ADS Chapter 220

Use of Reliable Partner Country Systems for Direct Management and Implementation of Assistance

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ADS 220 – Use of Reliable Partner Country Systems for Direct Management and Implementation of Assistance

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220.1 OVERVIEW

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This chapter provides the policy directives and required procedures for determining the suitability of using partner country systems for implementation of USAID-funded assistance.

Partner country systems are national arrangements that are established in the national legislation covering Public Financial Management, procurement, audit, and the internal monitoring and evaluation functions of partner country governments. They can include external monitoring, and in some cases, supporting project implementation, by civil society and private sector entities. Partner country systems include Public Financial Management (PFM) systems at both the government-wide and ministerial/sectoral level. They also include partner country procurement and project design and implementation systems, both on a national and ministerial/sectoral level. In addition to systems established at a national level, partner country systems can include those established at a subnational level, such as regional or local Public Financial Management, procurement, design and implementation, and related systems.

This chapter highlights the Agency's commitment to promote country ownership. It promotes the practice of partner countries taking the lead in designing and implementing clearly defined development strategies and managing their own development processes. USAID's development policy ultimately must support long-term, sustained progress and make assistance unnecessary in the long term by partnering with countries to use their internal systems, build their capacity, maximize the impact of assistance they receive, and provide for their own people. USAID's assistance is most effective when it can work through partner country PFM systems rather than around them, to ensure that the aid received maintains the accountability of a government to its people. Use of partner country systems should only be considered for project implementation when bilateral political conditions allow, and when fiduciary risk from use of partner country systems can be identified and managed appropriately using the procedures established below.

To ensure effective use of funds provided by U. S. taxpayers and appropriated by Congress, USAID will make greater use of partner country systems by establishing the following:

- Application of the Public Financial Management Risk Assessment Framework (PFMRAF);
- Agreement on an accountability framework and capacity building;
- Documentation of risk identification, allocation, and if applicable, risk mitigation measures and formal Approval of Use of Partner County Systems (AUPCS);

- Training of cognizant USAID staff in implementation of USAID-funded assistance through use of partner country systems (PFM practices, risk assessment and mitigation, governance accountability systems strengthening, PFM capacity building, relevant implementation mechanisms, negotiation of bilateral agreements);

- A new USAID/Washington (USAID/W) support team has been established in the Office of the Chief Financial Officer (CFO), to assure quality control and consistency in

  - Using the PFMRAF,

  - Analyzing data,

  - Proposing and monitoring exposure limits, and

  - Providing continuing policy analysis and advice to the Chief Financial Officer (CFO) and Administrator.

Each of these requirements is discussed below, and additional guidance will be forthcoming as needed. This guidance supplements, but does not replace, existing Agency policy and guidance on Programming Policy (**ADS 200 series**), Host Country Contracts (**ADS 305**), Procurement Under Fixed Amount Reimbursement Agreements (**ADS 317**) and Grants to Foreign Governments (**ADS 350**). In addition to following the procedures set forth below for Approval for Use of Partner Country Systems, Mission Director/Principal Officers remain responsible for partner country procurement system assessment and certification requirements under **ADS 301.5.2** and for determinations of adequacy of partner country procurement systems under **ADS 317.3** until further notice. See ADS 220.3.2.2 *Stage 4* for guidance on the relationship between the AUPCS and the certification and adequacy requirements of **ADS 301.5.2** and **ADS 317.3.**

Use of partner country systems is encouraged, not mandatory. Any such use should further USAID's and the Partner Country's development objectives and national development plan. It should also address any fiduciary risk in the Partner Country PFM system being considered for direct implementation of USAID-funded assistance. Use of partner country systems is just one approach of many available for delivery of assistance. It can be combined with USAID support for local non-governmental and private organizations, traditional USAID contractors and grantees, and other methods to achieve development objectives. Note that even in the absence of an AUPCS, USAID Missions still may consider provision of capacity building technical assistance to partner country government counterpart ministries and other components.

Note: Partner country systems referenced in this chapter do not include Host County Contracting under **ADS 305, Host Country Contracts** and **ADS 301, Responsibility for Procurement**. The PFMRAF established by this chapter is intended to be an assessment of a partner country's own PFM systems rather than a certification that a Host Country government is able to carry out a procurement "in accordance with applicable USAID standards and procedures" (**ADS E301.5.2b**).

220.2 PRIMARY RESPONSIBILITIES

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The following Primary Responsibilities are based on function, not skill category (backstop-specific). Because not every Mission/Operating Unit is staffed with personnel of all skill levels, a Mission Director/Principal Officer has the discretion to customize functional responsibilities to match staff capacity and meet the needs of each Mission when implementing assistance through partner country systems.

Mission Director/Principal Officers are encouraged to issue Mission Orders, as needed, to assign the functional responsibilities below:

a. Mission Director/Principal Officers, with his or her counterpart partner country governments, promote collaboration and mutual accountability between USAID, the partner government, other donors, civil society, and other key stakeholders. The Agency encourages the Mission Director/Principal Officer to do so in coordination with the relevant embassy Chief of Mission, in order to manage political risk.

Mission Director/Principal Officers are responsible for offering to undertake an assessment of partner country PFM systems, if appropriate. This assessment is in coordination with the partner country government.

If the partner country government agrees to an assessment, Mission Director/Principal Officers are responsible for designating mission staff to coordinate and conduct the PFMRAF. If the PFMRAF assessment supports use of partner country systems for implementation of USAID funded assistance and such use furthers the goals and objectives established by the mission, Mission Director/Principal Officers within their discretion are responsible for documenting approval of such use through a formal Approval of Use of Partner Country Systems (AUPCS) determination (discussed below). Approval of an AUPCS should be considered on the basis of identified, assessed, allocated and evaluated risk, and if approved, may contain/be subject to risk mitigation measures to address any such risks. Mission Director/Principal Officers may consult with their cognizant Assistant Administrator and/or the USAID/W/Office of the Chief Financial Officer concerning the AUPCS if necessary.

If the AUPCS is approved, Mission Director/Principal Officers are responsible for negotiating, signing, administering and, if needed at the implementation stage, amending, suspending, or terminating a Bilateral Project Agreement with Partner Country governments for use of partner country systems.

b. USAID Partner Country Systems Teams (PCS Teams) assist the Mission Director/Principal Officer in offering to Partner Country government counterparts an assessment of the Partner Country government's administrative, PFM, and technical capacity. If the offer is accepted, PCS Teams will assist in assessing partner country government fiduciary risk before obligation of funds by using the PFMRAF. PCS teams must consult with the USAID/W/CFO Global Partner Country Systems Risk Management Team (GPCSRMT), below, concerning discharge of due diligence responsibilities with applying the PFMRAF and identification and management of risk from use of partner country systems.

The Mission Director/Principal Officer may also delegate to the PCS Team the responsibility for the design and implementation of any institutional capacity building project to provide PFM technical assistance to the partner country government, preparatory to USAID making greater use of partner country systems.

PCS Teams may also be assigned responsibilities for incorporating the results of the PFMRAF and AUPCS into a project design reflecting implementation through use of partner country systems, and for assisting the Mission Director/Principal Officer, as needed and designated, in the negotiation of the Bilateral Project Agreement (discussed below) with the partner country government.

Finally, the Mission Director/Principal Officer may delegate to the PCS Team Leader/Team responsibilities for coordination, oversight, monitoring and evaluation of any risk mitigation measures established by the Mission, and for monitoring and evaluating the implementation of the project through use of partner country systems.

