# ADS Chapter 320

# Branding and Marking

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**Functional Series 300 – Acquisition and Assistance**
**ADS 320 – Branding and Marking**

***This chapter has been modified in its entirety.***

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# ADS 320 – Branding and Marking

## 320.1 OVERVIEW

Effective Date: 01/08/2007

ADS 320 contains USAID's policy directives and required procedures on branding and marking USAID-funded programs, projects, activities, public communications, and commodities with the USAID "Standard Graphic Identity" (or "USAID Identity.")

"Branding" refers to how a program or project is named and positioned, who it is from; it identifies the sponsor of the work.

"Marking" refers to applying graphic identities or logos to program materials or project signage to visibly acknowledge contributors; it identifies organizations supporting the work.

The "USAID Standard Graphic Identity" is the trademark, by commercial usage, of the United States Agency for International Development.

The policy directives and required procedures in this chapter apply to the following:

- All USAID direct contracts, in accordance with section **320.3.2**;
- Grants and cooperative agreements to both U.S. and non-U.S., non-governmental organizations (see **320.3.3**); and
- Other types of implementing instruments, as more fully discussed in **320.3.4**.

The policy directives and required procedures in this chapter do not apply under the conditions stated in section **320.3.5**.

ADS 320 is authorized by **Section 641 of the Foreign Assistance Act of 1961, as amended**, which provides that "[p]rograms under this Act shall be identified appropriately overseas as 'American Aid.'" Branding and marking requirements for assistance are also authorized by **22 CFR 226.91**.

## 320.2 PRIMARY RESPONSIBILITIES

Effective Date: 01/08/2007

**a.** **USAID Principal Officers** are responsible for the following:

(1) Ensuring that USAID programs and the staff under their management control comply with the policy directives and required procedures for branding programs and marking program materials according to the appropriate requirements outlined in this chapter;

(2) Designating a USAID employee to be responsible for communicating USAID branding and marking policy to other employees in the operating unit (See **320.3.1.1**);

(3) Informing counterpart host-country government officials and their implementing partners about USAID marking requirements and the host-country government's responsibilities, and negotiating any changes;

(4) Ensuring an understanding of USAID branding and marking requirements by the U.S. Embassy, Ambassador or U.S. Principal Diplomatic Officer, Public Affairs Officer, and other relevant U.S. government officials and agencies who co-fund or co-manage programs;

(5) Administering the waiver policy directives and required procedures in this chapter (see **320.3.2.6**); and

(6) Approving any special circumstances or Mission-specific policy directives and required procedures (see **320.3.1.7**).

**b.** **Contracting Officers (COs)** and **Agreement Officers (AOs)** are responsible for the following:

(1) Including the applicable policy directives and required procedures in this chapter, including approved Branding Strategies and Marking Plans, in solicitations and award documents for acquisition and assistance;

(2) Approving or disapproving, in consultation with Strategic Objective Team or Requiring Office/Activity Manager and, if necessary, the Development Outreach and Communications Officer, Principal Officer or Regional Legal Advisor, exceptions to marking requirements (see **320.3.1**); and

(3) Administering implementing instruments to ensure that the implementing partner and any subawardees carry out the branding and marking requirements in the award and subaward, and taking appropriate action in cases of non-compliance (See **320.3.7**).

**c.** The **Strategic Objective Team (SOT),** the office that requires a contract, grant, or cooperative agreement (the **Requiring Office,** or **RO), or the Activity Manager** is responsible for ensuring that the documentation supporting the solicitation and implementing award includes consideration of the appropriate elements for branding, marking, and communicating USAID sponsorship of the program, project, activity, public communication or commodity that USAID is planning to fund, as required in this chapter.

**d. Cognizant Technical Officers (CTOs)** are responsible for the following:

(1) Monitoring compliance by USAID contractors, assistance recipients, and other implementing partners with USAID branding and marking requirements, in accordance with the relevant provisions in the contract, grant, or other funding mechanism; and

(2) Taking appropriate action when an implementing partner initiates an action, such as requesting a waiver or a modification to a Marking Plan, in accordance with the terms of the award, or fails to comply with the branding and marking requirements in the award.

**e. Bureau/Office Communications Officers, Mission Development Outreach and Communications Officers (DOCs), Program Officers,** or **other designees**, are responsible for the following:

(1) Providing advice and guidance on graphic design and communicating USAID branding and marking policy directives and required procedures in this chapter and its references to USAID staff and implementing partners;

(2) Providing training for USAID staff and partners on branding and marking requirements;

(3) Reviewing Branding Strategies, Marking Plans, and Brand Implementation Plans, as requested; and

(4) Consulting, as requested by the AO/CO, on requests for exceptions to marking requirements.

**f.** The **USAID/W/Senior Advisor for Brand Management in the Bureau for Legislative and Public Affairs (LPA)** is responsible for the following:

(1) Developing and updating the Agency's internal and external branding policy directives and required procedures, as reflected in the **USAID Graphic Standards Manual** and the **USAID Partner Co-Branding Guide**;

(2) Ensuring that USAID employees and partners understand and comply with USAID's official graphic standards and providing advice and guidance on design solutions to branding and marking problems;

(3) Consulting, as needed, with the Office of the General Counsel (GC) and Office of Acquisition and Assistance (OAA) on revisions to the Agency's marking policy directives and required procedures, regulations, clauses, or provisions, including ADS 320; reviewing exceptions, waivers, and reviewing/approving special use of contractor logos;

(4) Designing and disseminating/implementing communications, training sessions, templates, and other services and materials to assist Agency staff to educate partners in the implementation of ADS 320;

(5) Bringing critical USAID branding and marking policy issues to the attention of the Administrator, or his or her designee, along with a recommendation for action; and

(6) Providing information on USAID branding and marking policy directives and required procedures to Congress, the Office of Management and Budget (OMB), the Department of State, and coordinating with other agencies as needed.

**g. USAID/W/Cognizant Assistant Administrators (AAs)** are responsible for the following:

(1) Ensuring compliance with Agency branding and marking policy directives and required procedures and requirements by Bureau/Office and Mission staff and implementing partners; and

(2) Consulting with the cognizant Principal Officer, USAID/W Senior Advisor for Brand Management (LPA), or USAID/W/GC, where appropriate and if necessary, when determining waivers, and determining appeals of negative determinations by Principal Officers for a waiver of marking requirements.

