

INTRODUCTION

About this Guide:

This guide is intended to provide quick access to the key regulations governing implementation under USAID-funded cooperative agreements and grants:

- 2 CFR 230 (OMB Circular A-122 – Cost Principles for Non-Profit Organizations);
- 22 CFR 226 (OMB Circular A-110 – Administration of Assistance Awards to US Non-governmental Organizations, as implemented by USAID);
- USAID’s Standard Provisions for US NGOs; and
- 22 CFR 228 (Procurement of Commodities and Services Financed by USAID Federal Program Funds).

I’ve also included some notes on audits, with brief references to OMB Circular A-133.

This is not an authoritative analysis of these regulations. Nor does it contain the full text of any of these regulations. This is intended solely as a quick study guide, to help NGO staff to easily find the regulations that govern their work.

Links are to the official versions of these regulations posted on USG websites as of early December, 2012.

The commentary is based on years of experience working with these regulations and stands on the shoulders of countless colleagues who have shared their experience over those years.

PLEASE HELP ME TO KEEP THIS INFORMATION CURRENT. Send corrections, comments, embellishments, etc. to don@helpwithregs.com. If I add your commentary to this volume, I’ll send you an updated edition.

SPECIAL NOTE: During 2013, OMB is revising and consolidating all the regulations (OMB’s Circulars) governing assistance awards into a single volume. This proposed revision was announced in the Federal Register in FEB 2013 (see [78 FR 7282](#)). The full text of the proposed revised regulation is available [here](#). **IF YOU ARE READING THIS AFTER ABOUT 01SEP2013, THEN THIS GUIDE IS PROBABLY OUT OF DATE.**

A note to help make the guide easier to use in Acrobat is on [page 2](#).

The Guide starts on [page 3](#).

How to Make Acrobat Work Better with this QuickGuide

You’re going to want a “back button,” so you can navigate in this QuickGuide in much the same way that you do in your browser.

Here’s how to get such a button in Acrobat:

Acrobat (both Reader and Pro) has this navigation facility built-in, but it’s not necessarily easy to find.

The command you want to use is “View|Page Navigation|Previous View” (or “|Next View,” if you’ve already jumped backward using this tool).

It’s more convenient to have the “buttons” for this two-way command attached to your toolbar. To put these buttons on your Acrobat toolbar, do the following:

1. Right-click in the toolbar and select `Page Navigation`.

You’ll get a dropdown that offers all the page navigation tools.

2. Click to check the tool(s) you want.

They’ll show up in your toolbar for all docs that you view with Acrobat.

[Proceed to the QuickGuide.](#)

USAID Rules & Regs Quick Study Guide

Links to the Quick Guide

Selected Items of greatest interest to staff who incur costs in the following areas:

[Distinguishing between “acquisition” and “assistance”](#)

[Basic Rules of Cost that everyone needs to know](#)

[Categorically Unallowable Costs](#)

[Direct Costs that Require Prior Funder Approval](#)

[Hiring/Payroll/Benefits Administration/Other HR stuff](#)

[Travel Costs](#)

[Procurement of Goods and Services](#)

[Property Management](#)

[Branding/Marking](#)

[Cost Sharing and Program Income](#)

[Program Reporting](#)

[Program Closeout](#)

[Budget Preparation & Subgrants](#)

[About Audits \(and Circular A-133\)](#)

Travel Links

Specific Limitations on Travel Costs

Travel costs ([2 CFR 230 App. B.51](#))

Travel and International Air Transportation (June 2012) ([USAID SP - US - M17](#))

Exchange Visitors and Participant Training (June 2012) ([USAID SP - US - RAA04](#))

Foreign Government Delegations to International Conferences (June 2012) ([USAID SP - US - RAA13](#))

Additional Guidance on Travel Costs (in the absence of org. policies)

Department of State Standardized Regulations ([DSSR](#)) (as referenced by Travel and International Air Transportation (June 2012) ([USAID SP - US - M17](#)))

Procurement Links

General Cost Allowability

Advertising and public relations costs ([2 CFR 230 App. B.01](#))

Communication costs ([2 CFR 230 App. B.07](#))

Publication and printing costs ([2 CFR 230 App. B.38](#))

Recruiting costs ([2 CFR 230 App. B.41](#))

Transportation costs ([2 CFR 230 App. B.50](#))

Procurement of Property (“Goods” – Equipment, Supplies, etc.)

