

**FIXED AMOUNT & EXPANDED  
FIXED AMOUNT  
REIMBURSEMENT (FARA)**

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Caution: this is a work in progress.  
It has not been issued as official  
guidance by USAID, but is based  
on Agency best practices

# What is a FARA?

- Financing mechanism – not a procurement mechanism – whereby USAID agrees to pay host government a fixed amount upon a determination by USAID that specified project elements or units have been completed in accordance with plans and specifications which have been previously approved by USAID
- Originally developed as mechanism for USAID to finance a series of small, uniform physical construction elements to be built or a series of uniform commodities to be produced, such as textbooks
- Expanded over the years to encompass many types of performance-based reimbursements, including disbursements against completed actions (represented by benchmarks or indicators)
- May be appropriate whenever USAID is interested in financing an end product - whether a physical construction, a functioning infrastructure, a policy change, or institutional or other performance progress – rather than the methods employed to achieve the end product

# Why do we need this guidance?

- Because ADS 317 is woefully inadequate!

# Basic FARA

- Basic Fixed Amount Reimbursement:
  - USAID agrees to pay host government a fixed amount upon a determination by USAID that specified project elements or units have been completed in accordance with plans and specifications which have been previously approved by USAID
  - Fixed amounts are payable on element-by-element or unit-by-unit basis
  - Fixed amounts are based on estimated cost of element or unit which has been previously approved by USAID
  - Payment usually in local currency subject to U.S. dollar limitation
  - Amount of payment fixed regardless of actual cost to host country to complete

# Expanded FARA

- Can provide for periodic renegotiation of fixed amount to be reimbursed, where USAID will reimburse activities to be completed over a period of years and inflation would otherwise make it very difficult to fix a single reasonable reimbursement amount at time of signing FARA
- Can provide for advances to host government to permit work to begin where host government implementing agency does not have funds to undertake the element or activity

# Expanded FARA, cont'd

- Can permit USAID to agree to finance a fixed percentage of the actual costs of undertaking project element or unit where design specifications and cost estimates for element or unit cannot be completed with reasonable finality at time of signing FARA

# Authorities & Responsibilities

- Authority: FAA 604(a)
- Mission Office responsible for program makes initial determination that FARA would be appropriate use of USAID resources
- Mission or Regional Contracts Officer reviews adequacy of host government procurement system
- Mission Director determines whether host government procurement system adequate for use of FARA (ADS 317.3)

# Authorities & Responsibilities, cont'd

- Mission office responsible for program determines if cost estimates prepared by host government for work to be done under FARA are reasonable
- Mission office responsible for program ensures compliance with source & origin requirements (See ADS 317.5.2)
- Mission office responsible for program verifies completion of work to be reimbursed by USAID
- Mission Director waives marking requirements for construction sites, public communications or commodities produced under FARA if marking would produce an adverse reaction in host country (See ADS 320.3.2.6)

# Criteria for use of FARA

- Length and Complexity of Project:  
because of financial burden that the use of reimbursement financing places on host government, FARA best for low-cost, short-term projects that are divisible into elements or units small enough to be completed within 9 to 12 months or less before receiving reimbursement from USAID

# Criteria for use of FARA, cont'd

- Reimbursement for Self-Sustaining Units: elements or units must be self-sustaining, useful, cost-effective, and desirable in their own right, regardless of whether other elements or units are completed
  - e.g. buildings or facilities of uniform size or capacity utilizing standard plans and specifications for design and implementation, such as a series of 100 similar or identical three-room school buildings
  - NOT a large or complex activity with discrete elements or units that are dependent on the completion of other elements or units in order to be self-sustaining, useful, and cost-effective

# Criteria for use of FARA, cont'd

- Definable Criteria for Completion: USAID and host government must be able to agree, at the outset, on criteria to be used to determine achievement of the end product (and any intervening benchmarks on which USAID will base disbursements)
- Estimation of Costs: USAID and host government must be able to either reasonably estimate direct costs required to complete the end product (and any intervening benchmarks) or be able to agree on an alternative method of valuing progress achieved
- Review of Plans and Specifications: USAID must be able to review and approve host government's plans for achieving the end product

