

AGENCY FOR INTERNATIONAL DEVELOPMENT

ISSUED FISCAL YEAR 2020 BY THE:

GENERAL SERVICES ADMINISTRATION

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PART 701 - FEDERAL ACQUISITION REGULATION SYSTEM

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

Source: 49 FR 13236, Apr. 3, 1984, unless otherwise noted.

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PART 701 - FEDERAL ACQUISITION REGULATION SYSTEM

Subpart 701.1 - Purpose, Authority, Issuance

701.106 OMB approval under the Paperwork Reduction Act.

(a) The following information collection and record keeping requirements established by USAID have been approved by OMB and assigned an OMB control number as specified below:

(48 CFR) AIDAR segment	OMB control No.
752.219-8	0412-0520
752.245-70	0412-0520
752.245-71(c)(2)	0412-0520
752.247-70(c)	0412-0520
752.7001	0412-0520
752.7002(j)	0412-0520
752.7003	0412-0520
752.7004	0412-0520
752.7032	0412-0520

(b) The information requested by the AIDAR sections listed in paragraph (a) is necessary to allow USAID to prudently administer public funds. It lets USAID make reasonable assessments of contractor capabilities and responsibility of costs. Information is required in order for a contractor and/or its employee to obtain a benefit-usually taking the form of payment under a Government contract.

(c) Public reporting burden for these collections of information is estimated as shown in paragraph (a) of this section. The estimated burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Subpart 701.3 - U.S. Agency for International Development Acquisition Regulation

Source: 64 FR 42040, Aug. 3, 1999, unless otherwise noted.

701.301 Policy.

(a) *Responsibility.* Subject to the direction of the Administrator, the Director, Bureau for Management, Office of Acquisition and Assistance ("M/OAA Director") is responsible for:

- (1) Developing and maintaining necessary uniform procurement policies, procedures, and standards;
- (2) Providing assistance to the contracting activities as appropriate;
- (3) Keeping the Administrator and Executive Staff fully informed on procurement matters which should be brought to their attention; and

(4) All agency head duties and authorities stated in (48 CFR) FAR subpart 1.3, in accordance with (48 CFR) AIDAR 701.601. These responsibilities include but are not limited to developing, issuing, and maintaining the USAID Acquisition Regulation ("AIDAR", 48 CFR chapter 7), USAID's supplement to the Federal Acquisition Regulation (48 CFR chapter 1), in coordination with the Office of the General Counsel and such other offices as may be appropriate.

(b) *Applicability.*

(1) Unless a deviation is specifically authorized in accordance with subpart [701.4](#), or unless otherwise provided, the FAR and AIDAR apply to all contracts (regardless of currency of payment, or whether funds are appropriated or non-appropriated) to which USAID is a direct party.

(2) At Missions where joint administrative services are arranged, procuring offices may apply the Department of State Acquisition Regulation (48 CFR chapter 6) for all administrative and technical support contracts except in defined areas. The Bureau for Management, Office of Management Services (M/MS) will furnish the defined areas and administrative guidelines for procurement to the overseas Missions. Administrative and local support services include the procurement accountability, maintenance and disposal of all office and residential equipment and furnishings, vehicles and expendable supplies purchased with administrative and/or technical support funds, either dollars or local currency.

701.303 Publication and codification.

(a) The AIDAR is USAID's Acquisition Regulation supplementing the FAR (48 CFR chapter 1) and is published as chapter 7 of title 48, Code of Federal Regulations. AIDAR Circulars shall be used to promulgate changes to the AIDAR and shall be published in compliance with (48 CFR) FAR part 1.

(b) *Appendices*. Significant procurement policies and procedures that do not correspond to or conveniently fit into the FAR system described in FAR subpart 1.1 and 1.303 may be published as Appendices to the AIDAR. Appendices follow the main text of the AIDAR in a section entitled "Appendices to Chapter 7" and contain a table of contents and the individual appendices identified by letter and subject title (e.g., "Appendix D - Direct USAID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad").

(c) Only the M/OAA Director has the authority to issue internal Agency guidance applicable to all Agency contracts. The heads of the various Agency contracting activities (see Subparts [701.6](#) and [702.170](#)) may issue operating instructions and procedures consistent with the FAR, AIDAR, and other Agency regulations, policies, and procedures for application within their organizations. One copy of each such issuance must be forwarded to the Bureau for Management, Office of Acquisition and Assistance, Policy Division (M/OAA/P). Insofar as possible, such material must be numerically keyed to the AIDAR.

Subpart 701.4 - Deviations from the FAR or AIDAR

701.402 Policy.

It is USAID policy to approve deviations from the mandatory requirements of the FAR and AIDAR only if it is essential to effect necessary procurement actions and when special and exceptional circumstances make such deviation clearly in the best interest of the Government.

701.470 Procedure.

(a) *Deviation from the FAR or AIDAR affecting one contract or transaction.*

(1) Deviations which affect only one contract or procurement will be made only after prior approval by the head of the contracting activity. Deviation requests containing the information listed in paragraph (c) of this section shall be submitted sufficiently in advance of the effective date of such deviation to allow adequate time for consideration and evaluation by the head of the contracting activity.

(2) Requests for such deviations may be initiated by the responsible USAID contracting officer who must obtain clearance and approvals as may be required by the head of the contracting activity. Prior to submission of the deviation request to the head of the contracting activity for approval, the contracting officer must obtain written comments from the Bureau for Management, Office of Acquisition and Assistance, Policy Division (M/OAA/P), hereinafter referred to as "M/OAA/P". M/OAA/P will normally be allowed 10 working days prior to the submission of the deviation request to the head of the contracting activity to review the request and to submit comments. If the exigency of the situation requires more immediate action, the requesting office may arrange with M/OAA/P for a shorter review period. In addition to a copy of the deviation request, M/OAA/P must be furnished any background or historical data that will contribute to a more complete understanding of the deviation. The comments of M/OAA/P must be made a part of the deviation request file, which is forwarded to the head of the contracting activity.