**h. USAID/W/GC** and **Regional Legal Advisors (RLAs)** are responsible for the following:

(1) Providing legal advice to Agency staff in interpreting this chapter and related branding and marking regulations, including reviews of waivers of marking requirements, and reviews of appeals from negative determinations to requests for waivers of marking requirements;

(2) Assisting the Mission or the AO for an USAID/W RO in negotiating the terms of agreements regarding branding and marking in grants to foreign governments, other bilateral agreements, and interagency agreements.

**i. USAID/W/Office of Acquisition and Assistance (M/OAA)** is responsible for the following:

(1) Maintaining ADS 320, Branding and Marking;

(2) Ensuring that ADS chapters pertaining to acquisition and assistance policy contain current branding and marking policy directives and required procedures; and

(3) Advising COs and AOs concerning their responsibilities as detailed in this chapter.

## 320.3 POLICY DIRECTIVES AND REQUIRED PROCEDURES

Effective Date: 01/08/2007

### 320.3.1 General

Effective Date: 01/08/2007

USAID employees must ensure that the branding and marking policy directives and required procedures in this chapter are included in the instruments USAID uses to implement development assistance programs and projects. To comply with the requirement in **320.1**, Overview, that all USAID-funded foreign assistance must be branded through use of a "Branding Strategy" and marked through use of a "Marking Plan," employees involved in program/project implementation must ensure that our implementing partners communicate that the assistance is from the American people.

#### 320.3.1.1 Branding and Marking Policy Coordination

Effective Date: 01/08/2007

USAID Principal Officers and heads of operating units must designate a USAID employee (usually the DOC, or alternate from the Program Office) to be responsible for communicating USAID branding and marking policy to other employees in the operating unit (see ADS **320.2.e. (1)**). This individual must stay apprised of any embassy, interagency, or host-country-specific branding and marking guidance that affects USAID branding and marking policy. This individual consults, as requested, with other employees in the operating unit and elsewhere in the Agency who participate in planning and achieving Strategic Objectives and in designing the activities (see **ADS 201, "Planning"** and **202, "Achieving"**) that will implement them through the types of instruments discussed in this chapter.

These other employees include, but are not limited to, the CO or AO, the Activity Manager, other members of the SOT or RO (SOT/RO), legal counsel, Bureau/Office Communications Officer, and the Senior Advisor for Brand Management (LPA). The following policy directives and required procedures more fully describe their roles.

#### 320.3.1.2 Pre-award Procedures

Effective Date: 01/08/2007

Under contract branding and marking procedures, the Activity Manager or RO prepares the Branding Strategy (BS) for inclusion in the Request for Proposal (RFP) or Request for Task Order Proposal (RFTOP), and offerors respond by preparing the Branding Implementation Plan and Marking Plan (see **320.3.2.1**, **320.3.2.2**, and **320.3.2.3**). For assistance awards (see **320.3.3**), the Apparently Successful Applicant for new awards (see **320.3.1.4** regarding incremental funding added to existing awards) prepares and submits the BS that will be negotiated and finalized as part of the assistance award (See section **320.3.3.2**, **22 CFR 226.91** and **Marking Under Assistance Instruments**).

The Apparently Successful Applicant also submits a Marking Plan. (Note that marking is not required for implementing partners' offices, vehicles, and items they procure for its own administrative use. See **22 CFR Part 226** and **320.3.5e**.)

Prospective contractors and Apparently Successful Applicants may request exceptions in their submitted Marking Plans. Exceptions are programmatic in nature, and reflect the categories of foreign assistance that USAID generally does not want marked. See **320.3.2.5** for exceptions to contract marking requirements and **320.3.3.2** and **22 CFR 226.91 (h)** for exceptions to assistance marking requirements.

The SOT/RO, CO/AO, DOCs, Bureau/Office Communications Officer, and Senior Advisor for Brand Management (LPA) may all participate in evaluating the BSs, Brand Implementation Plans, and Marking Plans submitted by offerors or applicants, as appropriate (see **320.3.2** for acquisition, **320.3.3** for assistance). Although the CO or AO determines whether to approve exceptions to marking requirements, he/she must base this determination on advice from any, or all, of the above, legal counsel, and Mission or even Bureau/Office senior management, if appropriate, depending on the particular circumstances at post or in the operating unit.

### 320.3.1.3 Post-Award Procedures

Effective Date: 01/08/2007

Immediately after award, the CO or AO must brief the USAID contractor or recipient on USAID's monitoring and enforcement of marking requirements. The CO/AO coordinates with the CTO and/or Program Officer or other designee, and must emphasize that failure to meet marking requirements may be considered noncompliance with the contract, assistance award, or other USAID funding mechanism.

After award, CTOs serve as the USAID point-of-contact for reviewing materials and answering questions from the implementing partners. As the individual with the most direct knowledge of the implementing partner's activities under the award, the CTO is responsible for monitoring compliance:

- For contracts, the CTO checks to make sure the contractor complies with its Branding Implementation Plan (see **320.3.2.2**) and Marking Plan (see **320.3.2.3**) as incorporated into the award.
- For grants and cooperative agreements, the CTO monitors the recipient's compliance with its BS and Marking Plan (see **320.3.3**).

If the CTO notes any cases of non-compliance, or if the CTO receives any allegations of non-compliance, he/she must alert the CO or AO and they must then determine the actual facts of the matter. If the implementing partner is not complying with the branding and marking requirements in the award, then the CO or AO must take appropriate action (see **320.3.7**)

CTOs carry out other administrative duties described in this chapter, such as processing requests for waivers from implementing partners to the Principal Officer for review and determination (see **320.3.2.6**). In order to effectively carry out these duties, the CTO must seek guidance from the CO/AO, RLA, Program Office/DOC, or the Agency's Senior Advisor for Brand Management (LPA), as needed.