The following are suggested functional responsibilities to be included in the PCS Team. Designation of Mission staff to fulfill these or other functional responsibilities is at the discretion of the Mission Director/Principal Officer.

- **Controllers** must be designated as members of the PCS Team. They should be given primary responsibility for conducting the PFMRAF and addressing all technical issues concerning assessment of the Public Financial Management systems of partner country governments. They must also be given a primary role in monitoring and evaluating partner country government implementation of any risk mitigation measures for use of partner country systems established in the AUPCS or in negotiated Bilateral Project Agreements (see below) with the partner country government. Controllers may also be designated to participate in the design, implementation, monitoring, and evaluation of USAID-funded projects to build institutional capacity for Public Financial Management.

- **Regional Legal Advisors (RLAs)** assist in application of the PFMRAF, project design, and preparation of the AUPCS. Advisors must participate in the negotiation of the Bilateral Project Agreement.

- **Contracting and Agreement Officers** provide input into the AUPCS and help negotiate the Bilateral Project Agreement**.**

c. The following Primary Responsibilities in USAID/W provide support for the PCS Teams:

- **Bureau for Management, Office of the Chief Financial Officer (M/CFO), USAID/W** supports Missions and controllers in the application of the PFMRAF, including development of a list of PFM risk assessment indicators for customization and use by Missions. The CFO assists in the design of risk mitigation measures and capacity-building technical assistance. The CFO also establishes, staffs, and administers the Global partner country systems Risk Management Team (GPCSRMT, see below). The CFO consults with the Mission Director/Principal Officer concerning the AUPCS.

- **Global Partner Country Systems Risk Management Team (GPCSRMT)** in the Office of the CFO

    - Assures quality control for risk assessments conducted under the PFMRAF;
    - Analyzes data on the use of country systems and report to controllers and their missions on exposure;
    - Analyzes risk and propose risk limits to Missions;
    - Monitors use of the partner country systems;
    - Reviews the due diligence conducted by the PCS Team; and
    - Ensures that USAID's training programs related to use of the PFMRAF and related policies are current and effective.

- **Assistant Administrators of geographic bureaus** consult with their cognizant Mission Director/Principal Officers concerning difficult or politically sensitive AUPCSs.

220.3 POLICY DIRECTIVES AND REQUIRED PROCEDURES

Effective Date: 08/16/2011

This chapter outlines the mandatory policies and required procedures that govern how USAID may

- Offer partner country governments an assessment of partner country PFM systems, to determine if USAID may use those systems for the delivery and management of USAID-financed projects;

- Provide technical assistance to improve partner country systems, to the point at which USAID can use those systems for the delivery and management of USAID-funded assistance;

- Design assistance projects that include a component of bilateral assistance through partner country PFM systems;

- Manage financial, political, and project implementation risk from use of partner country PFM systems;

- Document the use of partner country systems in the appropriate Bilateral Project Agreement or, in the case of a resource transfer, non-project agreement. (See diagram on page 19. The term "Bilateral Project Agreement" designates bilateral sub-obligating agreements at the project rather than strategic level);

- Select and use a funding mechanism for obligating funds to the partner country government for implementation using partner country systems. (See diagrams on pages 19 and 22);

- Monitor, evaluate, and assess project implementation using Partner country systems; and

- Close out of funding mechanisms and related bilateral agreements after project completion.

ADS 220 is authorized by **Section 635(b) of the Foreign Assistance Act of 1961, as amended (FAA),** which provides that "the President [or USAID Administrator as designee] may make loans, advances and grants to, make and perform agreements and contracts with, or enter into other transactions with…any friendly government or government agency…in furtherance of the purposes and within the limitations of this Act." This guidance also assists Missions in meeting the requirement of Section 611 of the FAA to complete substantive technical and other plans necessary to carry out assistance in advance of making agreements or grants in excess of $500,000.

Mission Director/Principal Officers have been delegated Agency strategic, budgetary and project implementation, and evaluation authorities under **ADS 103.3.5.1**, including the authority to "[n]egotiate, execute, amend, and implement grants, loans, memoranda of understanding, and other implementing and ancillary agreements and documents with foreign governments and multilateral organizations composed of foreign governments…"

220.3.1 Assessment and, If Appropriate, Use of Partner Country Systems for Implementation of Direct Assistance

Effective Date: 08/16/2011

USAID has committed to make greater use of partner country systems through direct assistance mechanisms. To implement this commitment, all USAID Missions must take the following steps. (These steps must only be taken to the extent that existing bilateral relations and Mission resources allow.):

- Offer to develop a plan, in consultation with and with the participation of the partner country government, for USAID to assess partner country systems (see guidance below);

- Complete the assessment using the PFMRAF, if the offer is accepted;

- Consider incorporating use of partner country systems into project designs and implementation plans, if the results of the PMFRAF support such use and if it would further Mission development goals and objectives

- Negotiate a Bilateral Project Agreement for implementation of assistance using partner country systems, if the above conditions have been met (see diagram on page 22. The term “Bilateral Project Agreement designates bilateral sub-obligating agreements at the project rather than strategic level);

- Document the weaknesses/needed improvements in the partner country systems and, if political considerations allow, share the weaknesses/ needed improvements with the partner country government and other donors; and

- Offer technical assistance to improve the PFM systems of the partner country government.

As a practical matter, this guidance commits USAID Missions to:

- Offer, if appropriate in the context of existing bilateral relations and Mission resources, a USAID assessment of partner country PFM systems as per the procedures detailed below;

- Offer, if appropriate; if supported by the results of the PFMRAF; and if resources are available, technical assistance to address the assessed shortcomings in partner country systems;

- Incorporate, if appropriate, use of partner country systems to implement USAID-funded assistance into Mission project designs;

- Negotiate, if appropriate, a Bilateral Project Agreement with the partner country government for use of partner country systems for project implementation;

- Use, if appropriate and if needed, risk mitigation measures to reduce any identified risk from use of partner country systems for project implementation;

- Document, if supported by the PFMRAF and through the AUPCS, the approval for use of Partner Country PFM systems; and

- Document and, if appropriate, share with the Partner Country government the assessed weaknesses/needed improvements to the Partner Country government PFM systems.

Use of the PFMRAF and related commitments can be undertaken with counterpart Partner Country governments on the subnational (that is, regional and local) levels. Use of the PFMRAF and related commitments can be undertaken with a government-owned or controlled entity (parastatal), when 1) A majority of the members of the supreme governing body is comprised of government officials; 2) The parastatal delivers public goods; 3) The parastatal is subject to audit by the state Supreme Audit Institution; and 4) The parastatal uses the Partner Country government's Public Financial Management and procurement systems; or 5) when treatment as a "country system" is deemed in the interest of the U.S. Government or USAID.

220.3.2 Required Procedures for Assessment and Use of Partner Country Systems

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While the following steps are in logical order, the sequencing of the steps may be simultaneous or overlap to some degree, and is at the Mission's discretion.

220.3.2.1 Offer of Assessment of Partner Country Public Financial Management Systems

Effective Date: 08/16/2011

If existing bilateral relations and Mission resources allow, Mission Director/Principal Officers should consider offering the partner country government (1) an assessment of the partner country PFM systems with the goal of providing funding for project implementation through use of those systems; and (2) the development of a jointly agreed upon plan, complementary to the assessment, to address any assessed shortcomings in the partner country systems through provision of technical or other assistance.