(3) Coordination with the Office of the General Counsel, as appropriate, should also be effected prior to approval of a deviation by the head of the contracting activity.

(b) *Class deviations from the FAR or AIDAR*. Class deviations are those which affect more than one contract or contractor.

(1) Class deviations from the AIDAR will be processed in the same manner as prescribed in paragraph (a) of this section. Individual heads of contracting activities have authority to approve class deviations affecting only contracts within their own contracting activities, except that the Director, M/OAA, has authority to approve class deviations that affect more than one contracting activity.

(2) Class deviations from the FAR will be considered jointly by USAID and the Chairperson of the Civilian Agency Acquisition Council (C/CAAC) (FAR 1.404) unless, in the judgment of the head of the contracting activity, after due consideration of the objective of uniformity, circumstances preclude such consultation. The head of the contracting activity must certify on the face of the deviation the reason for not coordinating with the C/CAAC. In such cases, M/OAA/P will be responsible for notifying the C/CAAC of the class deviation.

(3) Class deviations from the FAR shall be processed as follows:

(i) The request must be processed in the same manner as paragraph (a) of this section, except that M/OAA/P will be allowed 15 working days, prior to the submission of the deviation request to the head of the contracting activity, to effect the necessary coordination with the C/CAAC and to submit comments. If the exigency of the situation requires more immediate action, the requesting office may arrange with M/OAA/P for a shorter review and coordination period. The comments of C/CAAC and M/OAA/P must be forwarded to the head of the contracting activity along with the deviation request and made a part of the deviation request file.

(ii) The request shall be processed in the same manner as paragraph (a) of this section if the request is not being jointly considered by USAID and the C/CAAC.

(4) Deviations involving basic agreements or other master type contracts are considered to involve more than one contract.

(5) Unless the approval is sooner rescinded, class deviations shall expire 2 years from the date of approval provided that deviation authority shall continue to apply to contracts or task orders which are active at the time the class deviation expires. Authority to continue the use of such deviation beyond 2 years may be requested in accordance with the procedures prescribed in paragraph (a) of this section.

(6) Expiration dates shall be shown on all class deviations.

(c) Requests for deviation shall contain a complete description of the deviation, the effective date of the deviation, the circumstances in which the deviation will be used, a specific reference to the regulation being deviated from, an indication as to whether any identical or similar deviations have been approved in the past, a complete justification of the deviation including any added or decreased cost to the Government, the name of the contractor, and the contract or task order number.

(d) *Register of deviations.* Separate registers must be maintained by the procuring activities of the deviations granted from the FAR and AIDAR. Each deviation must be recorded in its appropriate register and be assigned a control number as follows: For USAID Washington deviations the symbol of the procuring activity, or for overseas mission deviations the relevant geographic code; the abbreviation "DEV"; the fiscal year; the type of deviation (from the FAR or AIDAR); the serial number [issued in consecutive order during each fiscal year] assigned to the particular deviation; and the suffix "c" if it is a class deviation (e.g., M/OAA-DEV-FAR-14-1, M/OAA-DEV-FAR-14-2c, 123-DEV-AIDAR-14-1). The control number must be embodied in the document authorizing the deviation and must be cited in all references to the deviation.

(e) *Central record of deviations.* Copies of approved deviations shall be furnished promptly to the M/OAA/P, who shall be responsible for maintaining a central record of all deviations that are granted.

(f) *Semiannual report of class deviations.*

(1) USAID contracting officers must submit a semiannual report to M/OAA/P of all contract actions effected under class deviations to the FAR and AIDAR, which have been approved pursuant to paragraph (b) of this section.

(2) The report shall contain the applicable deviation control number, the contractor's name, contract number and task order number (if appropriate).

(3) The report shall cover the 6-month periods ending June 30 and December 31, respectively, and shall be submitted within 20 working days after the end of the reporting period.

Subpart 701.6 - Career Development, Contracting Authority, and Responsibilities

701.601 General.

(a)

(1) Pursuant to the delegations in USAID's Automated Directives System (ADS) Chapter 103, the M/OAA Director is authorized to act as the head of the agency for all purposes described in the Federal Acquisition Regulation (FAR, 48 CFR chapter 1), except for the authority in (48 CFR) FAR 6.302-7(a)(2), 6.302-7(c)(1), 17.602(a), 19.201(c), 27.306(a), 27.306(b), and 30.201-5, or where the "head of the agency" authority is expressly not delegable under the FAR or AIDAR. Further, the M/OAA Director is responsible for implementing the procurement related aspects of the Foreign Assistance Act, Executive Order 11223, the Office of Federal Procurement Policy Act, and other statutory and Executive Branch procurement policies and requirements applicable to USAID operations, including those authorities and responsibilities delegated to the Senior Procurement Executive as specified in USAID's internal delegations found in the ADS.

(2) The M/OAA Director has specific authority to:

(i) Select and appoint contracting officers and terminate their appointments in accordance with section 1.603 of the Federal Acquisition Regulation; and

(ii) Exercise in person or by delegation the authorities stated in subpart 1.4 of the Federal Acquisition Regulation with regard to deviations from that regulation.

(b) Except as otherwise prescribed, the head of each contracting activity (as defined in [702.170](#)) is responsible for the procurement of supplies and services under or assigned to the procurement cognizance of his or her activity. The heads of USAID contracting activities are vested with broad authority to carry out the programs and activities for which they are responsible. This authority includes authority to execute contracts and the establishment of procurement policies, procedures, and standards appropriate for their programs and activities, subject to Government-wide and USAID requirements and restrictions, such as those found at (48 CFR) AIDAR 701.601 and particularly 701.603-70, the USAID policy regarding the direct-hire status of contracting officers.