# Criteria for use of FARA, cont'd

- Host Country Resources: USAID must have reasonable confidence in ability of host government to achieve the end product, given financial resources and staff
  - Basic FARA model – the pure fixed amount reimbursement model - assumes that host government has sufficient financial resources to provide necessary working capital so that delays in reimbursement until completion of element or unit will not have a detrimental effect on project implementation
  - For construction activities, host government implementing agency must have available to it skilled engineers and contracting personnel necessary to design, cost out, award and manage the construction
  - For performance-based FARA arrangements such as the equipping or operation of clinics, production of textbooks or development of new teaching methodologies, host government implementing agency must have available to it the necessary subject-matter expertise to design, cost out, procure, develop, and oversee implementation of the activity

# Criteria for use of FARA, cont'd

- Mission Resources: USAID Mission must also have available to it the necessary expertise, through its own or regional USAID staff or through contract, to ensure periodic inspections of the activity and to certify that elements or units to be reimbursed have been completed in accordance with agreed-to plans and specifications
  - for FARA arrangements involving construction or renovation of physical facilities, Mission must have available to it engineers with expertise to estimate the cost of the activity, to evaluate the progress of construction, and to concur in satisfactory completion of the end product
  - for FARA arrangements involving program benchmarks, Mission must have available to it program-specific expertise to judge when benchmarks have been met (e.g. education expertise for school curriculum development, health expertise for development of rural clinics)

# Establishment of Benchmarks

- Amount of each FARA disbursement is calculated by a reasonable, up-front estimate of the direct cost of actions needed to accomplish the benchmark or indicator
  - e.g., for a construction activity where a number of bridges are to be built, the cost of commodities and services to construct each bridge is calculated
  - for an activity where oral rehydration salts are to be produced by the host government, the cost of producing a given quantity of salts is calculated
  - for an activity funding a series of family planning clinics, USAID might reimburse the estimated cost of constructing, staffing, and equipping a fully-functioning family planning clinic
  - for an activity establishing a locally-managed health program, USAID may agree to pay the estimated cost of creating an autonomous local society to oversee the program, of establishing and equipping a local health office, of developing an organizational framework appropriate to implement the program, and of hiring staff necessary for its implementation
  - for an activity encouraging local communities to identify and plan for the execution of local development priorities, USAID might agree to finance the estimated cost of such a project upon completion of plans
  - for an activity financing the development of a cadre of trained anti-trafficking enforcers, USAID might agree on the cost of training a certain number of experts
- Benchmarks and Indicators must be narrow enough that actions needed to accomplish them can be identified and costed-out with reasonable confidence, and must be readily and objectively verifiable

# Procurement of Goods under FARA

- Because USAID is financing a finished project element or unit rather than the commodities which are used in its production or implementation, most USAID procurement rules normally applicable to host country contracts (ADS 305) do not apply to procurements of commodities by host government in implementing a FARA
- Since FARA requires host government to bear up-front costs of implementation while waiting for reimbursement from USAID, most FARA activities will not require significant offshore procurement
- Source/Origin with USAID funding under FARA:
- the following are permitted
  - (1) Unlimited procurement of 'indigenous' goods (goods grown, mined or produced within the host country)
  - (2) Unlimited procurement of goods imported from Code 000
  - (3) Local purchase of goods of Code 935 origin limited to 25% of total cost of commodity element of the FARA activity, unless a higher percentage approved by USAID
  - (4) Goods imported specifically for the activity from Code 935 may be financed if the cost of transaction does not exceed \$5000, exclusive of transportation costs
- Other USAID procurement policies for host country contracts (ADS 305) are waived for procurement of commodities under FARA

# Procurement of Services under FARA

- Because USAID is financing a finished project element or unit rather than the services which are used in its production or implementation, most USAID procurement rules normally applicable to host country contracts (ADS 305) do not apply to procurements of services made by the host government in implementing a FARA (see ADS 317.5.3)
  - Waived policies include USAID approvals of contracting steps, competition in contracting, advertising requirements, prohibition on cost plus percentage of cost contracts, and mandatory clauses
- Nationality: USAID policies on nationality (ADS 310) are waived for procurement of services under FARA (see ADS 317.5.3)
- Other USAID procurement policies for host country contracts (ADS 305) are waived for procurement of services under FARA