In the event of unanticipated safety, security, or political concerns, or adverse reaction in the cooperating country to USAID marking requirements, the cognizant Principal Officer may waive marking requirements. See **320.3.2.6** for waivers to contract marking requirements, and **320.3.3.2** and **22 CFR 226.91 (j)** for waivers of assistance marking requirements.

Please note: Exceptions are programmatic, not circumstantial, in nature, and are usually approved pre-award. Waivers are circumstantial, not programmatic, in nature, and are approved in response to adverse circumstances that affect implementation.

### 320.3.1.4 Existing Awards

Effective Date: 01/08/2007

For existing awards being incrementally funded, COs/AOs must determine, in consultation with CTOs, whether or not sufficient incremental funding is being added to justify requiring contractors and recipients of assistance awards to complete full-fledged BSs (for contractors, Branding Implementation Plans) and Marking Plans. Generally speaking, if incremental funding is minimal and performance of the award is near completion, it is not cost effective for COs/AOs to require full compliance with branding and marking requirements; however, branding and marking may be required for discrete program materials and deliverables. In these cases, COs/AOs are encouraged to use their best judgment concerning applicability of the policy directives and required procedures of this chapter.

### 320.3.1.5 Administrative Communications

Effective Date: 01/08/2007

USAID contractors and recipients must not use the USAID Identity on any communications that are strictly administrative, rather than programmatic, in nature. Examples of administrative communications include, but are not limited to, correspondence with the cooperating government concerning contractor compliance with local law, such as the administration of tax, customs, or other provisions. The USAID Identity is also prohibited on contractor and recipient communications related to award administration, such as hiring/firing staff or renting office space and/or equipment. USAID CTOs, COs/AOs and RLAs are available to advise **partners** about USAID's implementation of USAID framework bilateral and other agreements with the cooperating country government.

### 320.3.1.6 Business Cards
Effective Date: 01/08/2007

It is USAID policy to prohibit the use of the USAID Identity on contractor and recipient business cards. At their option, contractors and recipients may include wording on their employees' business cards ("USAID Contractor" or "USAID Grantee" as appropriate) to identify that the employee is working on a USAID-funded activity. In addition, if the contractor or grantee elects to identify the employee as stated above, they may also, at their option, include the USAID program name (see **320.3.2** or **22 CFR 226.91 (f)**). However, business cards must not use the USAID Identity and designs and layouts used must make it clear that the employee is not a USAID employee.

### 320.3.1.7 Mission-specific Policies
Effective Date: 01/08/2007

The Principal Officer may establish Mission-specific policies for branding and marking, such as limiting public signs in high-threat environments or approving any special circumstances, such as allowing contractors to use their own corporate logos in very rare cases, and developing Mission orders to reflect any local procedures that may affect branding requirements in a particular country. Principal Officers must consult with the Senior Advisor for Brand Management (LPA) as well as the Chief of Mission, Deputy Chief of Mission, and/or the Regional Security Officer (RSO), if available, to determine if any local conditions should be considered that may affect branding and marking requirements in the country.

### 320.3.1.8 Consultation with the Assistant Administrator (AA)
Effective Date: 01/08/2007

Missions must consult the responsible Bureau/Office AA and the Senior Advisor for Brand Management (LPA) before approving a waiver or when addressing sensitive political considerations that affect branding and marking policy in a particular Mission or region.

### 320.3.2 Branding and Marking in USAID Direct Contracts
Effective Date: 01/08/2007

USAID policy is to require exclusive branding and marking in USAID direct acquisitions using any source of funds, except as stated elsewhere in this chapter (see **320.3.2.5**, **320.3.2.6**, and **320.3.5**).

"Exclusive Branding" means that the program is positioned as USAID's, as showcased by the program name (e.g., "The USAID/Basic Education Program").

"Exclusive Marking" means contractors may only mark USAID-funded programs, projects, activities, public communications, and commodities with the USAID Standard

Graphic Identity and, where applicable, the host-country government or ministry symbol or another U.S. Government logo (see **320.3.4.1** and **320.3.4.2**).

Except as provided in **320.3.5**, ADS 320 applies to all programs, projects, activities, public communications, and commodities funded by USAID under any direct contract or subcontract (see **ADS 302, USAID Direct Contracting**). For specific guidance on implementing this chapter in USAID direct contracts, see **Branding and Marking in USAID Direct Contracting.** (For specific guidance for Assistance Awards, see section **320.3.3**.)

It is USAID's policy that contractors' and subcontractors' corporate identities or logos must not be used on USAID-funded program materials (see **320.3.6** for details on the use of manufacturers' trademarks). The Principal Officer may approve exceptions to this policy, but only in extraordinary circumstances and after the Senior Advisor for Brand Management (LPA) clears the exception. Marking is not required on contractor vehicles, offices, and office supplies or other commodities used solely for administration of the USAID-funded program (see **320.3.5**). Marking is not permitted on certain contractor communications (see **320.3.1.5**).

### 320.3.2.1 Branding Strategy (for Contracts)

Effective Date: 01/08/2007

The SOT/RO must develop a BS when preparing the requirement description (Statement of Work (SOW)) for a planned acquisition, including a task order under ordering instruments, such as indefinite quantity contracts or GSA Schedule contracts. The BS must identify

- The program or project name;
- How the materials and communications will be positioned (i.e., as from the American People, jointly sponsored by USAID and the host-country government, or in some other way);
- The desired level of visibility; and
- Any other organizations to be acknowledged.

COs and ROs must carefully consider whether or not to place any controls on the contractor's release or use of data that the contractor, or any subcontractor, produces in performing the contract. In preserving the Agency's rights, COs must ensure that solicitations and contracts include terms and conditions, including appropriate intellectual property provisions, that comply with the Federal Acquisition Regulation (FAR) and USAID Acquisition Regulation (AIDAR). When the contract requires USAID approval to release, publish, or use data first produced in performance of the contract, the CO may only grant such consent after the Principal Officer, after consultation with legal counsel and the Senior Advisor for Brand Management (LPA), approves.

