

The image features a large, light gray watermark of the USAID seal in the background. The seal is circular and contains the text "UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT" around the perimeter. In the center of the seal is a shield with a map of the United States, and the word "USAID" is prominently displayed in a dark gray box across the middle of the seal.

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# Acquisition & Assistance Policy Directive (AAPD)

From the Director, Office of Acquisition & Assistance Issued: June 16, 2005

## AAPD 05-07

### Supporting USAID's Standards for Accessibility for the Disabled in Contracts, Grants, and Cooperative Agreements

Subject Category: ACQUISITION MANAGEMENT  
Type: POLICY

AAPDs provide information of significance to all agency personnel and partners involved in the Acquisition and Assistance process. Information includes (but is not limited to): advance notification of changes in acquisition or assistance regulations; reminders; procedures; and general information. Also, AAPDs may be used to implement new requirements on short-notice, pending formal amendment of acquisition or assistance regulations.

AAPDs are EFFECTIVE AS OF THE ISSUED DATE unless otherwise noted in the guidance below; the directives remain in effect until this office issues a notice of cancellation.

This AAPD:  Is New  Replaces/  Amends CIB/AAPD No:

<p>Applicable to:</p> <p><input type="checkbox"/> Existing awards; <input type="checkbox"/> Modification required</p> <p><input type="checkbox"/> No later than</p> <p><input type="checkbox"/> As noted in guidance below</p> <p><input checked="" type="checkbox"/> RFPs/RFAs issued on or after the effective date of this AAPD; all other Pending Awards, i.e., 8(a), sole source, IQC</p> <p><input type="checkbox"/> Other or N/A</p>	<p>Precedes change to:</p> <p><input type="checkbox"/> AIDAR Part(s) Appendix</p> <p><input type="checkbox"/> USAID Automated Directives System (ADS) Chapter</p> <p><input type="checkbox"/> Code of Federal Regulations</p> <p><input type="checkbox"/> Other</p> <p><input checked="" type="checkbox"/> No change to regulations</p>
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New Provision/Clause Provided Herein: If checked, scheduled update to Prodoc:

LYNN KOPALA (acting)

**PURPOSE:** The purpose of this AAPD is to require contracting officers (COs) and agreement officers (AOs) to include a provision in all solicitations and resulting awards for contracts, grant, and cooperative agreements involving construction or renovation of structures, facilities or buildings. The provision is an affirmative statement that contractors and recipients will comply, to the extent practicable and within the scope of the award, with the intent of USAID's Policy on Standards for Accessibility for the Disabled in USAID-Financed Construction.

**BACKGROUND:** In September 1997, the Bureau for Program and Policy Coordination (PPC) issued a USAID General Policy Notice stating USAID's Disability Policy. This Policy Paper "articulates the U.S. Agency for International Development's (USAID) commitment to pursue advocacy for, outreach to, and inclusion of people with physical and mental disabilities, to the maximum extent feasible, in the design and implementation of USAID programming, and provides guidance for making that commitment operational." The policy applies to the use of Agency program funds only and complements USAID's personnel and staffing disability policies.

PPC includes the Policy Paper as a Mandatory Internal Reference to ADS 200 "Introduction to Programming Policy" (see ADS 200.4.2 Internal Mandatory References, under the category "Other Issues." The full text is available at <http://www.usaid.gov/about/disability/policies.html>).

As part of the effort to more fully incorporate the Disability Policy into USAID's program planning (see Executive Message Dated 09/03/2004), PPC has developed policy guidance on accessibility standards for the disabled in USAID-financed construction. A USAID inter-bureau committee and stakeholders developed this guidance for any new or renovation construction project funded by USAID. This AAPD is the first and principal means of implementing the guidance.

Although many operating units throughout the Agency incorporate the Disability Policy in their strategic planning and activity development, more needs to be done to specify standards for accessibility in USAID-funded construction contracts, grants and cooperative agreements.

Until these efforts result in more consistent inclusion in SOWs and PDs, the Office of Acquisition and Assistance is issuing this AAPD to bring the Agency policy guidance to the attention of our private sector implementing partners and ensure their compliance with the policy by including a provision to this effect in contracts, grants, and cooperative agreements.

**GUIDANCE:** The clause and provision below are to be used in all RFP's and RFA's issued after the date of this AAPD.

The clause and provision set out the agency's objectives regarding disability policy in terms of construction; require compliance with accessibility standards; how to comply in new construction and in alterations to existing structures, and construction related activities that are exempt from the requirements for compliance. In both the clause and provision under paragraph (e), Alterations, there is a requirement for the Contracting Officer's or Assistance Officer's approval where compliance with accessibility standards is technically infeasible or presents an undue burden. To issue this approval the Contracting or Assistance Officer must first obtain a waiver as required by the USAID Policy on Standards for Accessibility for the Disabled in USAID-Financed Construction.

The request for a waiver must identify the specific requirements and procedures of the guidelines from which a waiver is sought and provide a detailed explanation, including appropriate information or documentation, as to why a waiver should be granted. A statement(s) that, where feasible, persons with disabilities will be accommodated and how such accommodations will allow access to all programs and services needed should accompany requests. The full text of the policy and guidance on the waiver process is available at [http://www.usaid.gov/about/disability/financed\\_construction.html](http://www.usaid.gov/about/disability/financed_construction.html).