# Legal and Regulatory Requirements

- Because FARA and Expanded FARA are methods of financing assistance, statutory and regulatory requirements relating to project assistance apply
- This includes statutory requirements applicable to certain types of funding (DA, ESF, CSH, etc) or to certain countries (such as restrictions on assistance to Burma)
- Host Country Contribution requirements apply for DA-funded FARAs and Expanded FARAs, unless waived in accordance with FAA Section 124(d) (ADS 350.3.5)
- Marking and Branding requirements apply to FARAs and Expanded FARAs, as consistent with terms of underlying Assistance Agreement (if any) and ADS 320
  - However, since USAID is financing a finished project element or unit under FARA rather than commodities which used in its production or implementation, commodities acquired by the host government which are used in implementation of the activity need not be marked
  - Where construction activities are financed under a FARA, sites must be marked with signs displaying the USAID Standard Graphic Identity
  - Where activity financed under a FARA involves the production of commodities, finished commodities must display the USAID Identity
  - Where public communications are financed under a FARA, the public communication must be marked with the USAID Identity
  - Marking requirements can be waived under the terms of ADS 320

# Legal and Regulatory Requirements, cont'd

- Use of Audit of FARA and Expanded FARA activities is to determine whether USAID's policy and legal requirements applicable to FARA activity were met
  - Audit looks at such things as whether disbursement benchmarks and indicators were clear and demonstrably met; whether USAID reviewed and approved reasonable estimates of the direct cost of each disbursement benchmark; whether all applicable statutory requirements were enforced; and whether disbursements were made upon completion of each benchmark
  - Audit would NOT track the use of USAID's disbursements; examine the means by which benchmark and indicator actions were accomplished; or look at actual costs (unless USAID agreed to reimburse a percentage of actual costs)

# Legal and Regulatory Requirements, cont'd

- FAA Section 611(e): Where construction activities are financed under a FARA and where the reimbursable amount for the construction element exceeds one million U.S. dollars, Mission Director must certify, and the Regional AA take into consideration, the host country's capacity to maintain and utilize the construction

# Statutory Prohibitions

- The following statutory prohibitions, among others, are applicable to FARA and Expanded FARA activities:
  - Any applicable country restrictions (e.g. military coup, Burma, major drug traffickers, trafficking in persons)
  - Bumpers Amendment, FY 2010 FOAA Section 7026(b), prohibiting use of USAID funding for agricultural development activities that would compete with US production
  - FAA Section 620(h) prohibiting USAID funds from being used to promote or assist foreign aid projects or activities of any communist country
  - FY 2010 FOAA Section 7029, prohibiting use of USAID funds for activity contributing to the violation of internationally-recognized workers' rights (see also ADS 225)
  - FY 2010 FOAA Section 7026(a), prohibiting USAID funds from being used to establish or expand production of commodity for export if commodity is likely to be in surplus on world markets and substantial injury will be caused to US producers

# Statutory Prohibitions, cont'd

- FY 2010 FOAA Section 7071(g)(2) prohibiting assistance to the PLA
- FAA Section 118 prohibiting use of USAID funds for activities that will negatively impact on tropical forests
- FAA Section 620(g) prohibiting USAID funds from being used to finance compensation to owners for expropriated or nationalized property
- FAA Section 104(f) and FY 2010 FOAA Section 7018 prohibiting use of USAID funds to perform abortions or involuntary sterilizations as a method of family planning, to coerce or incentivize anyone to practice abortions or undergo sterilizations, to fund related biomedical research, to lobby for or against abortion, or to assist organizations or programs that support or participate in management of a program of coercive abortion or involuntary sterilization
- FAA Section 531(e) prohibiting use of ESF funds for military or paramilitary purposes
- FAA Section 660 prohibiting use of USAID funds to provide training, advice, or financial support for police, prisons, or other law enforcement forces, except under applicable exceptions or "notwithstanding" authority
- FAA 620(j) prohibiting USAID funds from being made available to any unit of security forces of a foreign country which has committed gross violations of human rights