### 320.3.2.2 Branding Implementation Plan (for Contracts)

Effective Date: 01/08/2007

A Branding Implementation Plan (BIP) is developed by existing or prospective contractors to describe how the program will be promoted to beneficiaries and host-country citizens. It outlines the events (press conferences, site visits, etc.) and materials (success stories, Public Service Announcements [PSAs], etc.) the contractor will organize and produce to assist USAID in delivering the message that the assistance is from the American people.

As stated in **320.3.2.1**, the BS is part of the contract requirements, so COs must ensure that USAID contract solicitations include a BS and instruct offerors to prepare a BIP to implement the BS. These instructions must require that BIPs specifically address the following:

- How to incorporate the message, "This assistance is from the American people," in communications and materials directed to beneficiaries, or provide an explanation if this message is not appropriate or possible.
- How to publicize the program, project, or activity in the host-country and a description of the communications tools to be used. Such tools may include the following:
    - Press releases,
    - Press conferences,
    - Media interviews,
    - Site visits,
    - Success stories,
    - Beneficiary testimonials,
    - Professional photography,
    - PSAs,
    - Videos, and
    - Webcasts, e-invitations, or other e-mails sent to group lists, such as participants for a training session blast e-mails or other Internet activities, etc.
- The key milestones or opportunities anticipated to generate awareness that the program, project, or activity is from the American people, or an explanation if this is not appropriate or possible. Such milestones may be linked to specific points in time, such as the beginning or end of a program, or to an opportunity to showcase publications or other materials, research findings, or program success. These include, but are not limited to, the following:
    - Launching the program,
    - Announcing research findings,
    - Publishing reports or studies,

- Spotlighting trends,
- Highlighting success stories,
- Featuring beneficiaries as spokespeople,
- Showcasing before-and-after photographs,
- Marketing agricultural products or locally-produced crafts or goods,
- Securing endorsements from ministry or local organizations,
- Promoting final or interim reports, and
- Communicating program impact/overall results.

Specific procedures for including BIP requirements are in the mandatory internal reference, **Branding and Marking in USAID Direct Contracting**.

### 320.3.2.3 Marking Plan (for Contracts)

Effective Date: 01/08/2007

A Marking Plan is developed by existing or prospective contractors to enumerate the public communications, commodities, and program materials and other items that visibly bear or will be marked with the USAID Identity. As stated in **320.3.2**, USAID's policy is that programs, projects, activities, public communications, or commodities implemented or delivered under contracts and subcontracts exclusively funded by USAID are marked exclusively with the USAID Identity. Where applicable, a host-country symbol or ministry logo, or another U.S. Government logo may be added.

Except for the manufacturer's trademark on a commercial item, the corporate identities or logos of contractors or subcontractors are not permitted on USAID-funded program materials and communications, unless specified in the **USAID Graphic Standards Manual** or approved in advance by the Principal Officer. The Principal Officer must obtain clearance from the Senior Advisor for Brand Management (LPA) before approving the use of the contractor's logo.

The Marking Plan may include requests for exceptions to marking requirements, to be approved by the CO. Section **320.3.2.4** describes what the Marking Plan must address. Section **320.3.2.5** lists the exceptions to Marking Plan requirements.

To ensure that all items are appropriately marked in accordance with this policy, all USAID direct contracts must incorporate a Marking Plan that details the public communications, commodities, and program materials and other items that will bear visibly the USAID Identity.

Specific procedures for developing the Marking Plan are in **Branding and Marking in USAID Direct Contracting**.

### 320.3.2.4 Marking Requirements for Specific Contract Deliverables

Effective Date: 01/08/2007

Contract deliverables to be marked with the USAID Identity must follow design guidance for color, type, and layout in the **Graphic Standards Manual**. COs must ensure that

Marking Plans incorporated in USAID direct contracts specifically address the following specific contract deliverables or performance requirements:

**a.** Commodities or equipment provided under humanitarian assistance, disaster relief or development programs, and all other program commodities and equipment funded by USAID contracts, and their export packaging, must prominently display the USAID Identity.

**b.** Program, project, or activity sites financed by USAID contracts, including visible infrastructure projects (roads, bridges, buildings, etc.) or others that are physical in nature (agriculture, forestry, water management, etc.), must prominently display the USAID Identity. Temporary signs must be erected early in the construction or implementation phase. When construction or implementation is complete, the contractor must install a permanent, durable and visible sign, plaque, or other marking.

**c.** Public communications financed by USAID contracts that are print products must prominently display the USAID Identity. These communications include, but are not limited to, the following:

- Publications;
- Reports;
- Research results, studies, and evaluations;
- Brochures, leaflets, informational, and promotional materials;
- Folders;
- Success stories;
- Posters;
- Banners and Signs;
- Print PSAs, newspaper supplements and other paid placements such as advertorials;
- (Non-administrative) advertisements about program events/activities;
- Training manuals, workbooks, and guides;
- Press releases, fact sheets, media advisories (*note: the U.S. Ambassador or Public Affairs Officer may request these materials to be distributed on U.S. Embassy letterhead)*; and
- Letterhead used for program-related purposes (invitations to events, etc.,), as opposed to contractor administrative purposes.

**d.** Public communications financed by USAID contracts that are audio, visual, or electronic must prominently display the USAID Identity. Such communications include, but are not limited to, the following:

- Web sites;
- Videos;
- CDs and DVDs;
- TV PSAs;

- PowerPoint and other program-related presentations;
- Mass distribution electronic mail sent for program purposes, such as invitations to training events or other widely attended program-related gatherings; and
- Radio PSAs, which must include an audio tag, such as, "made possible by USAID: From the American people."

**e.** Studies, reports, publications, Web sites, and all informational and promotional products not authored, reviewed, or edited by USAID must contain a provision substantially as follows:

*This study/report/Web site (specify) is made possible by the support of the American People through the United States Agency for International Development (USAID.) The contents of this (specify) are the sole responsibility of (name of organization) and do not necessarily reflect the views of USAID or the United States Government.*

**f.** Events financed by USAID contracts must prominently display the USAID Identity. Such events include, but are not limited to, the following:

- Training courses;
- Conferences;
- Seminars;
- Briefings;
- Exhibitions;
- Fairs;
- Workshops;
- Press conferences;
- Other public meetings and activities; and
- Invitations, press releases, publicity, and media materials, presentations and handouts associated with these events that are produced under a USAID direct contract.