Equipment and other capital expenditures ([2 CFR 230 App. B.15](#))

Materials and supplies costs ([2 CFR 230 App. B.28](#))

Procurement Standards ([22 CFR 226.40-49](#))

USAID Eligibility Rules for Goods and Services (June 2012) ([USAID SP - US - M08](#))

Rules for Procurement of Commodities and Services Financed by USAID ([22 CFR 228](#))

- Identification of the authorized principal geographic procurement codes. ([22 CFR 228.03](#))
- Source of commodities. ([22 CFR 228.11](#))
- Nationality of suppliers of commodities and services. ([22 CFR 228.12](#))
- Long-term leases. ([22 CFR 228.18](#))
- Special source rules requiring United States manufacture or procurement. ([22 CFR 228.19](#))
- Motor vehicles ([22 CFR 228.19\(b\)](#))
- Ocean transportation and Air transportation ([22 CFR 228.21 & .22](#))
- (Waivers) General. ([22 CFR 228.30](#))

51. Travel costs

a. Travel costs are expenses incurred by personnel on official business of the recipient organization. They include transportation, lodging, subsistence and other incidental costs of the travel.

- Travel costs may be charged on actual cost basis or per diem or mileage basis in lieu of actual costs, or a combination of the two, as permitted by the organization's policies.
- Whatever method is used, it must be used for the entire trip.

b. The basic standard of reasonableness is compliance with the recipient's written policy, consistently applied to all travel regardless of funder. Absent a written policy, the standards are [5 USC 5701-5761](#) and/or [48 CFR 31.205-46\(a\)](#).

c. (1) Commercial airfare costs are limited to customary standard commercial fares ("coach or equivalent"), except when such fares would require circuitous routing, require travel during unreasonable hours, unreasonably prolong travel, result in additional costs, or offer accommodations not reasonably adequate to the traveler's medical needs.

DOCUMENTATION is required, whenever "coach or equivalent" is not used.

c. (2) USG will not generally question the recipient's determination that customary standard airfare is unavailable for specific trips, **subject to adequate documentation** and the absence of a "pattern of avoidance."

The HR department often manages organization policy with regard to traveler's medical needs.

d. Costs of travel by other than commercial carrier (charter, leased, organization-owned, etc.) may not exceed the cost of travel by commercial carrier.

e. Foreign travel is allowable as a direct cost to an award only with prior AO approval of each separate trip.

Foreign Travel is defined as follows: "any travel outside Canada, Mexico, the United States, and any United States territories and possessions. However, the term 'foreign travel' for a non-profit organization located in a foreign country means travel outside that country."

See [USAID's Standard Provision on International Travel](#) for how USAID documents prior approval.

52. Trustees

Travel and subsistence costs of trustees are allowable subject to the conditions in Item 51, above.

M15 - Conversion of United States Dollars to Local Currency (November 1985)

Requires the recipient to check with the local mission “upon arrival, and from time to time as appropriate” on procedures for converting USD to local currency.

Usually, you just follow your organization’s accounting policy.

M16 - Use of Pouch Facilities (August 1992)

Archaic. This is most likely meaningless to your agreement.

M17 - Travel and International Air Transportation (June 2012)

Defines the rules for prior approval of international travel.

These notes are for the SPs revised by USAID in June 2012. At this writing, AOs are incorporating these into new awards and gradually updating existing awards. You may want to check out the differences between the two sets. For that, [see this comparison chart](#).

Invokes the Cost Principles and the recipient’s written travel policy. Says to use the [DSSR](#) as the standard of reasonableness in the absence of a written policy.

Invokes “Fly America” and requires documentation of non-availability when using non-US flag carriers. But also invokes “Open Skies” for EU, Australia, Switzerland and Japan. (Some restrictions apply.)