(c) The authority of heads of contracting activities to execute contracts is limited as follows:

(1) *Director, the Bureau of Democracy, Conflict and Humanitarian Assistance, the Office of U.S. Foreign Disaster Assistance (DCHA/OFDA)*. Authority to execute contracts for disaster relief purposes during the first 72 hours of a disaster in a cumulative total amount not to exceed \$500,000. Authority to execute simplified acquisitions up to \$50,000 at any time. May issue warrants for simplified acquisitions up to \$50,000 to qualified individuals on his or her staff.

(2) *Director, Bureau for Economic Growth, Education and Environment, Office of Education (E3/ED)*. Authority to execute simplified acquisitions up to \$10,000. Unlimited authority for procuring participant training based on published catalog prices. May issue warrants for simplified acquisitions up to \$10,000 to qualified individuals on his or her staff.

(3) *Overseas heads of contracting activities*. Authority to sign contracts where the cumulative amount of the contract, as amended, does not exceed \$1,000,000 (or local currency equivalent) for personal services contracts; or the simplified acquisition threshold as defined in (48 CFR) FAR 2.101 (or local currency equivalent) for all other contracts. May issue warrants for simplified acquisitions up to \$50,000 to qualified individuals on his or her staff.

701.602-1 Authority of contracting officers in resolving audit recommendations.

With the exception of termination settlements subject to part 749 of this chapter, Termination of Contracts, contracting officers have the authority to negotiate and enter into settlements with contractors for costs questioned under audit reports, or to issue a contracting officer's final decision pursuant to applicable dispute resolution procedures (in the event that questioned costs are not settled by negotiated agreement) in accordance with USAID's internal policy found in ADS Chapter 591. The negotiated settlement or final decision will be final, subject only to a contractor's appeal under the provisions of the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613), or other procedures as applicable. Policies and procedures for resolving audit recommendations are in accordance with USAID's internal policies found in ADS Chapters 591 and 592.

701.602-3 Ratification of unauthorized commitments.

(a) [Reserved]

(b) *Policy*.

(1) [Reserved]

(2) In order to maintain management oversight and controls on unauthorized commitments, authority to ratify unauthorized commitments within USAID is reserved to the M/OAA Director.

701.603 Selection, appointment, and termination of appointment of contracting officers.**701.603-70 Designation of contracting officers.**

A contracting officer represents the U.S. Government through the exercise of his/her delegated authority to negotiate, sign, and administer contracts on behalf of the U.S. Government. The contracting officer's duties are sensitive, specialized, and responsible. To ensure proper accountability, and to preclude possible security, conflict of interest, or jurisdiction problems, USAID contracting officers must be U.S. citizen direct-hire employees of the U.S. Government. However, Director, Bureau for Management, Office of Acquisition and Assistance (M/OAA Director) may also designate a U.S. Personal Services Contractor (USPSC) or a Cooperating Country National Personal Services Contractor (CCNPSC) as a contracting officer with a specific level of warrant authority. To qualify for a designation as a contracting officer, an individual must meet the requirements in FAR subpart 1.6 and the Agency's applicable warrant program.

Subpart 701.7 - Determinations and Findings**701.704 Content.**

There is no USAID-prescribed format or form for determinations and findings (D&Fs). D&Fs are to contain the information specified in (48 CFR) FAR 1.704 and any information which may be required by the (48 CFR) FAR or AIDAR section under which the D&F is issued.

701.707 Signatory authority.

Unless otherwise specified in the FAR or AIDAR section under which the D&F is issued, the contracting officer is the signing official.

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PART 702 - DEFINITIONS OF WORDS AND TERMS

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

Source: 49 FR 13238, Apr. 3, 1984, unless otherwise noted.

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PART 702 - DEFINITIONS OF WORDS AND TERMS

Subpart 702.170 - Definitions

702.170-1 Definitions.

A word or term, defined in this section, has the same meaning throughout the AIDAR.

Administrator means the Administrator or Deputy Administrator of the U.S. Agency for International Development.

Automated Directives System (ADS) sets forth the Agency's policies and essential procedures, as well as supplementary informational references. It contains six functional series, valid USAID Handbook chapters, a resource library, and a glossary. References to "ADS" throughout 48 CFR chapter 7 are references to the Automated Directives System. The entire ADS is accessible to the general public at the following USAID Internet address: <http://www.usaid.gov/policy/ads/>.

Contracting activities also referred to as "procuring activities" within USAID are:

(1) *The USAID/Washington activities.* The contracting activities located in Washington, DC are: The Bureau for Management, Office of Acquisition and Assistance (M/OAA); the Bureau for Democracy, Conflict and Humanitarian Assistance, Office of Foreign Disaster Assistance (DCHA/OFDA); and the Bureau for Economic Growth, Education and Environment, Office of Education (E3/ED). Subject to the limitations in 701.601 of this chapter, the latter two contracting activities are responsible for procurements related to programs and activities for their areas. M/OAA is responsible for procurements that do not fall within the responsibility of other contracting activities, or that are otherwise assigned to it.

(2) *The overseas field contracting activities.* Each USAID Mission or post overseas is a contracting activity responsible for procurements related to its programs and activities, subject to the limitations in 701.601 of this chapter.

Cooperating country means a foreign country in which there is a program or activity administered by USAID.

Cooperating country national (CCN) means an individual who is a cooperating country citizen or a non-cooperating country citizen lawfully admitted for permanent residence in the cooperating country.

