the grant activities is based on milestones, and is not tied to incurred costs, it is important that the AO and AOTR conduct appropriate monitoring and oversight of the recipient. To mitigate risks, the AO, AOTR, or other representative is encouraged to conduct site visits frequently to ensure that satisfactory progress is being made and the milestones are being met.

c. Amending Milestones. As authorized in ADS 303.3.25c, the AO may amend milestones or increase milestone payments during the period of the grant if conditions affecting the ability of the recipient to meet the milestone or cost assumptions change for reasons beyond the recipient’s control. Such conditions may include, but are not limited to, natural causes (“force majeure”) or political upheaval, but they should not be the result of reasonably foreseeable events. The amended milestones should be consistent with the program the original milestones intended to implement. If the AO determines that multiple or substantial amendments indicate that the recipient is unlikely to accomplish the program and that continuing the grant is no longer in the best interests of the government, then the AO may terminate the grant and consider settlement costs for partially finished milestones.

d. Payment. All requests for payment must correspond to a milestone specified in the FOG. The AOTR or AO independently verifies and documents that the milestone has been completed; however, the AOTR or AO may choose to rely on verification by a third party verifier. Documentation may include trip reports of site visits to verify that the recipient completed the milestone(s) (see b. above).

Only the AOTR or the AO may give administrative approval of recipient vouchers. Because FOGs provide for fixed payments based on milestones, differences between the estimated costs and recipient’s actual incurred costs cannot be used to adjust the agreed upon amount for the milestone.

e. Local capacity development of non-U.S. NGOs with limited or no previous direct experience with USAID or the USG. If the recipient of a FOG is such an organization and one of purposes of the FOG is to build that organization’s capacity, then access to the organization’s financial records or the accounting, recordkeeping and overall financial management systems may be necessary in order to provide technical support or other assistance to the NGO. Because FOGs to non-U.S. nongovernmental organizations are not subject to annual audit requirements (ADS 591.3.2.1g), the AO should secure the recipient’s agreement to allow USAID access to these records and systems. The AO should emphasize to both the recipient and other USAID personnel that the purpose of this access is
solely for providing technical assistance to the recipient in capacity building, and cannot be used to audit costs related to the FOG. However, if in the course of providing technical assistance, the AO or AOTR identify questionable accounting practices or possible improper conduct on the part of the recipient, then the AO will take appropriate action, including notifying the Agency suspension and debarment official if appropriate.

VIII. OTHER RESOURCES RELATED TO CAPACITY DEVELOPMENT

- Where Do You Turn When Looking for Capacity Development Resources?
- Human and Institutional Capacity Development
- Human and Institutional Capacity Development Handbook