220.3.2.2 Assessment of Partner Country Public Financial Management Systems

Effective Date: 08/16/2011

If the partner country government accepts USAID's offer of an assessment of the partner country PFM systems, the assessment must be carried out using the Public Financial Management Risk Assessment Framework (PFMRAF). This framework is the accountability mechanism USAID uses to protect U.S. taxpayer funds from unreasonable risk and maximize the value of development investments when USAID is using partner country systems. No other assessment format or framework is approved for USAID use in assessing partner country PFM systems.

Exception: Because the "substantive technical and financial planning" requirements of Section 611(a) of the Foreign Assistance Act of 1961, as amended, are triggered by contracts or grants "in excess of $500,000," use of the PFMRAF is not required for small or "pilot" projects implemented through partner country systems with less than $500,000 of USAID funding or resources. Missions must document this exception in project approval documents for activities involving less than $500,000 in funding, and undertake risk assessment and mitigation measures appropriate to the level of risk for these activities. Please contact the Global Partner Country Systems Risk Management Team (GPCSRMT) for additional guidance.

Every step/stage of the PRMRAF assessment must be appropriately documented, along with any risk mitigation measures agreed upon by USAID and the Partner Country government. Extensive documentation will provide an audit trail for any subsequent auditors, and also will demonstrate that the USAID Mission conducting the assessment and establishing risk mitigation measures exercised due diligence in doing so. Documentation should be maintained in any resulting project files, and pertinent documents attached to the Project Appraisal Document (or "PAD"; this document is currently referred to in **ADS 201** as an Activity Approval Document). USAID Missions may consult with the Office of the CFO on the form and details of such documentation.

Because the PFMRAF requires current risk assessment or if needed, risk mitigation, after the date of issuance of this ADS chapter, USAID Missions must conduct PFMRAF assessments of any new/potential partner country government implementing entities before any new obligation of funds to that entity in excess of the minimum $500,000 amount, above. However, obligation of funds to pay down a "mortgage" or commitment level in an existing bilateral agreement to use partner country systems for project implementation is permitted pursuant to bilateral implementation agreements already in force at the time this guidance is issued, subject to the "reassessment" requirements set forth below. This "transition period" for existing bilateral implementation agreements is limited to the current commitment level in bilateral implementation agreements in force on the date of this guidance. Please see requirements for increased commitment levels, below.

In addition to the required use of the PFMRAF prior to entry into any new Bilateral Project Agreements, USAID Missions financing project implementation through the use of partner country systems must conduct updated PFMRAF reassessments on approved partner country government entities that are implementing USAID-funded projects. Such updated PFMRAF reassessments should be conducted not less than every three years, with exceptions approved by the Office of the CFO. Please contact the Office of the CFO for further guidance concerning the three-year reassessment requirement.

If a Mission substantially increases the amount of funding for existing projects implemented through use of approved partner country PFM systems (for example, by more than 50 percent of the initial commitment/obligation), an updated reassessment must be conducted and documented, to ensure the partner country PFM systems are sufficient to bear the increased risk due to the increased funding levels.

Because assessment and use of partner country systems involve the conduct of diplomacy, negotiations with the partner country government, and decisions about the design and conduct of the USAID assistance projects in a partner country, the assessment process and related determinations constitute "inherently governmental" functions of the U. S. Government, and must be carried out by the cognizant USAID Mission, although contractor and other private sector support may be used to inform such functions.

The Five Stages of the Public Financial Management Risk Assessment Framework (PFMRAF)

Stage 1: Rapid Appraisal

During Stage 1, the USAID Mission will identify the following:

(a) USAID-partner country government joint development objectives that may lend themselves to use of partner country PFM systems;

(b) Sectors in which the USAID Mission and partner country government may want to cooperate on projects implemented through partner country systems; and

(c) Any areas of PFM system weakness, relationship challenges, or other factors that could pose significant implementation risks (loss of resources or failure/inadequate performance).

The Stage 1 Rapid Appraisal is completed by the PCS Team and covers issues affecting country-level fiduciary risk, such as:

- Country commitment to transparency and accountability in the use of public funds (Note the “transparency” requirement, in the “Legal Requirements” section, below at ADS 220.3.2 D. Missions should review the annual U.S. Department of State report on Partner Country government budget transparency, and any related waivers that have been approved, at the U.S. Department of State’s Diplopedia);

- Country commitment to effective and efficient use of public resources;

- Existence and quality of PFM policies, legal and institutional framework, and systems supporting transparency, accountability, and control, especially in the use of donor funds;

- Background information on PFM in the sector(s) of interest, where relevant;

- Risk of corruption, waste, fraud or other abuse;

- Political, technical, or security factors that exacerbate fiduciary risk; and

- Review of other donor assessments and programs for comparison of risk assessment and management.

The Mission should use available, current information about the partner country's higher-level Public Financial Management systems (e.g., recent Public Expenditure and Financial Accountability [PEFA] reports, Organization of Economic Cooperation and Development-Development Assistance Committee country procurement system assessments, partner country-generated assessments and reports, and other donors' assessments) to identify systemic partner country government PFM practices that are potentially weak. Lack of previous countrywide PEFA or OECD-DAC assessments may make risk identification difficult, but should not ordinarily be a reason to turn down a request for a Stage 1 assessment. Countries lacking PEFA, OECD-DAC or similar assessments should be encouraged to complete such an assessment, with USAID assistance if appropriate and available.

The Office of the CFO in USAID/W will support the design, planning, and implementation of Stage 1 appraisals. Sample Stage 1 rapid appraisal reports will be linked in this chapter's Internal Mandatory References section, below at ADS 220.4.2.

Stage 2: PFMRAF Risk Assessment

Unless the Stage1 Rapid Appraisal results in a determination by the Mission that there is unacceptable/unmitigated country level fiduciary risk, political constraints, or other insurmountable barriers to the use of partner country systems, an in-depth PFMRAF risk assessment may be completed by the PCS Team. Partner Country government participation in the risk assessment is advisable where appropriate.

The assessment, although more narrowly focused than a general audit, will include such testing of PFM systems as necessary to validate overall systems operations and internal controls, and identify performance risks. The assessment commences with development by the Controller and PCS Team, in consultation with the Office of the CFO, of a customized list of PFM risk assessment indicators taken from a comprehensive list available from the Office of the CFO for the candidate partner country (risk assessment indicators measure the quality of core systems performance and level of fiduciary risk in the sector[s]). This customized list of risk factors will be used for the proposed PFMRAF risk assessment.

If evidence exists from recent countrywide assessments by partner country governments/Supreme Audit Institutions, other donors, or international auditing authorities that certain government PFM functions are already of acceptable quality, the USAID-implemented risk assessment need not re-examine the practices covered by the other assessment. Pre-existing/recent assessments should be compared with the factors to be assessed by the PFMRAF assessment, and a “validation” analysis should be completed by the PCS Team to identify outstanding areas or customized factors still needing to be assessed by the subsequent PFMRAF assessment. The CFO is available for consultations on validation of pre-existing assessments, and the identification of additional factors, if any, that still must be assessed by administration of the PFMRAF.

In Stage 2, the Mission-designated PCS Team must examine the current capacity, control systems, and day-to-day practices used in the PFM systems in the ministries, departments, or agencies that may be responsible for making and carrying out decisions and actions related to the assistance USAID will provide. Again, this examination should include such tests of PFM systems as necessary to validate the system’s performance and internal controls.