Executive agency includes the U.S. Agency for International Development (USAID) and its predecessor agencies, including the International Cooperation Administration.

Foreign Assistance Act means the Foreign Assistance Act of 1961, as amended (22 U.S.C., Chapter 32).

Government, Federal, State, local and political subdivisions, as used in the FAR and AIDAR, do not refer to foreign entities except as otherwise stated.

Head of agency means, for USAID, the Administrator, the Deputy Administrator, and in accordance with the responsibilities and limitations set forth in (48 CFR) AIDAR 701.601(a)(1), the M/OAA Director.

Head of the contracting activity:

(1) The heads of USAID contracting activities are listed below. The limits of their contracting authority are set forth in 701.601 of this chapter.

(i) USAID/Washington Heads of Contracting Activities:

(A) Director, Bureau for Management, Office of Acquisition and Assistance;

(B) Director, the Bureau for Democracy, Conflict and Humanitarian Assistance, Office of Foreign Disaster Assistance (DCHA/OFDA); and

(C) Director, Bureau for Economic Growth, Education and Environment, Office of Education (E3/ED).

(ii) Overseas Heads of Contracting Activities: Each Mission Director or principal USAID officer at post (e.g. USAID Representative, USAID Affairs Officer, etc.).

(2) Individuals serving in the positions listed in paragraphs (1)(i) and (ii) of this definition in an "Acting" capacity may exercise the authority delegated to that position.

Mission means the USAID mission or the principal USAID office or representative (including an embassy designated to so act) in a foreign country in which there is a program or activity administered by USAID.

Overseas means outside the United States, its possessions, and Puerto Rico.

Procurement Executive is synonymous with "Senior Procurement Executive" as defined in FAR 2.101 and means the USAID official who is responsible for the management direction of USAID's assistance and acquisition ("A&A") system, as so delegated and more fully described in USAID's internal delegations found in the ADS.

Procuring activity means "contracting activity", as defined in this subpart.

Third country national (TCN) means an individual who is neither a cooperating country national nor a U.S. national, but is a citizen or lawful permanent resident (or equivalent immigration status) of any country other than the countries which are prohibited sources. (See 22 CFR 228.15).

USAID means the U.S. Agency for International Development and its predecessor agencies, including the International Cooperation Administration (ICA).

U.S. national (USN) means an individual who is a U.S. citizen or a non-U.S. citizen lawfully admitted for permanent residence in the United States.

Subpart 702.270 - Definitions Clause

702.270-1 Definitions clause.

Use the appropriate clause in 752.202-1, in addition to the clause in (48 CFR) FAR 52.202-1.

PART 703 - IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

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PART 703 - IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 703.1 - Safeguards

703.104-4 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.

A contracting officer may authorize the release of proprietary and/or source selection information outside the Government for evaluation purposes pursuant to (48 CFR) FAR 15.305(c) and (48 CFR) AIDAR 715.305(c).

703.104-7 Violations or possible violations.

Requests for concurrence under paragraph (a)(1) of (48 CFR) FAR 3.104-7 must be forwarded to one level above the contracting officer.

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PART 704 - ADMINISTRATIVE MATTERS

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

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PART 704 - ADMINISTRATIVE MATTERS

Subpart 704.4 - Safeguarding Classified Information Within Industry

704.404 Contract clauses.

(a) When the contract includes a requirement for the contractor to access classified (“Confidential”, “Secret”, or “Top Secret”), or administratively controlled (“Sensitive But Unclassified”) information, the contracting officer must insert (48 CFR) FAR clause 52.204-2, Security Requirements and (48 CFR) AIDAR clause 752.204-2, Security Requirements, in the solicitation and award.

(b) If the contract requires the contractor (or contractor employees) to have routine physical access to USAID-controlled facilities in the U.S. (*i.e.*, will need an ID for regular entry to USAID space), or have logical access to USAID's information systems (*i.e.*, access to AIDNet, Phoenix, the Global Acquisition and Assistance System (GLAAS,) etc.) and the solicitation and contract contains (48 CFR) FAR 52.204-9(a), the contracting officer must also insert (48 CFR) AIDAR 752.204-72, Access to USAID Facilities and USAID's Information Systems. Only U.S citizen employees or consultants of a U.S.-based company may request routine physical access to USAID-controlled facilities or logical access to USAID's information systems.

Subpart 704.8 - Contract Files [Reserved]

Subpart 704.70 - Partner Vetting

Source: 77 FR 8170, Feb. 14, 2012, unless otherwise noted.

704.7001 Scope of subpart.

This subpart prescribes the policies and procedures to apply partner vetting to USAID acquisitions.

704.7002 Definitions.

As used in this subpart -

Key individual means:

(1) Principal officers of the organization's governing body (e.g., chairman, vice chairman, treasurer and secretary of the board of directors or board of trustees);

(2) The principal officer and deputy principal officer of the organization (e.g., executive director, deputy director, president, vice president);

(3) The program manager or chief of party for the USG-financed program; and

(4) Any other person with significant responsibilities for administration of the USG-financed activities or resources, such as key personnel as described in Automated Directives System Chapter 302. Key personnel, whether or not they are employees of the prime contractor, must be vetted.

Vetting official means the USAID employee identified in the solicitation or contract as having responsibility for receiving vetting information, responding to questions about information to be included on the Partner Information Form, coordinating with the USAID Office of Security (SEC), and conveying the vetting determination to each offeror, potential subcontractors subject to vetting, and the contracting officer. The vetting official is not part of the contracting office and has no involvement in the source selection process.

704.7003 Policy.

In the interest of national security, USAID may determine that a particular acquisition is subject to vetting. In that case, USAID will require vetting of all key individuals of offerors, first tier subcontractors, and any other class of subcontracts if identified in the solicitation and resulting contract. When USAID conducts partner vetting, it will not award a contract to any offeror who does not pass vetting.