**g**. Grants under contracts, when authorized in accordance with **ADS 302**, "USAID Direct Contracting" must be branded and marked like grants, and the policy directives and required procedures for branding and marking of assistance awards in section **320.3.3**, and **22 CFR 226.91**, apply. The contractor is responsible for including branding and marking requirements for these grants in its BIP and MP, as part of its overall responsibility for managing grants under its contract.

**h.** USAID reserves the right to request preproduction review of USAID-funded public communications and program materials for compliance with USAID graphic standards and the approved Marking Plan.

All of the above requirements are subject to USAID-approved exceptions (see **320.3.2.5**) and waivers (see **320.3.2.6**).

### 320.3.2.5 Exceptions to Contract Marking Requirements

Effective Date: 01/08/2007

The following exceptions reflect USAID's usual, non-emergency practices in not marking certain contract deliverables for programmatic reasons. The CO, in consultation with the Activity Manager/RO, has the authority to determine that marking in accordance with **320.3.2** is not appropriate, if marking of specifically identified contract deliverables, or of all contract deliverables, would:

**a.** Compromise the intrinsic independence or neutrality of a program or materials where independence or neutrality is an inherent aspect of the program and materials. This includes, but is not limited to, the following:

- Election monitoring or ballots, and voter information literature;
- Political party support or public policy advocacy or reform;
- Independent media, such as television and radio broadcasts, and newspaper articles and editorials; and
- PSAs or public opinion polls and surveys.

**b.** Diminish the credibility of audits, reports, analyses, studies, or policy recommendations whose data or findings must be seen as independent;

**c.** Undercut host-country government "ownership" of constitutions, laws, regulations, policies, studies, assessments, reports, publications, surveys or audits, PSAs, or other communications better positioned as "by" or "from" a cooperating country ministry, organization, or government official;

**d.** Impair the functionality of an item, such as sterilized equipment or spare parts;

**e.** Incur substantial costs or be impractical, such as items too small or other otherwise unsuited for individual marking, such as food in bulk;

**f.** Offend local cultural or social norms, or be considered inappropriate on such items as condoms, toilets, bed pans, or similar commodities;

**g.** Conflict with international law, such as the international recognized neutrality of the International Red Cross (IRC) or other organizations; and

**h.** Deter achievement of program goals, such as cooperating with other donors or ensuring repayment of loans.

The CO's determination that an exception does not apply is not subject to a separate appeal process but may be handled through normal contract award or administration procedures (See **Branding and Marking in USAID Direct Contracting**).

### 320.3.2.6 Waivers to Contract Marking Requirements

Effective Date: 01/08/2007

**a.** The USAID **Principal Officer** has this authority to waive, in whole or in part, USAID marking requirements. The Principal Officer may only exercise this authority if he/she determines that USAID-required markings would pose compelling political, safety, or security concerns, or that marking has had or will have an adverse reaction in the cooperating country. In exceptional circumstances, the Principal Officer may approve a blanket waiver by region or country. The Principal Officer should consult with the CO, Senior Advisor for Brand Management (LPA), RLA or USAID/GC, and the cognizant AA before approving or denying a waiver, and must consult with the RSO or country Emergency Action Committee, if available, before doing so. The waiver must consider the same information that applies to determinations of the safety and security of U.S. Government employees in the cooperating country. It must also consider any information supplied by the contractor or subcontractor for whose contract the waiver is sought. In sum, this waiver authority is for situational or security circumstances that are caused by the local environment. The Principal Officer may not re-delegate this authority, but it may be exercised by officials serving in an acting capacity.

The Principal Officer authority described in the preceding paragraph may be exercised by the Directors of the Office of Foreign Disaster Assistance and the Office of Transition Initiatives in the Bureau for Democracy, Conflict, and Humanitarian Assistance (DCHA/OFDA and DCHA/OTI, respectively), in order to waive marking requirements when implementing emergency disaster relief and assistance to internally displaced persons, humanitarian emergencies, or immediate post conflict and political crisis response in a cooperating country. The Directors, OFDA/DCHA and OTI/DCHA, must consult with the AA/DCHA and the cognizant Mission Director(s) or USAID Representative(s), as well as the USAID Senior Advisor for Brand Management (LPA), before exercising this waiver authority.

Only the CO has the authority to inform the contractor of a waiver decision and to direct the contractor to comply with it. A waiver decision may constitute a change to the contract terms and conditions, and only the CO has the authority to issue a change order to the contract. See **Branding and Marking in USAID Direct Contracting**.

**b.** USAID contractors may request waivers of the Marking Plan, in whole or in part, through the CO, with the CTO then assisting in processing a waiver request to the cognizant Principal Officer. No marking is required while a waiver determination is pending. For this reason, the CO and CTO must ensure that waiver requests reach the Principal Officer as soon as practicable, and the CO must inform the contractor of the waiver decision in an equally timely manner. Approved waivers are not limited in duration, but are subject to Principal Officer

review at any time due to changed circumstances (See c. below, for policy directives and required procedures for rescinding a waiver). Approved waivers "flow down" to subcontractors or subgrantees, unless specified otherwise. Principal Officers may also authorize the removal of USAID markings already affixed, if circumstances warrant. The Administrative CO (ACO) is responsible for notifying the contractor if it must remove USAID markings. (See **Branding and Marking in USAID Direct Contracting**).

**c. Rescinding of Waiver of Marking Requirements.** If the circumstances on which the waiver was based change, the Principal Officer may rescind the waiver of marking requirements. In that event, the marking requirements approved in the Marking Plan apply from the date forward that the waiver is rescinded. The ACO must notify the contractor in writing when a waiver is rescinded and the effect the rescission has on the terms of or performance under the contract, including whether or not the waiver rescission constitutes a change order.

The Principal Officer may rescind a waiver after the contractor completes the activities under the contract but before the contract is closed out. The ACO or the close-out CO, in collaboration with the CTO, must conduct a cost/benefit analysis to determine whether to require marking after the date of completion of the affected programs, projects, activities, public communications, or commodities. If the analysis supports applying the marking requirement, the CO must so notify the contractor. If applying the marking requirement at any time constitutes a change order or requires funding, the cognizant CO must negotiate a supplemental agreement to cover marking costs (See **Branding and Marking in USAID Direct Contracting**).