The Office of the CFO has compiled a list of PFM risk assessment indicators based on field tests of the PFMRAF and international and domestic standards for Public Financial Management. The Office of the CFO is available to assist the Controller and PCS Team in customizing this list for individualized, Mission-led Stage 2 assessments and otherwise support, help design, advise, guide, and provide best practices for the Stage 2 PFMRAF risk assessment. It is also appropriate for Missions to hire expert consultants to participate on the PFMRAF team, such as auditors and accountants. However, as above, the determination to authorize use of partner country systems is an inherently governmental function within the Mission Director’s/Principal Officer’s sole discretion, and the determination cannot be delegated.

Where possible, all PFMRAF risk assessments should be done jointly by the cognizant USAID Mission and partner country government. Diagnostic reviews such as the PFMRAF are an important—and growing—source of information to governments and donors on the state of country systems in partner countries. Partner countries and donors have a shared interest in being able to monitor progress over time in improving partner country PFM systems.

As a practical matter, initial project design may be undertaken by the PCS Team simultaneously with Stages 1 and 2. Missions should have identified their development objective(s), preferably in negotiation with the partner country government, prior to Stage 1. Stage 2 will often include consideration or development of at least notional implementation mechanisms and associated risk mitigation or capacity building requirements. In sum, The Stage 2 PFMRAF risk assessment will establish the baseline level of risk corresponding to contemplated funding levels, and vulnerabilities of the partner country PFM sector in which the USAID Mission is considering using partner country systems for implementation.

PFM systems are never risk-free. The PFMRAF is an identification of the risks presented by a particular implementing mechanism deployed to achieve a given development objective relative to the country systems to be used. "Identification" neither eliminates nor mitigates the risk. Positive actions will be required for mitigation, but it is the nature of public financial administration systems that risk can never be eliminated, only mitigated and reduced.

Stage 3: Risk Analysis, Management and Mitigation

At Stage 3, the cognizant USAID Mission Director/Principal Officer, in consultation with the designated members of the PCS Team, (and the CFO if desired), reviews the Stage 2 risk assessment report and decides whether any detected PFM systemic risk in the developmental sector being considered for use of partner country systems (that is, the cognizant partner country national/ministry, regional or local governments) can reasonably be mitigated and if so, what kind of mitigating measures might be introduced to reduce that risk. In addition, the USAID Mission Director/Principal Officer, as advised by the PCS Team and Controller, must determine whether actions or inputs will be made by USAID or the partner country to enhance partner country Public Financial Management, especially in the specific sector(s) being considered for use of partner country systems for project implementation. If actions or inputs are made by USAID or the partner country, the Mission Director/Principal Officer must determine what kind of actions or inputs will be made. The determination will be made in consultation with the partner country government.

Missions are advised that all risk management decisions should be made on the basis of identified, assessed, and evaluated risk after consideration of the knowledge available at the time of the decision. Risk management decisions may require the partner country government to undertake appropriate risk mitigating actions. Identification of risk management measures is intertwined with, and may overlap with, project design, below. Through the design process, risks will be evaluated for probability and impact, given a specific project design. Any identified risk must be treated through capacity building, imposition of additional controls, or other measures.

Emphasis: Corruption is a very serious issue and occurs in many of the countries in which USAID works. It is important for Missions to be proactive in combating corruption when attempting to assist partner countries in improving their PFM practices. The issue is not the existence of vulnerabilities to corruption, but how the partner country government responds to these vulnerabilities. Only if vulnerability to corruption is acknowledged can appropriate responses and resources be directed to combat corruption so use of partner country systems is possible. Some of these resources include recovery of losses, accountability, and enhancement of controls. If USAID's Public Financial Management assessment produces clear evidence of vulnerabilities to corruption, but the partner country government fails to respond with appropriate policies and actions such as a code of government ethics and procurement integrity, robust financial controls, and prosecution of wrongdoers, use of partner country systems must not be authorized. If, however, the partner country government acknowledges a vulnerability to corruption and demonstrates commitment to combat it with energetic enforcement practices, USAID should support such efforts and weigh them favorably when considering use of partner country systems.

A sound internal control environment is critical to mitigating risk due to corruption. Partner country public financial systems managers must be vigilant for signs of fraud and ensure that discrepancies in record keeping are resolved fully and transparently immediately upon discovery. USAID project managers are urged to seek training in fraud detection and prevention. In many instances, USAID may also want to support an oversight role for local civil society and the private sector. The opportunity to join forces to combat corruption may be as important to overall development as improved health outcomes or economic growth. USAID Missions should consider agreeing to tighter scopes of work, milestone type financing agreements, and other risk mitigation measures that reflect an environment with some vulnerability to corruption when working through partner country systems. USAID staff is reminded of their responsibilities to report fraud immediately upon detection through available resources, including USAID's internal chain of command and also the Inspector General's anti-fraud hotline. (For telephone reporting, call 1-800-230-6539 or 202-712-1023. Complaints may be sent to ig.hotline@usaid.gov.)

Stage 4: The Accountability Framework/Approval of the Use of Partner Country Systems

The Agency has established a set of conditions that would, if complied with, constitute formal approval for the use of a partner country PFM system. These conditions are known collectively as the Accountability Framework and include:

- An official request from the partner country for use of its PFM systems;

- Completion of due diligence on the partner country systems targeted for use by the PCS Team and Controller, and review and quality control of the due diligence by the (GPCSRMT). Such due diligence will include the following:

    - Completion of a risk assessment using the PFMRAF;

    - Establishment of specific risk tolerance limits which may be expressed as time limits (such as quarterly or annual limits on commitments to the partner country) or amount limits (such as "not to exceed $5 million") or both; and

- If appropriate, risk mitigation measures, which may take the form of short/long-term technical assistance to build capacity, supplemental control measures to mitigate identified risk areas during project implementation, or both;

- A written Approval of Use of Partner Country Systems (AUPCS) by the Mission Director/Principal Officer agreeing to the partner country government's request to implement assistance using its systems will discharge USAID's fiduciary duties, advance USAID's broad development goals and achieve measurable results, jointly identified and agreed upon with the partner country government. The AUPCS differs from the "certification" procedures of host (partner) country procurement systems under **ADS E301.5.2b** and evaluation requirement for procurements under Fixed Amount Reimbursement Agreements, ADS **317.5.1**, because USAID Missions will not be shifting risk by endorsing a particular partner country system or focusing on a single procurement but rather identifying systemic risk and if appropriate, devising risk management strategies in the AUPCS. As above, the cognizant Assistant Administrator and CFO are each available on an *ad hoc* basis to consult on especially difficult or politically sensitive AUPCSs. The AUPCS will be prepared by the PCS team and Controller, and contain a statement affirming review of due diligence by the GPCSRMT and compliance with any global limits that may be in force. A Mission Director/Principal Officer may approve an AUPCS even where manageable risk of loss exists (and risk mitigation sub-optimal), if there is an overarching foreign policy or national security interest, or where emergent humanitarian concerns exist—as long as such risk is manageable. Such special considerations must be documented in the AUPCS. Contact the Office of the CFO for further guidance; and

- Documentation that the PFM systems to be used for subsequent project implementation will be subject to (1) periodic financial audit; (2) periodic re-assessment using the PFMRAF; and documentation that the project itself will be subject both to (3) periodic financial audit, per USAID's usual procedures for bilateral projects, and (4) evaluation, in accordance with the Agency's most recent Evaluation Policy, of both mid-term and final impact of the effectiveness of the project and the capacity building in the implementing Partner Country system.

The Accountability Framework includes assurances of management of the project by the PCS Team and monitoring of compliance with applicable and agreed upon risk mitigation measures, if any. These assurances should be included in the Project Appraisal Document (PAD).