704.7004 Procedures.**704.7004-1 Preaward requirements.**

(a) When USAID determines an acquisition to be subject to vetting, the contracting officer determines the appropriate stage of the acquisition cycle to require offerors to submit the completed USAID Partner Information Form, USAID Form 500-13, to the vetting official identified in the solicitation. The contracting officer must specify in the solicitation the stage at which the offerors will be required to submit the USAID Partner Information Form.

(b) For negotiated procurements using (48 CFR) FAR part 15, this stage will typically be when the contracting officer establishes the competitive range (48 CFR 15.306(c)). However, the contracting officer may determine that vetting is more appropriate at a different stage of the source selection process, such as immediately prior to award, and then require only the apparently successful offeror to submit the completed USAID Partner Information Form.

(c) For Indefinite Delivery contracts under (48 CFR) FAR subpart 16.5, vetting will occur prior to award of the basic contract if the contracting officer anticipates placing orders subject to vetting under that contract. Vetting will also occur before USAID places any orders subject to vetting. The contracting officer will notify awardees of the appropriate timing for vetting in the request for task or delivery order proposals. See (48 CFR) AIDAR subpart [716.5](#) for vetting procedures for task and delivery orders.

(d) For all other acquisitions, including those under (48 CFR) FAR parts 13 and 14, the contracting officer determines the appropriate time to require potential awardee(s) to submit the completed USAID Partner Information Form to the vetting official.

(e) Source selection proceeds separately from vetting. The source selection authority makes the source selection determination separately from the vetting process and without knowledge of vetting-related information other than that the apparently successful offeror has passed or not passed vetting.

(f) The contracting officer may only award to an offeror who has passed vetting.

704.7004-2 Post award requirements.

(a) For those contracts and task orders the Agency has determined are subject to vetting, the contractor must submit the completed USAID Partner Information Form any time it changes:

- (1) Key individuals, and
- (2) Subcontractors for which vetting is required.

(b) USAID may vet key individuals of the contractor and any required subcontractors periodically during contract performance using the information already submitted on the Form.

704.7004-3 Subcontracts.

(a) When the prime contract is subject to vetting, vetting is required for key individuals of all subcontracts under that contract for which consent is required under (48 CFR) FAR clause 52.244-2, Subcontracts.

(b) The contracting officer must not consent to a subcontract with any subcontractor subject to vetting until that subcontractor has passed vetting.

(c) Vetting may be required for key individuals of subcontracts at any tier for certain classes of items (supplies and services). The contracting officer must identify these classes of items in the solicitation.

(d) The contractor may instruct prospective subcontractors who are subject to vetting to submit the USAID Partner Information Form to the vetting official as soon as the contractor submits the USAID Partner Information Form for its key individuals.

704.7005 Solicitation provision and contract clause.

(a) The contracting officer will insert the provision at 752.204-70 Partner Vetting Pre-Award Requirements, in all solicitations USAID identifies as subject to vetting.

(b) Except for awards made under FAR part 16, the contracting officer will -

(1) Insert the clause at 752.204-71 Partner Vetting, in all solicitations and contracts USAID identifies as subject to vetting, or

(2) Use the clause with its Alternate I when USAID determines that subcontracts at any tier for certain classes of supplies or services are subject to vetting.

(c) For awards made under FAR part 16, see (48 CFR) AIDAR subpart [716.5](#).

SUBCHAPTER B - ACQUISITION PLANNING

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PART 705 - PUBLICIZING CONTRACT ACTIONS

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673, 3 CFR, 1979 Comp., p. 435; 40 U.S.C. 474.

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PART 705 - PUBLICIZING CONTRACT ACTIONS**705.002 [Reserved]****Subpart 705.2 - Synopsis of Proposed Contract Actions****705.202 Exceptions.**

(a) [Reserved]

(b) The head of the U.S. Agency for International Development has determined after consultation with the Administrator of the Office of Management and Budget's Office of Federal Procurement Policy and the Administrator of the Small Business Administration, that advance notice is not appropriate or reasonable for contract actions described in 706.302-70(b)

(1) through (b)(3).

(c) [Reserved]

705.207 [Reserved]**Subpart 705.5 - Paid Advertisement****705.502 Authority.**

(a) The M/OAA Director, acting as head of the Agency under the authority of 701.601(a)(1), hereby authorizes USAID contracting officers to place paid advertisements and notices in newspapers and periodicals. Contracting officers shall document the contract file to reflect consideration of the requirements of (48 CFR) FAR 5.101(b)(4).

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PART 706 - COMPETITION REQUIREMENTS

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673, 3 CFR, 1979 Comp., p. 435; 40 U.S.C. 474.

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PART 706 - COMPETITION REQUIREMENTS

Subparts 706.1-706.2 [Reserved]

Subpart 706.3 - Other Than Full and Open Competition

706.302-5 [Reserved]

706.302-70 Impairment of foreign aid programs.

(a) *Authority.*

(1) Citation: 40 U.S.C. 113.

(2) Full and open competition need not be obtained when it would impair or otherwise have an adverse effect on programs conducted for the purposes of foreign aid, relief, and rehabilitation.

(b) *Application.* This authority may be used for:

(1) An award under section 636(a)(3) of the Foreign Assistance Act of 1961, as amended, involving a personal services contractor serving abroad;

(2) An award of \$250,000 or less by an overseas contracting activity;

(3)

(i) An award for which the Assistant Administrator responsible for the project or program makes a formal written determination, with supporting findings, that compliance with full and open competition procedures would impair foreign assistance objectives, and would be inconsistent with the fulfillment of the foreign assistance program; or

(ii) Awards for countries, regions, projects, or programs for which the Administrator of USAID makes a formal written determination, with supporting findings, that compliance with full and open competition procedures would impair foreign assistance objectives, and would be inconsistent with the fulfillment of the foreign assistance program.