# Statutory Prohibitions, cont'd

- Environmental Review: the provisions of Regulation 16 apply to activities funded under a FARA or Expanded FARA (22 CFR 216 and ADS 204)
- HIV/AIDS-Related Requirements (FY 2010 Global Health and Child Survival Account):
  - i. Medically Accurate Information on Condoms - any activity involving provision of information on the use of condoms must provide information that is medically accurate and consistent with USAID's fact sheet entitled "USAID: HIV/STI Prevention and Condoms."
  - ii. Conscience Clause - organizations receiving assistance under a FARA or Expanded FARA may not be required to endorse or utilize a multi-sectoral approach to combating HIV/AIDS, or to endorse, utilize, or participate in a prevention method or treatment program to which the organization has a religious or moral objection (Section 301(d) of the U.S. Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003)
  - iii. Prostitution and Sex Trafficking - funds may not be used to promote or advocate legalization or practice of prostitution or sex trafficking (Section 301(e) of the U.S. Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003)

# Statutory Prohibitions, cont'd

- 2010 FOAA Section 7048, prohibiting use of CSH or DA funds to pay for participation of another country's delegation at international conferences held under auspices of multilateral or international organizations
- FY 2020 FOAA, Global Health and Child Survival Account: Voluntary Family Planning Support. Funds may only be used for family planning projects that offer or provide information about access to a broad range of family planning services. Service providers or referral agents may not implement or be subject to quotas or other numerical targets of total number of births, family planning acceptors, or acceptors of a particular method of family planning. Funds may not provide payment of incentives, bribes, gratuities, or financial rewards to anyone for becoming a family planning acceptor or to project personnel for achieving a numerical target or quota of total numbers of births, family planning acceptors, or acceptors of a particular method of family planning. No rights or benefits may be denied as a consequence of any decision not to accept family planning services. Project must provide comprehensive information on health benefits and risks and must ensure that experimental contraceptives and medical procedures are provided only in context of scientific study in which participants are advised of potential benefits and risks.

# Expanded FARA : Advances and Mobilization Payments

- Under the most basic form of FARA, the host government uses its own funds to implement a FARA activity and USAID reimburses an agreed-upon amount or agreed-upon percentage of the cost of implementation upon completion of the activity
- If inadequate host government financing would defeat an otherwise desirable FARA, USAID may advance to the host government a portion of the costs required to start up the activity, deducting the advance from subsequent reimbursements.
- Alternatively, USAID could structure benchmarks to include as a first benchmark the mobilization of equipment and supplies necessary to carry out the activity

# Expanded FARA : Cost Escalation and Percentage of Actual Cost

- When inflation or other uncontrollable factors make it difficult for USAID and the host government to agree at the outset on a reasonable cost to complete the FARA activity, USAID can agree to periodically renegotiate increases in the agreed-upon reimbursement amount
- Or USAID could agree to reimburse a percentage of the actual costs incurred by the host government in completing the activity (Fixed Percentage Reimbursement Agreement or FPRA)

# Expanded FARA : Performance-Based FARA

- A FARA can also be structured to finance completed actions (benchmarks or indicators) that are broader than goods or services, such as "new reading curriculum adopted," which might include the costs of designing and testing curriculum, developing and printing and distributing textbooks, and training teachers in use of new curriculum
- Under this model, USAID agrees to reimburse host government for a reasonable estimate of the direct costs of performing a completed disbursement benchmark or indicator
- Costs of implementing the program other than direct costs, such as the "opportunities cost" of performing action to be reimbursed as opposed to other possible actions, the broad "value" to host country of completing the action to be reimbursed, or other indirect costs which USAID traditionally takes into consideration in determining the amount of funding to be provided to host government for Program Assistance or NPA, would not be included in costs used to estimate the reimbursement amount (RA)

# Model FARA and Expanded FARA Agreements

- To be distributed