In addition, USAID Missions must negotiate rights to audit and investigate the use of USAID funds by the partner country government on behalf of the USAID Inspector

General, the Government Accountability Office, and other oversight bodies (see Standard Terms and Conditions for Bilateral Project Agreements, below).

Stage 5: Ongoing Negotiations with the Partner Country Government

Throughout the assessment process and the design, monitoring, and evaluation process, the Mission Director/Principal Officer and other designated PCS Team members may be engaged in consultations and negotiations about the direction of the project with representatives of the partner country government. Possible topics may include partner country government participation in the assessment process, project design, monitoring and evaluation, selection of an implementation mechanism, and negotiation of a Bilateral Project Agreement to reflect these understandings.

220.3.2.3 Project Design, Monitoring, Evaluation, and Designation of Responsibilities

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Formal project design and approval should occur after the AUPCS is approved and should incorporate the AUPCS in the Project Appraisal Document.

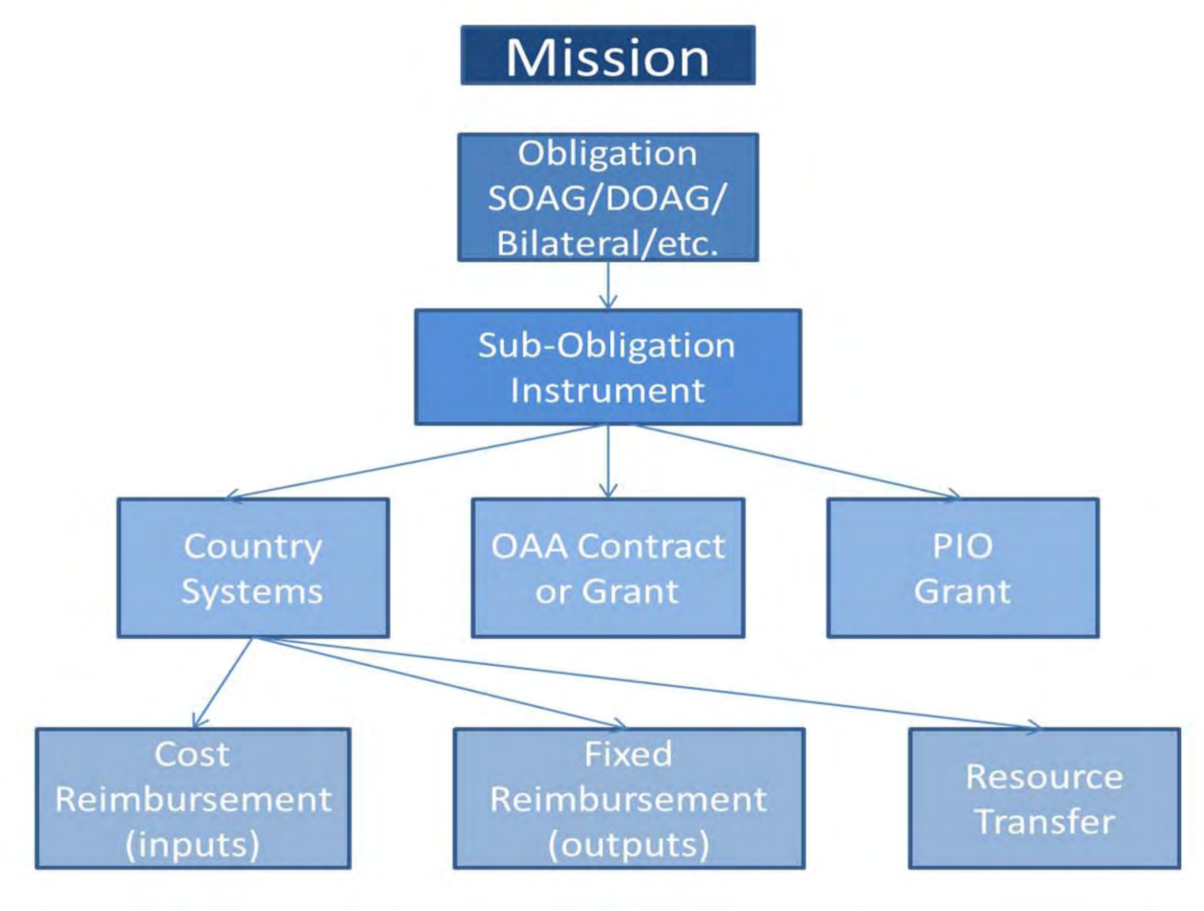
Project design must include consideration of the selection of the appropriate obligating instrument. USAID program funds are initially obligated bilaterally through broadly defined bilateral obligating mechanisms such as Strategic/Development Objective Grant Agreements (SOAG/DOAG) or other sector specific bilateral agreements. However, very rarely are USAID-funded bilateral programs implemented at the program-wide level under a SOAG/DOAG; instead typically they are implemented at the project level under a sub-obligating, project level agreement. At that point, USAID Missions have a choice of three general types of sub-obligating agreements under the higher level, broadly defined bilateral obligating mechanism (SOAG/DOAG):

- Partner country systems/Bilateral Project Agreements, covered by this guidance;
- Office of Acquisition and Assistance/Contracting or Agreement officer awarded contracts, cooperative agreements or grants (See **ADS 302**, Direct Contracting and **ADS 303** Grants to Non-governmental Organizations); and
- Grants to Public International Organizations or bilateral donors. (See **ADS 308**.)

Only the first type of mechanism, use of partner country systems/Bilateral Project Agreements, is covered by this guidance. Category one, use of partner country systems at the sub-obligating/project implementation level, requires a choice between three basic types of funding mechanisms:

- Cost reimbursement (inputs),
- Fixed reimbursement (outputs), and
- Resource transfer (budget support, etc.).

This basic approach is reflected in the following diagram:



Note: For the purposes of this diagram, "Cost" and "Fixed Reimbursement" and "Resource Transfer" do NOT have the same meanings as elsewhere in the ADS or other USAID guidance. Here the diagram shows that there are three generic means whereby USAID may use country PFM systems: (1) to finance inputs leading to defined outputs; (2) to finance the outputs once they are complete; and (3) to provide financial resources, resources that are converted into cash, or commodities that otherwise would have been purchased with cash to support the budget of the country or a sector. All specifically defined mechanisms, such as "Fixed Amount Reimbursement Agreements" or "Cash Transfers" fall under one of these three categories in the diagram.

Risk mitigation measures, such as capacity building technical assistance, concurrent audits, and disbursements in tranches, should be incorporated into project design where appropriate, and may facilitate transfer of greater responsibility for implementation to the partner country once capacity is built (as a practical matter, few partner country systems are likely to be assessed the first time as fully sufficient, implying the need for strengthening). Depending on the results of the PFMRAF, inclusion of a “milestones” approach may be useful, under which the partner country would be expected to achieve certain milestones or demonstrate measured progress in addressing identified PFM weaknesses before its systems are used fully, with attainment of related benchmarks measured over time. Quantitative limits on funds advanced between receipt of monitoring reports or simply dividing the project into phases may be used to limit exposure at any one point. See **ADS 636** for guidance on advances of program funds.

USAID and its partner country counterparts should agree on a monitoring plan that requires periodic progress reports from the responsible government counterpart; progress meetings to be held at which any implementation issues would be discussed and remedies agreed; and dates for completion of milestones. The monitoring plan must include provisions to ensure partner country government compliance with any risk mitigation measures established in the AUPCS or related agreements.