**d. Appealing a waiver decision.** Determinations regarding waiver requests, including a Principal Officer's decision to rescind a waiver, are subject to appeal to the Principal Officer's cognizant AA. The contractor may appeal by submitting, through the CTO or CO, a written request to reconsider the Principal Officer's waiver determination to the cognizant AA.

### 320.3.3 Branding and Marking Requirements for Assistance Awards

Effective Date: 01/08/2007

USAID's policy is that programs, projects, activities, public communications, or commodities implemented or delivered under co-funded instruments – such as grants, cooperative agreements, or other assistance awards that usually require a cost share – generally are "co-branded and co-marked." In accordance with 22 CFR 226.91, this policy applies to these assistance awards even when the award does not require any cost sharing (see **ADS 303.3.10**).

### 320.3.3.1 Co-branding and Co-marking

Effective Date: 01/08/2007

Co-branding and co-marking mean that the program name represents both USAID and the implementing partner, and the USAID Identity and implementer's logo must both be visible with equal size and prominence on program materials produced for program purposes. Such program materials include the assistance set forth at **22 CFR 226.91 (b) – (e)**. Program materials do not include commodities the recipient or sub-recipient procures for their own use in administering the USAID-funded program (in accordance with the definition of "commodities" in **22 CFR 226.2**). In short, co-funding means co-branding and co-marking.

However, the AO, after consulting with the activity manager/requesting office, may determine that program goals require that the USAID Identity be larger and more prominent, if USAID is the majority donor and the USAID funded program, project, activity or public communication is especially visible and important to USAID.

A host-country symbol or ministry logo or other U.S. Government seal or logo may also be added, if applicable.

Marking is not required for recipient's offices, vehicles, and items the recipient procures for its own administrative use (see **22 CFR Part 226.91** and **320.3.5**). The prohibitions on use of the USAID Standard Graphic Identity (see **320.3.1.5** and **320.3.1.6**) apply by USAID policy to recipients of grants and cooperative agreements.

### 320.3.3.2 Branding and Marking Requirements for Specific Grant, Cooperative Agreement, or Other Assistance Awards

Effective Date: 01/08/2007

Marking requirements, including requests for presumptive exceptions (see **22 CFR 226.91(h)**) and waivers, for assistance awards must be in accordance with **22 CFR 226.91 (j)**. By policy, USAID requires non-U.S., non-governmental organizations, including cooperating country non-governmental organizations (and in rare cases, Public International Organizations, see **320.3.5**), to follow marking requirements for assistance awards as set forth in this chapter and **22 CFR 226.91**. In addition to the presumptive exceptions in 22 CFR 226.91(h), loan programs under assistance awards may also be determined to be an exception to the USAID marking policy, in accordance with section **320.3.4.4**. For unsolicited proposals and other non-competitive awards, the applicant is considered the Apparently Successful Applicant and may submit a Branding Strategy and Marking Plan with their proposal. (See **320.3.1.4** regarding adding incremental funding to existing awards.)

AOs, activity managers and other members of the SOT/RO, and CTOs, with support from DOCs, Bureau/Office Communications Officers, and the Senior Advisor for Brand Management (LPA), are responsible for ensuring that Apparently Successful Applicants and recipients are familiar with the **USAID Partner Co-Branding Guide** and other Agency guidance.

A determination by an AO before an award is made that none of the presumptive exceptions applies is not subject to a separate appeal process, but may be handled through normal grant award or administration procedures. A determination by an AO after an award is made that a presumptive exception does not apply is subject to the appeals process at **22 CFR 226.90**.

In accordance with **section (j) of 22 CFR 226.91** and **Marking Under Assistance Instruments**, Principal Officers have the authority to approve waivers of marking requirements. Recipients may appeal the Principal Officer's determination concerning a waiver to the Principal Officer's cognizant AA.

For specific guidance to implement the requirements in this chapter in USAID grants and cooperative agreements, see **Marking Under Assistance Instruments**.

### 320.3.4 Branding and Marking Requirements for Other Types of Implementation Mechanisms

Effective Date: 01/08/2007

This section states the branding and marking requirements that apply to implementing mechanisms other than USAID direct contracts **(ADS 302)** and assistance awards **(ADS 303)**.

#### 320.3.4.1 Programs, Projects, or Activities Funded through Agreements between Participating U.S. Government Agencies or Other Donors and USAID

Effective Date: 01/08/2007

USAID's policy is that programs, projects, activities, public communications, or commodities implemented or delivered in cooperation with other U.S. Government agencies or other donors are "co-branded and co-marked," (similar to USAID's policy about programs implemented through a recipient cost share, see **320.3.3**.), as follows:

a. Programs funded in whole or in part by, or implemented in whole or in part through, participating U.S. Government agencies (such as the U.S. Department of State's Office of the Global AIDS Coordinator, the Millennium Challenge Corporation, or other U.S Government agencies) must be co-branded and marked appropriately, in accordance with the terms of the applicable interagency agreement. See **ADS 306** for policy directives and required procedures for Interagency Agreements.

b. Programs jointly funded by USAID and Global Development Alliance partners, multilateral donors, or bilateral donors, such as the United Kingdom's Department for International Development, must be co-branded and co-marked.

c. In case of any inconsistency, the terms and conditions of the specific agreements take precedence over the requirements of this section.

### 320.3.4.2 Bilateral Agreements: Brand and Mark Appropriately

Effective Date: 01/08/2007

Framework Bilateral Agreements establish the terms and conditions under which United States foreign assistance is provided to the cooperating country (see **ADS 349**). Newly negotiated or renegotiated Framework Bilateral Agreements must include a provision describing the appropriate use of branding and marking in implementing instruments under the bilateral agreement.