Defines terms.

- “Travel costs” means cost of the tickets plus lodging, subsistence and incidental expenses while in travel status.
- “International air transportation” means travel by persons or transport of cargo between the US and any other country or between any two points outside the US.

The language “any two points outside the US” is *partly* consistent with OMB’s language in [2 CFR 230, App. B, Item 51](#), but this SP omits OMB’s clarifying “However, the term ‘foreign travel’ for a non-profit organization located in a foreign country means travel outside that country.” In a 05DEC12 M.OAA Policy Mailbox posting, USAID advised AOs as follows: “We will be revising the language in the provision to be consistent with 2 CFR 230, but for now, please follow 2 CFR 230.” ***Air travel within the host country should not need AO approval.***

- “US flag air carrier” means a carrier named on [this list](#) OR *code shares* when the issued ticket (itinerary) shows travel on a flight number belonging to one of the listed carriers.

Must be included in subawards and contracts. [Continues on next page.]

(M17 continued)

*This provision gives you all you need to know about Fly America. Follow the rules in this provision and you will be in compliance with Fly America. **BE SURE TO DOCUMENT NON-AVAILABILITY OF US-FLAG CARRIER, when applicable.***

Basically, these rules are as follows:

1. Use US flag air carriers whenever available for all international air travel and transportation.
2. When you don't use a US-flag carrier, **non-availability must be documented.**
3. Documentation of non-availability applies to each leg of any trip. So **you must document non-availability for every leg of a trip that doesn't use US-flag carrier.**
4. "Non-availability" means:
 - a. no US-flag carrier operates at all on the trip leg in question; OR
 - b. travel was on an EU-flag carrier; OR
 - c. the trip leg began or ended in Australia and was on an Australian airline; OR
 - d. the trip leg began or ended in Japan and was on a Japanese airline; OR
 - e. the trip leg began or ended in Switzerland and was on a Swiss airline; OR
 - f. the trip was 3 hours or less in duration and use of a US flag carrier would have at least doubled the trip duration; OR
 - g. use of a US flag carrier would have increased total trip duration by more than 24 hours; OR
 - h. no direct service is offered by a US flag carrier and using a US flag carrier:
 - i. increases the number of aircraft changes by 2 or more; or
 - ii. extends travel time by 6 hours or more; or
 - iii. requires a layover at an overseas interchange of 4 hours or more.

M18 - Ocean Shipment of Goods (June 2012)

Requires use of US-flag vessels when transporting goods by sea. Provides a USAID contact to help in assuring compliance.

*Must be included in subawards and **contracts**.*

M19 - Voluntary Population Planning Activities – Mandatory Requirements (May 2006)

Must not spend award funds on involuntary sterilizations, financial incentive to sterilize, abortion related activities, or biomedical research related to abortions or involuntary sterilizations.

M20 - Trafficking In Persons (June 2012)

USAID may terminate the award if any recipient or subrecipient employee trafficks in persons, procures a commercial sex act or uses forced labor during the award period.

*Must be included in subawards and **contracts**.*

M21 - Submissions to the Development Experience Clearinghouse and Publications (June 2012)

Defines “intellectual work.”

Requires 1 copy of any *published* intellectual work and a list of all non-published intellectual work (funded by the award) to be provided to the AOR and to DEC (<http://dec.usaid.gov>).

Provides for correct allocation of publishing costs.

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RAA01 - Negotiated Indirect Cost Rates - Predetermined (April 1998)

Ask your accountant.

RAA02 - Negotiated Indirect Cost Rates - Provisional (Nonprofit) (April 1998)

This is the one that applies to most NGOs. Basically, this invokes the applicable cost principles (2 CFR 230 etc.).

Ask your accountant if you have more questions.

RAA03 - Negotiated Indirect Cost Rate - Provisional (Profit) (April 1998)

Ask your accountant.

RAA04 - Exchange Visitors and Participant Training (June 2012)

“Exchange visitor” is any HCN (“Host Country National”) or TCN (“Third Country National”) traveling to the US *for any purpose*.