Consideration should be given to incorporating the results of the PFMRAF and any technical assistance provided to address diagnosed weaknesses, into the monitoring and evaluation plan, if appropriate. To the extent possible, disbursement of USAID funds should be linked to completion of these milestones. Missions should include the following oversight provisions when designing the monitoring and evaluation plan:

- Access to and right of review of relevant books and records;
- Annual audits to be conducted by the partner country’s Supreme Audit Institution or an independent auditor in accordance with mutually agreed upon guidelines;
- Fixed and appropriately timed periodic reports by the partner country on the receipt and use of funds, as well as progress towards goals and objectives of the USAID-funded project, including (where applicable) policy or performance benchmarks or milestones;
- The opportunity to adjust, add, or delete risk mitigation features based upon actual experience; and
- USAID’s right to suspend or terminate the project and/or obtain a refund in the event that funds are used for ineligible purposes or the partner country otherwise breaches the terms of the project.

See **ADS 350** for Standard Terms and Provisions for bilateral agreements.

1. Use of Different Modalities for a Sector Program

It is typical for a USAID-financed development project to employ various complementary approaches and funding mechanisms to achieve the development/strategic objective. See USAID's **Policy Paper on Program Assistance** versus projectized assistance for guidance on the two basic types of assistance USAID provides.

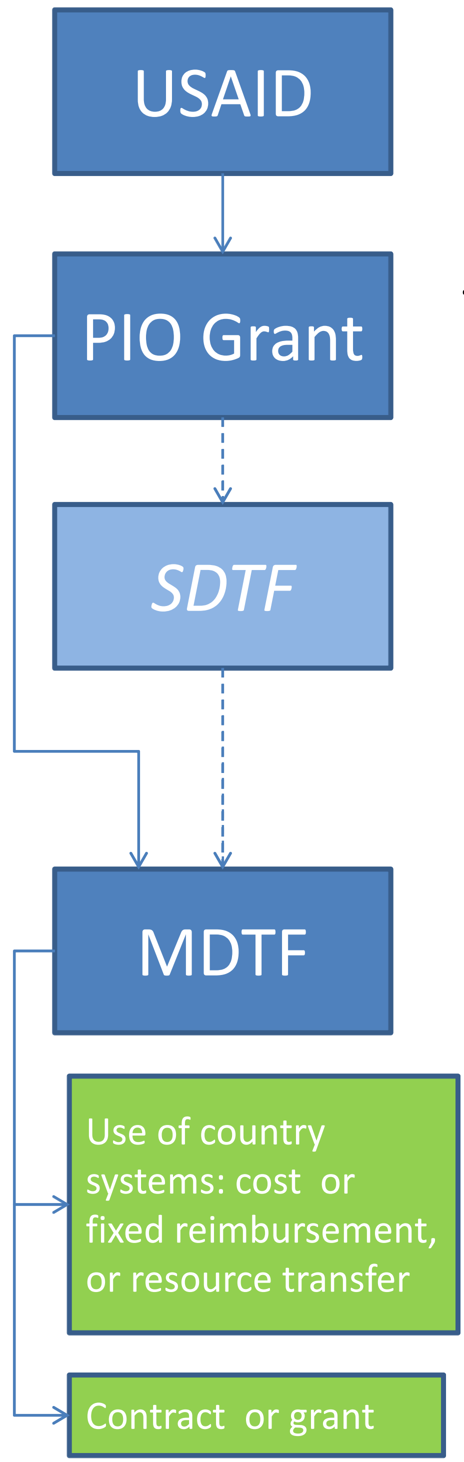
For this reason, a project implemented by a partner country government using its own systems should be complementary to, and may need to be complemented by and should be integrated with, other programs, projects or activities implemented by different partners under different USAID-financed funding mechanisms, such as contracts or grants to local, international or U.S. recipients. For example, partner country governments often request USAID to fund under a separate agreement the provision of international technical expertise to help them address specific policy, technical, or management constraints to resolving the development problem. Partner country government accountability may also be enhanced by designing and implementing a related civil society/private sector evaluation and accountability project. In sum, a decision and a project design which relies on use of partner country systems does not mean that those systems will be used exclusively to achieve the development/strategic objective. Use of partner country systems is one of several available development assistance tools and approaches that should be considered in overall sector program or development/strategic objective design.

USAID has relevant experience with multi-sector/cross sectoral programs in some countries, and staff are encouraged to seek guidance from the Mission's program office or the Bureau of Policy, Planning and Learning (PPL) when considering provision of assistance on these bases.

2. Multi-Donor Approaches

USAID Missions planning projects using partner country systems should consider coordinating with other donors on sector program approaches, joint funding arrangements, and other coordination measures such as those set forth in **ADS 308**, Awards to Public International Organizations, as part of the design phase. Procedures for use of pooled funding arrangements such as multi-donor trust funds (MDTFs) are reflected in the following guidance:

Use of Multi-Donor Trust Funds



USAID decides to contribute to an MDTF to achieve its development objective.

USAID transfers funds, either in a lump sum or in tranches, via a PIO Grant.

If USAID must impose special limitations or requirements in the MDTF, as in the health sector, to meet statutory restrictions; the Fund Trustee will establish a Single Donor Trust Fund (SDTF, in diagram) to permit USAID funds to be applied only to designated purposes.

If all the permitted uses for MDTF funds are authorized and desired by USAID, the PIO grant may flow directly to the MDTF without the intermediary step of the SDTF. This is an account, or "stock," and can be audited. Proceeds may be used for cost or fixed amount reimbursement, cash transfers, or contracts or grants to non-government entities in accordance with the project design.

The PCS Team must review the MDTF trustee's administrative arrangements for the pertinent multi-donor or other trust fund under consideration for USAID financing. The review must include fiduciary risk management and other accountability arrangements to be established by the MDTF trustee to assess and monitor partner country PFM systems, assuming those systems will be used for project implementation. PCS Teams should refrain, to the maximum extent possible, from duplicating the work of the administrative agent (the MDTF trustee or its agent) of such funds by directly examining the partner country PFM systems. Effectively, it is the MDTF trustee's oversight, not the partner country systems themselves, which are being examined. The documentation establishing USAID's participation in such MDT funds must include provisions that clearly establish the trustee's responsibility of the administrative agent for risk management and treatment.

3. Cooperation with Civil Society Organizations to Provide Oversight of and Accountability for USAID Assistance Implemented through Partner Country Systems

The PCS Team should consider partnering with responsible, respected, and effective civil society/private sector entities, to conduct external monitoring and evaluation of partner country government implementation of USAID-funded projects, in order to promote and ensure accountability and transparency. Such a partnership may include an agreement between USAID and the civil society organization creating processes and procedures for oversight, assessment, accountability, capacity building, and communication by affected citizens – the targeted beneficiaries – concerning the partner country government's implementation of the USAID-funded project. USAID Missions may also wish to facilitate the partner country government's recognition of the oversight role to be played by civil society and the private sector, in furtherance of the partner country government undertakings under the *Paris Declaration on Aid Effectiveness* and the *Accra Agenda for Action* to promote development of civil society and the private sector.

Revised Project Design guidance and materials are available from USAID/W/PPL to assist with project and design. The design guidance is comprehensive and presents a detailed process for the design, approval, obligation and implementation of USAID projects. It explicitly addresses the role of partner country governments in project planning, design, and implementation. It outlines the special design considerations that apply to using the variety of bilateral project implementation modalities that are presented. The guidance allows for increased participation in the design of USAID projects by country governments, where applicable, and promotes the use of country systems in accordance with Agency policy.