In addition, newly negotiated or renegotiated bilateral implementing agreements, including those listed below, that implement specific USAID funded programs, projects, or activities through the cooperating country, must also provide for appropriate use of USAID's required branding and marking. "Appropriate use" typically means showcasing the program as a partnership with both the USAID Identity and the cooperating country government's identity or logo of an equal size and prominence. In some cases, the provision may allow for the host-country government's identity or logo to be larger and more prominent than the USAID Identity, depending on program needs and as determined by the Principal Officer. The Principal Officer may waive marking requirements in Bilateral Agreements for safety, security, or political reasons, or in the event of actual or anticipated adverse reaction in the cooperating country.

The provision in a bilateral implementing agreement applies to all programs, projects, activities, and public communications implemented through the following:

**a.** Host-country contracts **(ADS 305)**;
**b.** USAID-direct contracts **(ADS 302)** financed by the bilateral agreement;
**c.** Grants or cooperative agreements to non-governmental organizations **(ADS 303)** and financed by the bilateral agreement;
**d.** Strategic Objective Grant Agreement (SOAG) and Limited Scope Grant Agreement (LSGA) (see **ADS 350**); and
**e.** Other implementing instruments financed by the bilateral agreement (see **ADS 201**).

In case of any inconsistency, the terms and conditions of the specific implementing instruments take precedence over the general requirements of this section.

### 320.3.4.3 Commodity Import Programs (CIPs)

Effective Date: 01/08/2007

Commodities imported under CIPs must be marked in accordance with 22 C.F.R. Part 201, the requirements of this chapter, and any applicable exceptions. See **22 CFR 201, Rules and Procedures Applicable to Commodity Transactions Financed by AID**.

### 320.3.4.4 Development Credit Authority (DCA) and Other USAID Loan Programs

Effective Date: 01/08/2007

DCA, medium, small, microenterprise, and other USAID loan program materials must be marked with the USAID Identity, but only to the extent that such marking does not deter program goals, such as ensuring repayment of guaranteed loans (see **320.3.2.5h**). The operating unit providing funding for the loan program must determine whether or not the above exception to marking requirements applies at the time of obligation of funds, and include the relevant guidance in the loan documentation.

### 320.3.4.5 Food for Peace (FFP) Program

Effective Date: 01/08/2007

Commodities funded under the Food For Peace (FFP) program, **P.L. 480**, must be marking in accordance with **22 CFR 211**.

### 320.3.5 Non-Applicability

Effective Date: 01/08/2007

This chapter does not apply to the following:

**a. Ocean Freight Reimbursement.** Marking does not apply to shipments of supplies by Private Voluntary Organizations (PVOs), where USAID is not financing the supplies and is only reimbursing the PVO for transportation costs.

**b. Grants and Cooperative Agreements with Public International Organizations**, unless USAID is the sole donor funding a specific program, project, or activity of a PIO, or in cases where other bilateral donors have received marking privileges (see **320.3.3.1**).

**c. Activities funded under section 316 of the International Security and Development Cooperation Act of 1980**.

**d. Activities of USAID implementing partners in the United States**, unless the program, project, activity, public communication, or commodity being delivered in the United States is a component of a program which is being implemented overseas and for which a Marking Plan has been approved, in which case marking is required for the U.S.-based activity. An example of an activity that may meet the marking requirement is participant training given in the United States.

**e. Contractor or recipient offices, vehicles, or non-deliverable items**, such as office supplies used primarily for administration of the USAID-funded program. See **22 CFR 226.91**; **320.3.1**; **320.3.2**; and **320.3.3**.

### 320.3.6 USAID Standard Graphic Identity
Effective Date: 01/08/2007

All use and reproduction of the USAID Standard Graphic Identity must be in compliance with all design guidelines set forth in the **USAID Standard Graphic Manual** and the **USAID Partner Co-Branding Guide.**

The USAID Standard Graphic Identity is the trademark, by commercial usage, of the United States Agency for International Development. It is provided without royalty, license, or other fee to organizations required to use the USAID Standard Graphic Identity, in accordance with this chapter and the terms of their funding awards. Unauthorized use of the USAID Identity without the express authorization of USAID is prohibited. Please inform USAID/W/GC of any unauthorized uses without express USAID approval.

Use of the USAID Identity is not intended to supplant use of a previous, legally registered trademark or copyright on any commodity procured with USAID funding, such as a manufacturer's trademark on computer hardware or software purchased with USAID funding. In such instances, the manufacturer's mark may be used along with the USAID Identity (see also **320.3.2.3** and **320.3.2.4**). In all cases, the provisions of specific contracts, grants, and other implementing instruments prevail.

#### 320.3.6.1 Design, Size, Placement, and Proportion
Effective Date: 01/08/2007

The USAID Standard Graphic Identity must conform in design, size, placement, and proportion to the examples provided in the **USAID Standard Graphic Manual** and the **USAID Partner Co-Branding Guide.**

#### 320.3.6.2 Obtaining the Standard Graphic Identity
Effective Date: 01/08/2007

USAID contractors, recipients, or other implementing partners may obtain the Standard Graphic Identity and information about suggested suppliers of USAID Identity labels from the USAID Web site at **www.usaid.gov/branding**.

#### 320.3.6.3 Costs of Branding and Marking
Effective Date: 01/08/2007

Costs of branding and marking are eligible for financing in the implementing instruments included in this chapter, if the costs are reasonable, allocable, and allowable in accordance with applicable cost principles. Such costs should normally be included in the total estimated cost or bid/offer price of the implementing partner.

### 320.3.7 Noncompliance
Effective Date: 01/08/2007

If USAID implementing partners do not comply with the marking requirements as established in the approved Marking Plan, the CO/AO, in consultation with Principal Officer or other head of USAID operating unit, the CTO, and the Program Officer, must initiate corrective action. Such action may involve informing the host-country government, contractor, recipient, or other USAID partner of the instances of noncompliance and requesting that it carry out its responsibilities as set forth in the applicable agreement. Major or chronic noncompliance with the BS, BIP or Marking Plan or marking requirements will trigger remedies available to USAID under the specific provisions of the relevant USAID contract or assistance award, or other USAID-funded award (for cases of noncompliance with assistance marking requirements, see **22 CFR 226.91 (i).**

### 320.3.8 Audit of Marking Requirements

Effective Date: 01/08/2007

Marking requirements, like other provisions of USAID awards, are subject to audit by the USAID Inspector General.