“Participant training” is any activity, whether formal or informal, where the participant “interacts with a knowledgeable professional, predominantly for the purpose of acquiring knowledge or skills for the [participant’s] professional or technical enhancement.”

Requires the recipient to **report via TraiNet** on all training accomplished outside the host country (“exchange visitor” stuff) **AND on all training accomplished *inside the host country*** where the training contact is of 2 consecutive days (any number of contact hours) or 16 or more contact hours (any number of days, consecutive or not).

Establishes health and accident insurance, immigration, language proficiency, pre-departure orientation, and numerous other requirements for exchange visitors.

RAA05 - Voluntary Population Planning Activities – Supplemental Requirements (January 2009)

“Activities which provide family planning services **or information** to individuals, financed in whole or in part under this agreement, must provide a broad range of family planning methods and services available in the country in which the activity is conducted or **must provide information to such individuals regarding where such methods and services may be obtained.**

The above might be of concern in the case that your project ends up broadcasting PSAs for a family planning project.

Extensive other restrictions on voluntary sterilization and prohibition of abortion-related activities.

*Must be included in subawards and **contracts** that involve family planning or population activities supported by the award.*

RAA06 - Protection of the Individual as a Research Subject (April 1998)

Provides numerous protections to safeguard the rights and welfare of human subjects of research.

Presumably, this includes public opinion polls and the like. In such cases, this mostly runs to protecting anonymity of informants.

RAA07 - Care of Laboratory Animals (March 2004)

Requires registration with the Sec. of Agriculture prior to engaging in such experiments. Controls the source of such animals and provides rules for care of the animals.

RAA08 - Title to and Care of Property (Cooperating Country Title) (November 1985)

Provides rules for management and disposition of such property under this fairly unusual circumstance. Basically, the recipient manages the property the same way they manage their own (or USG-owned) property, but the title remains in the host country and the gear remains in the host country when the project ends.

Strict inventory controls apply.

RAA09 - Cost Sharing (Matching) (February 2012)

If the recipient doesn't meet cost share commitments, the AO **may** reduce the amount of USAID funding **OR require the recipient to refund the difference to USAID.**

Source and nationality restrictions on goods and services do not apply to cost share.

RAA10 - Prohibition of Assistance to Drug Traffickers (June 1999)

Reserves USAID's right to terminate the project or take other action if any "participant approved by USAID" is found to have been convicted of narcotics offense or to have engaged in drug trafficking. Refers to 22 CFR 140.

This is restricted to "Designated Participants" – participants or subrecipients who have been *unilaterally* selected by USAID. USAID approval (only) doesn't count as "designation." So unless USAID has unilaterally named the subrecipient (or participant), this provision doesn't really apply. Additionally, it applies only in "designated countries." But note that nearly all countries in the world are so designated.

Provides a mandatory clause for inclusion in all subawards.

RAA11 - Investment Promotion (November 2003)

If you have any doubt as to whether or not one of your activities involves "investment promotion," ask your AO for instructions.

Recipient employees must be made aware of this provision when it's included in the award agreement.

RAA12 - Reporting Host Government Taxes (June 2012)

Requires reporting of "foreign taxes" (i.e. "VAT") whenever paid on transactions of USD \$500 or more.

Requires the recipient to take advantage of any tax exemptions for which the AO has provided necessary means for doing so.

RAA13 - Foreign Government Delegations to International Conferences (June 2012)

Clearly defines "foreign government delegations" and "international conferences" and prohibits using USG funds to finance travel and related costs for such delegations to such conferences.

RAA14 - Conscience Clause Implementation (Assistance) (February 2012)

Provides that recipient organizations shall not be required "to endorse or utilize a multisectoral or comprehensive approach to combating HIV/AIDS" or to participate in any program to which the organization "has a religious or moral objection." Also provides that such a dissenting organization shall not be discriminated against on the basis of such dissent.

RAA15 - Condoms (June 2005)

Requires that information provided through the funded program about the use of condoms "must be medically accurate and must include the public health benefits and failure rates of such use." Also requires that any such information must be consistent with the USAID fact sheet, "USAID: HIV/STI Prevention and Condoms."