220.3.2.4 Legal Requirements

Effective Date: 08/16/2011

1. Partner Country Contribution

Section 110 of the Foreign Assistance Act of 1961, as amended, requires a Partner/Host Country contribution of 25 percent for all USAID projects funded with development assistance, childhood survival and health, and certain other categories of appropriated funds, where there is bilateral assistance resulting in Partner Country government benefit and involvement. The requirement must be memorialized in the Bilateral Project Agreement negotiated with the Partner Country government, below at ADS 220.3.2.7. Please consult **ADS 350.3.5** and your Regional Legal Advisor (RLA) or Office of the General Counsel (OGC) for guidance in implementing this requirement.

2. Budget Transparency

A provision in the current appropriations act (Section 7086) prohibits assistance to the central government of a country that fails to make its national budget publicly available on an annual basis. The State Department is responsible for making budget transparency determinations and also for recommending national interest waivers, if appropriate, to the Secretary. Consult with your Regional Legal Advisor/Office of the General Counsel and country desk officer concerning applicability of this provision to any assistance to the central government of the partner country government to which you are planning government-to-government assistance.

3. Generation and Management of Local Currency

ADS 624.3.2, Host Country Owned Foreign Currency, includes guidance that funds must be deposited in a separate account in the name of the partner government and that host country-owned local currency generated through FAA or PL 480 programs must not be commingled with funds from other sources. Furthermore, **ADS 624.3.3**, Local Currency Generation, states that "[l]ocal currency generations must be deposited separately to interest-bearing accounts" and "[a]ny interest generated on the interest-bearing account should be jointly programmed and managed." An ADS 624 Mandatory Reference, **Section 529 (a) of the FY 2002 Appropriations Bill for Foreign Operations, Export Financing, and Related Programs**, also requires that local currencies be deposited in a separate account established by that government. For cash transfers (nonproject sector assistance), the country shall be required to maintain such funds in a separate account and not commingle them with any other funds. Nonproject sector assistance funds may be exempt from the requirements only through the notification procedures of the Committees of Appropriations. **ADS 636.5.4**, Banks and Depositories, states that Advances of Federal funds shall be deposited and maintained in insured accounts whenever possible or as otherwise provided in USAID regulations or implementation guidance governing endowment funds. USAID neither requires separate depository accounts for funds provided to a recipient nor does USAID establish any eligibility requirements for depositories for funds provided to a recipient. However, the recipient must be able to account for the receipt, obligation, and expenditure of USAID funds and interest earned on the advances provided cumulatively by the U.S. Government.

Under the guidance found at **ADS 624, Host Country-Owned Foreign Currency**; **ADS 627, Local Currency Trust Fund Management**; and Policy Directive 18, Local Currency, USAID Missions must make an initial judgment at the project design phase and reach agreement (and document that agreement) with the partner country government on the following:

- Whether the anticipated uses of the dollars disbursed under a resource transfer project or the commodities financed will result in the generation of local currency for deposit into a separate account;

- If not generated, whether local currency will still be required to be set aside and deposited into a separate account;

- If deposited, what constitutes eligible, and ineligible, uses of the local currency; and

- Who will bear what specific monitoring and oversight responsibilities.

Consult your RLA or Office of the General Counsel regarding these determinations. Note that the decision whether local currency is generated and jointly programmed is separate from the partner country contribution (see ADS 220.3.2.4).

4. Congressional Notification

Unless Missions are advised of specific, applicable, special notification requirements by the RLA or Program Officer, Missions should follow annual Agency guidance by including a description of government-to-government projects, including those making use of partner country systems, in the country narrative section of the annual Congressional Notification. The narrative should contain a description of the obligating mechanism used (see ADS 220.3.2.3). Consult PPL for annual guidance concerning Congressional Notification requirements.

5. Country and Project (Activity) Level Restrictions and Prohibitions

Statutory, regulatory, and policy restrictions and prohibitions on the use of appropriated funds, both at the country and project/activity levels, apply to government-to-government assistance under this chapter, and should be reviewed with the RLA or Office of the General Counsel as well as the country desk officer, and reflected in the Project Appraisal Document, below. This includes any restrictions or limitations on sector and budget support under various accounts funding USAID projects, including Global Health and Child Survival restrictions; restrictions on funds transferred to USAID from other executive agencies; as well as family planning, HIV/AIDS, loss of U.S. jobs and anti-narcotics and terrorism restrictions. It also includes USAID's environmental regulations found at **22 C.F.R. Section 216** and **ADS 204**, Environmental Procedures. If the restrictions are not applicable, a rationale for that determination must be stated in the Project Appraisal Document.

6. Compliance with Agency Restrictions on Salary Supplementation

The issue of funding or benefits to supplement the salaries of partner country government officials or employees participating in or implementing USAID-funded projects frequently arises in partner country government implemented projects; is sensitive; and is a matter of both congressional and Agency concern. It is USAID policy that salary supplements should be considered an exception to the general rule that salary and benefits payments beyond the normal salary and benefits payments are the responsibility of the partner country government and reflects its "buy in" to the USAID-funded project. Any direct or indirect salary or benefits supplement funding by USAID requires exceptional justification approved by the cognizant Assistant Administrator. See **State Department Cable # 119780 (April 15, 1988; Unclassified)** for further guidance.

7. Branding and Marking

USAID's statutory and regulatory branding and marking requirements apply to projects implemented through partner country systems. See **22 CFR Section 226.91**; **ADS 320.3.4.2**. PCS Teams are encouraged to use the flexibility built into the regulation and ADS 320 to ensure that branding and marking requirements are applied appropriately and in furtherance of project needs and promotion of the bilateral relationship.

8. Tax-Exempt Status of USAID-Funded Foreign Assistance

USAID Missions are reminded that the Bilateral Project Agreement (discussed below) must include a provision clarifying that all assistance funded by USAID and implemented through partner country systems must be exempt from all taxes and related user fees, charges, etc. The RLA or Office of the General Counsel can assist to ensure that such an exemption is included in the Bilateral Project Agreement.

220.3.2.5 Preparation of the Project Appraisal Document

Effective Date: 08/16/2011

After the design phase is completed, an approval document should be prepared as part of the planning process outlined in **ADS 201.3.11** and with applicable Mission order(s) concerning project approval. Selection of an implementing/funding mechanism and procurement planning, below, are essential parts of that process. Please note that the Approval of Use of Partner Country Systems by the Mission Director/Principal Officer should be integrated into, but does not substitute for, a separate project approval document memorializing compliance with additional project planning requirements (the AUPCS concentrates on partner country PFM; the Project Appraisal Document (PAD) more broadly addresses USAID planning and legal requirements).

220.3.2.6 Selection of an Implementation/Funding Mechanism

Effective Date: 08/16/2011

Because the Mission Director/Principal Officer is responsible for negotiating and signing the bilateral agreement for use of partner country systems (see **ADS 103.5.1**), ultimately, he or she is responsible for selection of the funding mechanism(s), assisted and advised by the PCS team, Controller, RLA, the Contracting/Agreement Officer, and other designated staff.

Competition is not required prior to entering into bilateral agreements for the use of partner country systems.

A brief description of the key bilateral implementing mechanisms which tracks the diagram on page 22 can be found in the Mandatory Reference **220maa, Key Bilateral Funding Mechanisms**. Mission Directors/Principal Officers should select implementation/funding mechanisms that foster Public Financial Management (PFM) reform and provide efficient service delivery. Missions should consider the pros and cons associated with distinct implementation mechanisms and design projects accordingly. Missions may extend the possibility of a future change from one implementation mechanism to another in the event of progress toward mutually agreed upon policy goals, or offer the incentive of “graduated” or “stepped” progress, from more risk-averse, less flexible, more highly structured and monitored, government-to-government implementing mechanisms (Fixed Amount Reimbursement), to those with greater flexibility and more manageable risk (Cost Reimbursement), as the partner country government demonstrates its own increased capacity to manage USAID funds, projects, and related risk.