(4) Awards under (48 CFR) AIDAR 715.370-1 (Title XII selection procedure - general) or 715.370-2 (Title XII selection procedure - collaborative assistance).

(5) An award for the continued provision of highly specialized services when award to another resource would result in substantial additional costs to the Government or would result in unacceptable delays.

(c) *Limitations.*

(1) Proposals must be requested from as many potential offerors as is practicable under the circumstances. Additionally, as required in (48 CFR) FAR 5.201, the contracting officer must publicize the intended award when using the exceptions above, including when using the authority at 706.302-70(b)(5) where the contracting officer has determined that the incumbent contractor is the only practicable, potential offeror.

(2) The contract file must include appropriate explanation and support justifying the award without full and open competition, as provided in (48 CFR) FAR 6.303, except that determinations made under 706.302-70(b)(3) will not be subject to the requirement for contracting officer certification or to approvals in accord with (48 CFR) FAR 6.304.

(3) The authority in 706.302-70(b)(3)

(i) shall be used only when no other authority provided in (48 CFR) FAR 6.302 or (48 CFR) AIDAR 706.302 is suitable. The specific foreign assistance objective which would be impaired must be identified and explained in the written determination and finding. Prior consultation with the Agency Competition Advocate (see 706.501) is required before executing the written determination and finding, and this consultation must be reflected in the determination and finding.

(4) Use of the authority in 706.302-70(b)(5) for proposed follow-on amendments in excess of one year or over \$250,000 is subject to the approval of the Agency Competition Advocate. For all other follow-on amendments using this authority, the contracting officer's certification required in (48 CFR) FAR 6.303-2(b)(12) will serve as approval.

706.302-71 [Reserved]

Subpart 706.5 - Competition Advocates

706.501 Requirement.

The USAID Administrator delegated the authority to designate the Agency Competition Advocate and a competition advocate for each agency procuring activity (see [702.170](#) of this chapter) to the M/OAA Director. The M/OAA Director, under the Administrator's delegation, has designated the M/OAA Deputy Director for Accountability, Compliance, Transparency, and Support as the Agency Competition Advocate and the deputy head of each contracting activity as the competition advocate for each activity. The competition advocate for USAID/W is the Deputy Director for M/OAA Operations. If there is no deputy, the head of the contracting activity is designated the competition advocate for that activity. The competition advocate's duties may not be redelegated, but can be exercised by persons serving as acting deputy (or acting head) of the contracting activity. For definitions of contracting activity and head of the contracting activity, see [702.170](#) of this chapter.

PART 707 - ACQUISITION PLANNING

Sec.

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PART 707 - ACQUISITION PLANNING

Subpart 707.1 - Acquisition Plans

707.104 General procedures.

Policies, procedures, and internal guidance for acquisition planning are found in ADS 300.

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PART 709 - CONTRACTOR QUALIFICATIONS

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

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PART 709 - CONTRACTOR QUALIFICATIONS

Subpart 709.4 - Debarment, Suspension and Ineligibility

709.403 Definitions.

Debarring official in USAID is the Assistant Administrator, Bureau for Management, or designee as delegated in Agency policy found in ADS 103 - Delegations of Authority.

Suspending official in USAID is the Assistant Administrator, Bureau for Management, or designee as delegated in Agency policy found in ADS 103 - Delegations of Authority.

Subpart 709.5 - Organizational Conflicts of Interest

709.503 Waiver.

For purposes of approving waivers or further delegating the authority to approve waivers pursuant to (48 CFR) FAR 9.503, the M/OAA Director is the agency head (see (48 CFR) AIDAR 701.601(a)(1)). The M/OAA Director hereby delegates the authority to approve waivers pursuant to (48 CFR) FAR 9.503 to the heads of USAID contracting activities, as defined in (48 CFR) AIDAR [702.170](#).

709.507-2 Contract clause.

(a)-(b) [Reserved]

(c) In order to avoid problems from organizational conflicts of interest that may be discovered after award of a contract, the clause found at 752.209-71 shall be inserted in all contracts whenever the solicitation or resulting contract or both include a provision in accordance with (48 CFR) FAR 9.507-1, or a clause in accordance with (48 CFR) FAR 9.507-2, establishing a restraint on the contractor's eligibility for future contracts.

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PART 711 - DESCRIBING AGENCY NEEDS

Sec.

711.002-70 Metric system waivers.

711.002-71 Solicitation provisions and contract clauses.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

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711.002-70 Metric system waivers.

(a) *Criteria.* The (48 CFR) FAR 11.002(b) requirement to use the metric system of measurement for specifications and quantitative data that are incorporated in or required by USAID contracts may be waived when USAID determines in writing that such usage is impractical or is likely to cause U.S. firms to experience significant inefficiencies or the loss of markets.

(b) *Authorization.*

(1) The USAID Metric Executive (as designated in ADS Chapter 323), the contracting officer, and the USAID official who approves the procurement requirement are authorized to waive the metric requirement for one of the above reasons. The USAID Metric Executive is authorized to overrule a decision to grant a waiver, or to nullify a blanket waiver made by another approving official so long as a contractor's rights under an executed contract are not infringed upon.

(2) A blanket waiver for a class of multiple transactions may be issued for a term not to exceed three years.

(3) When a waiver will be based upon the adverse impact on U.S. firms, clearance from the USAID Metric Executive and the Office of Small and Disadvantaged Business Utilization (OSDBU) will be obtained prior to authorization.