#### 1. Acquisition

For acquisitions (contracts) for construction or renovation using program funds, when issuing a Request for Proposals (RFP), the contracting officer must include the following provision in Section H of the RFP and resulting contract:

"STANDARDS FOR ACCESSIBILITY FOR THE DISABLED IN USAID CONSTRUCTION CONTRACTS (September 2004)

(a) One of the objectives of the USAID Disability Policy is to engage other U.S. government agencies, host country counterparts, governments, implementing organizations and other donors in fostering a climate of nondiscrimination against people with disabilities. As part of this policy USAID has established standards for any new or renovation construction project funded by USAID to allow access by people with disabilities (PWDs). The full text of the policy paper can be found at the following website: [http://www.usaid.gov/about/disability/financed\\_construction.html](http://www.usaid.gov/about/disability/financed_construction.html).

(b) USAID requires the contractor to comply with standards of accessibility for people with disabilities in all structures, buildings or facilities resulting from new or renovation construction or alterations of an existing structure.

(c) The contractor will comply with the host country or regional standards for accessibility in construction when such standards result in at least substantially equivalent accessibility and usability as the standard provided in the Americans with Disabilities Act (ADA) of 1990 and the Architectural Barriers Act (ABA) Accessibility Guidelines of July 2004. Where there are no host country or regional standards for universal access or where the host country or regional standards fail to meet the ADA/ABA threshold, the standard prescribed in the ADA and the ABA must be used.

(d) New Construction. All new construction will comply with the above standards for accessibility.

(e) Alterations. Changes to an existing structure that affect, or could affect, the usability of the structure will comply with the above standards for accessibility unless the contractor obtains the Contracting Officer's advance approval that compliance is technically infeasible or constitutes an undue burden or both. Compliance is technically infeasible where structural conditions would require removing or altering a load-bearing member that is an essential part of the structural frame or because other existing physical or site constraints prohibit modification or addition of elements, spaces, or features that are in full and strict compliance with the minimum requirements of the standard. Compliance is an undue burden where it entails either a significant difficulty or expense or both.

(f) Exceptions. The following construction related activities are excepted

from the requirements of paragraphs (a) through (d) above: (1) Normal maintenance, re-roofing, painting or wallpapering, or changes to mechanical or electrical systems are not alterations and the above standards do not apply unless they affect the accessibility of the building or facility; and (2) emergency construction (which may entail the provision of plastic sheeting or tents, minor repair and upgrading of existing structures, rebuilding of part of existing structures, or provision of temporary structures) intended to be temporary in nature. A portion of emergency construction assistance may be provided to people with disabilities as part of the process of identifying disaster- and crisis-affected people as "most vulnerable."

## 2. Assistance

For assistance awards (grants and cooperative agreements), when issuing a Request for Applications (RFA), the agreement officer must include the following provision in the RFA and ensure its inclusion as a Special Provision in the schedule of the award itself:

"STANDARDS FOR ACCESSIBILITY FOR THE DISABLED IN USAID ASSISTANCE AWARDS INVOLVING CONSTRUCTION (September 2004)

(a) One of the objectives of the USAID Disability Policy is to engage other U.S. government agencies, host country counterparts, governments, implementing organizations and other donors in fostering a climate of nondiscrimination against people with disabilities. As part of this policy USAID has established standards for any new or renovation construction project funded by USAID to allow access by people with disabilities (PWDs). The full text of the policy paper can be found at the following website: [http://www.usaid.gov/about/disability/financed\\_construction.html](http://www.usaid.gov/about/disability/financed_construction.html).

(b) USAID requires the recipient to comply with standards of accessibility for people with disabilities in all structures, buildings or facilities resulting from new or renovation construction or alterations of an existing structure.

(c) The recipient will comply with the host country or regional standards for accessibility in construction when such standards result in at least substantially equivalent accessibility and usability as the standard provided in the Americans with Disabilities Act (ADA) of 1990 and the Architectural Barriers Act (ABA) Accessibility Guidelines of July 2004. Where there are no host country or regional standards for universal access or where the host country or regional standards fail to meet the ADA/ABA threshold, the standard prescribed in the ADA and the ABA will be used.

(d) New Construction. All new construction will comply with the above standards for accessibility.

(e) Alterations. Changes to an existing structure that affect, or could affect, the usability of the structure will comply with the above standards for accessibility unless the recipient obtains the Agreement Officer's advance approval that compliance is technically infeasible or constitutes an undue burden or both. Compliance is technically infeasible where structural conditions would require removing or altering a load-bearing member that is an essential part of the structural frame or because other existing physical or site constraints prohibit modification or addition of elements, spaces, or features that are in full and strict compliance with the minimum requirements of the standard. Compliance is an undue burden where it entails either a significant difficulty or expense or both.

(f) Exceptions. The following construction related activities are excepted from the requirements of paragraphs (a) through (d) above: (1) Normal maintenance, re-roofing, painting or wallpapering, or changes to mechanical or electrical systems are not alterations and the above standards do not apply unless they affect the accessibility of the building or facility; and (2) emergency construction (which may entail the provision of plastic sheeting or tents, minor repair and upgrading of existing structures, rebuilding of part of existing structures, or provision of temporary structures) intended to be temporary in nature. A portion of emergency construction assistance may be provided to people with disabilities as part of the process of identifying disaster- and crisis-affected people as "most vulnerable."

**POINT OF CONTACT:** Direct questions about this AAPD to Michael Gushue, M/OAA/PE, at 202-712-5831. Direct questions about USAID's Disability Policy to Joan Atherton, PPC/P at 202-712-4955, or the Agency Disability Coordinator, Ms. Janet Allem, M/MPPA, 202-712-4661.