Development benefits and resultant risks will vary depending on the type of implementing mechanism under consideration (for example, a Fixed Amount Reimbursement Agreement is less risky compared to a resource transfer agreement). This risk-return relationship requires that the benefits and risks of each possible mechanism be assessed and the risk mitigated through use of appropriate risk management measures. Risk mitigation measures should be established in bilateral agreements and other implementation documents. The goal is not risk avoidance at all costs, but limited, measured risk-taking mitigated by risk management in order to implement more fully government-to-government assistance, increase partner country capacity, and advance toward ultimately graduating the partner country from USAID assistance.

The Bilateral Project Agreement may incorporate one or more USAID bilateral funding mechanisms, and may incorporate assistance implemented by contractors and grantees.

The agreement may also reflect either a program/non-project approach to assistance and funding mechanism(s), or a projectized assistance approach and mechanisms, or both. See USAID's **Policy Paper on Program Assistance**.

Missions and Operating Units are discouraged from negotiating or funding the establishment of separate project implementation/management units. It is USAID policy to use existing partner country government entities and institutions in order to strengthen those already established by the partner country government.

220.3.2.7 Negotiating and Preparing the Bilateral Project Agreement with the Partner Country Government

Effective Date: 08/16/2011

Before negotiating and preparing the Bilateral Project Agreement with the Partner Country government to fund project implementation through use of partner country systems, the USAID Mission must complete the following:

- Application of the Public Financial Management Risk Assessment Framework (PFMRAF) and consultations on its due diligence requirements with the Global Partner Country Systems Risk Management Team (GPCSRSMT);

- Approval of Use of Partner Country Systems (AUPCS) by the Mission Director/Principal Officer;

- Project design, including monitoring and evaluation plans;

- Identification of risk mitigation measures, if needed, and incorporation into a risk mitigation plan; and

- Incorporation of the AUPCS into the PAD, and approval of the PAD by the Mission Director/Principal Officer.

After these steps and approval of the PAD, the Mission must also negotiate and prepare the Bilateral Project Agreement for use of partner country systems. The Bilateral Project Agreement is a sub-obligating agreement under the obligation reflected in the SOAG/DOAG, as reflected in the discussion and diagram at ADS 220.3.2.3. Its sub-obligating function differentiates it from other bilateral agreements, such as the higher level obligating SOAG/DOAG; non-obligating Memoranda of Understanding sometimes used for bilateral program coordination or political relationship purposes; and non-obligating Framework Bilateral Agreements, which establish the general terms and conditions of the U.S. Government bilateral assistance program with the partner country, including tax and customs exemptions, and diplomatic privileges and immunities for USAID staff. The Program Officer, Project Development Officer and RLA are responsible for ensuring that the Bilateral Project Agreement is properly drafted including gathering input from the Mission Offices involved. Regional Legal Advisors (RLAs) must participate in the negotiation of the Bilateral Project Agreement.

Generally speaking, the Bilateral Project Agreement should contain the following:

- The Body of the Bilateral Project Agreement, including the time frame, results expected to be achieved, means of measuring those results, resources, responsibilities, roles, and contributions of participating entities, risk allocation, risk treatment, and conditions precedent (if any);

- Annex 1: Detailed Project Description (sector—such as heath, economic development, etc.—specific details); and

- Annex 2: The Standard Provisions Annex (as revised for project assistance).

Once the Bilateral Project Agreement(s) is/are drafted in accordance with the approved AUPCS and Project Appraisal Document, USAID will submit the Bilateral Project Agreement(s) to the partner country government for its review. The Bilateral Project Agreement may be further subject to clarifications and negotiations at the request of the partner country government. After any negotiations, the Bilateral Project Agreement(s) will be revised to incorporate any changes, and the negotiations and changes will be recorded in a separate memorandum prepared by the Program Officer.

The Bilateral Project Agreement(s) should then be cleared internally by the Mission and presented to the partner country government for signature and, if necessary, ratification. USAID Operating Units presenting such agreements to Partner Country governments for signature should consider any useful public diplomacy/relations benefits that may accrue from a public signature ceremony, and where appropriate, coordinate with the Embassy's Public Affairs office.

Please note that if a Bilateral Project Agreement results in the obligation of over $25 million to the partner country government, the agreement may require notification to the State Department under **ADS 349**, International Agreements. Please consult your RLA or USAID/W/GC for application of this requirement.

220.3.2.8 Procurement under the Bilateral Project Agreement
Effective Date: 08/16/2011

See **ADS 317**, Procurement Under Fixed Amount Reimbursement Activities, for guidance on procurement by the partner country government under a fixed amount reimbursement mechanism.

220.3.2.9 Implementation, Monitoring, and Evaluation
Effective Date: 08/16/2011

Implementation is driven by project design. Once the decisions outlined above have been officially approved in the Bilateral Project Agreement(s) with the partner country government, implementation of the resulting projects can begin. It is crucial for the PCS team to monitor progress and periodically evaluate the effectiveness of the risk mitigation measures put in place throughout implementation via the selected partner country system.

Implementation should be tracked using the monitoring plan, including progress indicators and periodic performance and financial audits. Representatives from partner country government and bilateral donor agencies directly involved in implementation or which are also active in the country should be invited to progress meetings. Careful attention should be paid to the effectiveness of the framework of mitigating measures agreed for the project. If one aspect does not seem to be working, immediate action should be taken to strengthen the controls in place for that aspect. The final completion report for the project should include a section about fiduciary risks and mitigating measures highlighting the strengths and weaknesses of government performance and how it might be improved.

PCS Teams must monitor all projects or activities implemented through partner country systems for evidence of waste, fraud or abuse.

220.4 MANDATORY REFERENCES
Effective Date: 08/16/2011

220.4.1 External Mandatory References
Effective Date: 08/16/2011

a. **22 C.F.R. Section 216**

b. **22 CFR Section 226.91**

c. **The Foreign Assistance Act of 1961, as amended (FAA)**

d. **Section 529 (a) of the FY 2002 Appropriations Bill for Foreign Operations, Export Financing, and Related Programs**

e. **State Department Cable # 119780 (April 15, 1988; Unclassified)**

220.4.2 Internal Mandatory References
Effective Date: 08/16/2011

a. **ADS 103**

b. **ADS 200 series**

c. **ADS 201**

d. **ADS 204**

e. **ADS 301**

f. **ADS 302**

g. **ADS 303**

h. **ADS 305**

i. **ADS 308**

j. **ADS 317**

k. **ADS 320**

l. **ADS 349**

m. **ADS 350**

n. **ADS 624**

o. **ADS 627**

p. **ADS 636**

q. **Key Bilateral Funding Mechanisms**

r. **Policy Directive 18**

s. **USAID Policy Paper on Program Assistance**

220.5 ADDITIONAL HELP
Effective Date: 08/16/2011

a. **Sample Bilateral Implementing/Funding Mechanisms (to come)**

b. Sample Bilateral Project Agreements with Partner Country Government (to come)

220.6 DEFINITIONS

Effective Date: 08/16/2011

The terms and definitions to be listed below will be incorporated into the **ADS Glossary**. See the ADS Glossary for all ADS terms and definitions.

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