(c) *Records and reporting.*

(1) The basis for each waiver and any plans to adapt similar requirements to metric specifications in future procurements should be documented in the contract file.

(2) Each procurement activity will maintain a log of the waivers from the metric requirements which are authorized for its procurements. The logs shall list the commodity/service being procured, total dollar value of the procured item(s), waiver date, authorizing official, basis for waiver, and USAID actions that can promote metrication and lessen the need for future waivers.

(3) Within 30 days of the closing of each fiscal year, each USAID/W procurement activity and each Mission will submit a copy of the metric waiver log for the year to the USAID Metric Executive. (Mission logs are to be consolidated in a Mission report for the procurement activity and for the nonprocurement activities maintaining such logs under the USAID Metric Transition Plan.) Repetitive purchases of commercially produced and marketed items and classes of items may be consolidated in reporting procurements that do not exceed \$10,000 cumulatively during the reporting period.

711.002-71 Solicitation provisions and contract clauses.

The contracting officer shall insert the clause at 752.211-70 in all USAID-direct solicitations and contracts.

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SUBCHAPTER C - CONTRACTING METHODS AND CONTRACT TYPES

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PART 713 - SIMPLIFIED ACQUISITION PROCEDURES

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

Source: 61 FR 39091, July 26, 1996, unless otherwise noted.

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PART 713 - SIMPLIFIED ACQUISITION PROCEDURES

713.000 Scope of part.

The simplified acquisition threshold applies to the cost of supplies and services, exclusive of the cost of transportation and other accessorial costs if their destination is outside the United States.

713.001 Definitions.

Accessorial costs means the cost of getting supplies or services to their destination in the cooperating country (and the travel costs of returning personnel to the U.S. or other point of hire). It does not include costs such as allowances or differentials related to maintaining personnel at post which are to be considered as part of the base costs within the simplified acquisition threshold.

Subpart 713.1 - Procedures.

713.106-370 Partner vetting.

If an acquisition is identified as subject to vetting, see (48 CFR) AIDAR [704.70](#) for the applicable procedures and requirements.

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PART 714 - SEALED BIDDING

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

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PART 714 - SEALED BIDDING

Subpart 714.4 - Opening of Bids and Award of Contract

714.407-3 Other mistakes disclosed before award.

The M/OAA Director is the designated central authority to make the determinations described in (48 CFR) FAR 14.407-3.

714.407-4 Mistakes after award.

The M/OAA Director is the designated central authority to make the determinations described in (48 CFR) FAR 14.407-4.

714.408-170 Partner vetting.

If an acquisition is identified as subject to vetting, see (48 CFR) AIDAR [704.70](#) for the applicable procedures and requirements.

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PART 715 - CONTRACTING BY NEGOTIATION

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445 (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

Source: 49 FR 13240, Apr. 3, 1984, unless otherwise noted.

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PART 715 - CONTRACTING BY NEGOTIATION

Subpart 715.3 - Source Selection

715.303 Responsibilities.

715.303-70 Responsibilities of USAID evaluation committees.

(a) *Establishment and composition of USAID evaluation committees.* A technical evaluation committee shall be established for each proposed procurement. In each case, the committee shall be composed of a chair representing the cognizant technical office, a representative of the contracting office (who shall be a non-voting member of the committee), and representatives from other concerned offices as appropriate.

(b) *Technical evaluation procedures.*

(1) The contracting officer will receive all proposals and provide to the chair a listing and copies of the technical proposals and instructions for conducting the evaluation.

(2) The chair will promptly call a meeting of the committee to evaluate the proposals received. The evaluation shall be based on the evaluation factors set forth in the solicitation document.

(3) The chair shall prepare and provide to the contracting officer written documentation summarizing the results of the evaluation of each proposal, including an assessment of past performance information in accordance with (48 CFR) FAR 15.305(a)(2). The documentation shall include narrative justification of the evaluation results.

(4) The contracting officer is responsible for reviewing the documentation justifying the evaluation results to determine that it is adequate and complete. The contracting officer shall return a justification determined to be inadequate to the chair for revision.

(5) No member of the USAID evaluation committee shall hold discussions with any offeror before or during the USAID evaluation committee's proceedings, nor shall any information about the proposals be provided to anyone not on the committee without first obtaining the contracting officer's consent.

715.305 Proposal evaluation.

(a) [Reserved]

(b) A justification must be written by the contracting officer and placed in the official file to support the decision to reject all proposals and to cancel the procurement.

(c) The contracting officer may authorize release of proposals outside the Government for evaluation -

(1) When an Evaluation Assistance Contract (EAC) is required to provide technical advisory or other services relating to the evaluation of proposals; or

(2) When an individual other than a Government employee, known as a Non-Government Evaluator (NGE), is selected to serve as a member of a USAID technical evaluation committee.

(3) Prior to releasing the proposals outside the Government, the contracting officer must obtain a signed and dated agreement from each NGE and EAC employee that they will safeguard the proposals and information in the proposals and that they perceive no actual or potential conflict of interests. (An example of such agreement is provided in the ADS).

715.370 Alternative source selection procedures.

The following selection procedures may be used, when appropriate, for activities covered under Title XII of the Foreign Assistance Act of 1961, as amended.

715.370-1 Title XII selection procedure - general.

(a) *General.* The Deputy Administrator has determined, as provided in (48 CFR) AIDAR 706.302-70(b)(3)(ii) that use of this Title XII source selection procedure is necessary so as not to impair or affect USAID's ability to administer Title XII of the Foreign Assistance Act. This determination is reflected in (48 CFR) AIDAR 706.302-70(b)(4). This constitutes authority for other than full and open competition when selecting Title XII institutions to perform Title XII projects.