## 320.4 MANDATORY REFERENCES

Effective Date: 01/08/2007

### 320.4.1 External Mandatory References

Effective Date: 01/08/2007

**a.** **22 CFR 201, Rules and Procedures Applicable to Commodity Transactions Financed by AID**

**b.** **22 CFR 211, Transfer of Food Commodities for Food Use in Disaster Relief, Economic Development, and Other Assistance**

**c.** **22 CFR 226.91, Administration of Assistance Awards to U.S. Non-Governmental Organizations; Marking Requirements**

**d.** **International Security and Development Cooperation Act of 1980, section 316**

**e.** **Public Law 480, Section 202** (authority for marking Food For Peace (FFP) programs)

### 320.4.2 Internal Mandatory References

Effective Date: 01/08/2007

**a.** **AAPD 04-10, Standardized Model Letters for Designating the Cognizant Technical Officer (CTO) for Contracts, Grants, and Cooperative Agreements**

**b.** **ADS 201, Planning**

**c.** **ADS 302, USAID Direct Contracting**

**d.** **ADS 303, Grants and Cooperative Agreements to Non-Governmental Organizations**

**f.** **ADS 305, Cooperating country Contracts**

**g.** **ADS 306, Interagency Agreements**

**h.** **ADS 349, International Agreements**

**i.** **ADS 350, Grants to Foreign Governments**

**j.** **ADS 512, Agency Printing and Graphics Services**

**k.** **ADS 557, Public Information**

**l.** **"Branding and Marking in USAID Direct Contracting" (Reserved)**

**m.** **Marking Under Assistance Instruments** (issued as AAPD 05-11, to be incorporated into ADS 303 "Grants and Cooperative Agreements to Non-Governmental Organizations").

**n.** **USAID Standard Graphic Identity**

**o.** **USAID Graphic Standards Manual**

**p.** **USAID Partner Co-branding Guide (Reserved)**

## 320.5 ADDITIONAL HELP

Effective Date: 01/08/2007

## 320.6 DEFINITIONS

Effective Date: 01/08/2007

The terms and definitions listed below have been incorporated into the ADS Glossary. See the **ADS Glossary** for all ADS terms and definitions.

**Apparently Successful Applicant(s)**
The applicant(s) for USAID funding recommended for an award after technical evaluation, but who has not yet been awarded a grant, cooperative agreement or other assistance award by the Agreement Officer. Apparently successful applicant status confers no right and constitutes no USAID commitment to an award, which still must be obligated by the Agreement Officer. (Chapter 320)

**Branding Strategy**
A Branding Strategy, developed in the case of a contract award by the Strategic Objective Team or Requesting Office, or in the case of an assistance award by the Apparently Successful Applicant, identifies the program or project name, how the materials and communications will be positioned (i.e. as from the American People, jointly sponsored by USAID and the host-country government or assistance implementing partner, or some other way), the desired level of visibility and the communications tools used to publicize the aid as from the American people. (Chapter 320)

**Branding Implementation Plan**
A Branding Implementation Plan, developed by contractors, describes how the program will be communicated to beneficiaries and promoted to host-country citizens; it outlines the events and materials the contractor will use to deliver the message that the assistance is from the American people. (Chapter 320)

**Commodity Import Program (CIP)**
A program in which USAID provides foreign exchange to a cooperating country that, by the terms of the applicable agreement between USAID and the cooperating country, is used to finance particular commodity import transactions of the cooperating country. (Chapters **307**, 320, **324**).

**Marking Plan**
A plan that USAID Implementing partners provide detailing the public communications, commodities, program materials and other items that will visibly bear or be marked with the USAID Identity. It also requests any exceptions to marking. (Chapter 320)

**partner**
An organization or individual with which/whom the Agency collaborates to achieve mutually agreed upon objectives and to secure participation of ultimate customers. Partners include host country governments, private voluntary organizations, indigenous and international non-governmental organizations (NGOs), universities, other U.S. Government agencies, the United Nations and other multilateral organizations, professional and business associations, and private businesses and individuals. (Chapter 320)

**Principal Officers**
The most senior officer in a USAID Operating Unit in the field, e.g., USAID Mission Director or USAID Representative. Principal Officers also include the directors of USAID/W/Office of Foreign Disaster Assistance and Office of Transition Initiatives when those offices are implementing emergency disaster relief and assistance to internally displaced persons, humanitarian emergencies or immediate post conflict and political crisis response in a cooperating country. For non-presence countries, the cognizant Principal Officer is the Senior USAID officer in a regional USAID Operating Unit responsible for the non-presence country, or in the absence of such a responsible operating unit, the Principle U.S Diplomatic Officer in the non-presence country exercising delegated authority from USAID. (Chapter 320)

**Public communications**
Documents and messages intended for distribution to audiences external to the recipient's organization. They include, but are not limited to, correspondence, publications, studies, reports, audio visual productions, and other informational products; applications, forms, press and promotional materials used in connection with USAID funded programs, projects or activities, including signage and plaques; Web sites/Internet activities; and events such as training courses, conferences, seminars, press conferences and the like. (Chapter 320)

**USAID Graphic Standards Manual**
USAID-produced publication that is provided free of charge to recipients of USAID-funded contracts or other acquisition awards or subawards, that details recommended marking practices and provides examples of USAID-funded programs, projects, activities, public communications, and commodities marked with the USAID Identity. (Chapter 320)

**USAID Standard Graphic Identity or USAID Identity**
Official marking for the United States Agency for International Development (USAID) comprised of the USAID logo or seal and brandmark with the tagline that clearly communicates our assistance is "from the American people," The USAID Identity is available on the USAID Web site at **www.usaid.gov/branding** and is provided without royalty, license or other fee to recipients of USAID funded grants or cooperative agreements or other assistance awards. (Chapter 320)

**USAID Partner Co-Branding Guide**
USAID-produced publication that is provided free of charge to recipients of USAID-funded grants or cooperative agreements or other assistance awards or subawards, that details recommended marking practices and provides examples of USAID-funded programs, projects, activities, public communications, and commodities marked with the USAID Identity. (Chapter 320)

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