(b) *Scope of subsection.* This subsection prescribes policies and procedures for the selection of institutions eligible under Title XII of the Foreign Assistance Act of 1961, as amended, to perform activities authorized under Title XII.

(c) *Applicability.* The provisions of this subsection are applicable when the project office certifies that the activity is authorized under Title XII, and determines that use of the Title XII selection procedure is appropriate.

(d) *Solicitation, evaluation, and selection procedures.*

(1) Competition shall be sought among eligible Title XII institutions to the maximum practicable extent; this requirement shall be deemed satisfied when a contractor is selected under the procedures of this subsection.

(2) The project office shall -

(i) Prepare selection criteria for evaluation of eligible institutions for use in preparing the source list, determining predominantly qualified sources, and selecting the contractor;

(ii) Prepare an initial list of eligible institutions considered qualified to perform the proposed activity;

(iii) Provide a statement describing qualifications and areas of expertise considered essential, a statement of work, estimate of personnel requirements, special requirements (logistic support, Government furnished property, and so forth) for the contracting officer's use in preparing the request for technical proposal (RFTP).

(iv) Send a memorandum incorporating the certification and determination required by paragraph (c) of this section, together with the information required by paragraphs (d)(2)(i) through (iii) of this section, with the "Action" copy of the requisition to the contracting officer, requesting him/her to prepare and distribute the RFTP.

(3) Upon receipt and acceptance of the project officer's request, the contracting officer shall prepare the RFTP. The RFTP shall contain sufficient information to enable an offeror to submit a responsive and complete technical proposal. This includes a definitive statement of work, an estimate of the personnel required, and special provisions (such as logistic support, Government furnished equipment, and so forth), a proposed contract format, and evaluation criteria. No cost or pricing data will be requested or required by the RFTP. The RFTP will be distributed to the eligible institutions recommended by the project office. The RFTP will be synopsisized, as required by (48 CFR) FAR 5.201, and will normally allow a minimum of 60 days for preparation and submission of a proposal.

(4) Upon receipt of responses to the RFTP by the contracting officer, an evaluation committee will be established as provided for in 715.303-70.

(5) The evaluation committee will evaluate all proposals in accordance with the criteria set forth in the RFTP, and will prepare a selection memorandum which shall:

(i) State the evaluation criteria;

(ii) List all of the eligible institutions whose proposals were reviewed;

(iii) Report on the ranking and rationale therefor for all proposals;

(iv) Indicate the eligible institution or institutions considered best qualified.

(6) The evaluation committee will submit the selection memorandum to the contracting officer for review and approval.

(7) The contracting officer will either approve the selection memorandum, or return it to the evaluation committee for reconsideration for specified reasons.

(8) If the selection memorandum is approved, the contracting officer shall obtain cost, pricing, and other necessary data from the recommended institution or institutions and shall conduct negotiations. If a satisfactory contract cannot be obtained, the contracting officer will so advise the evaluation committee. The evaluation committee may then recommend an alternate institution or institutions.

715.370-2 Title XII selection procedure - collaborative assistance.

(a) *General.* (48 CFR) AIDAR 706.302-70(b)(4) provides authority for other than full and open competition when selecting Title XII institutions to perform Title XII activities.

(b) *Scope of subsection.* This subsection prescribes policies and procedures for the selection of institutions eligible under Title XII of the Foreign Assistance Act of 1961, as amended, to perform activities authorized under Title XII, where USAID has determined, in accordance with paragraph (c) of this subsection, that use of the collaborative assistance contracting system is appropriate. See (48 CFR) AIDAR appendix F (of this chapter) - Use of Collaborative Assistance Method for Title XII Activities for a more complete definition and discussion of the collaborative assistance method.

(c) *Determinations.* The following findings and determinations must be made prior to initiating any contract actions under the collaborative assistance method:

(1) The cognizant technical office makes a preliminary finding that an activity:

(i) Is authorized by Title XII; and

(ii) Should be classed as collaborative assistance because a continuing collaborative relationship between USAID, the host country, and the contractor is required from design through completion of the activity, and USAID, host country, and contractor participation in a continuing review and evaluation of the activity is essential for its proper execution.

(2) Based upon this preliminary finding, the cognizant technical office shall establish an evaluation panel consisting of a representative of the cognizant technical office as chairman, a representative of the contracting officer, and any other representatives considered appropriate by the chairman to review the proposed activity for its appropriateness under the collaborative assistance method.

(3) If supported by the panel's findings, the chairman will make a formal written determination that the collaborative assistance method is the appropriate contracting method for the Title XII activity in question.

(d) *Evaluation and selection.*

(1) Competition shall be sought among eligible Title XII institutions to the maximum practicable extent; this requirement shall be deemed satisfied when a contractor is selected under the procedures of this section.

(2) The evaluation panel shall:

- (i) Prepare evaluation and selection criteria;
- (ii) Prepare an initial source list of eligible institutions considered qualified to perform the proposed project; and
- (iii) Evaluate the list, using the evaluation criteria previously determined, for the purpose of making a written determination of the sources considered most capable of performing the project.

(3) The chairman of the evaluation panel will prepare a memorandum requesting the contracting officer to prepare a request for expressions of interest from qualified sources and setting forth:

- (i) The formal determinations required by paragraph (c) of this section;
- (ii) The evaluation criteria which have been determined; and
- (iii) The recommended source list and the rationale therefor.

(4) The contracting officer will prepare a request for an expression of interest (REI), containing sufficient information to permit an offeror to determine its interest in the project, and to discuss the project with USAID representatives, if appropriate. The REI should include a concise statement of the purpose of the activity, any special conditions or qualifications considered important, a brief description of the selection procedure and evaluation criteria which will be used, the proposed contract format, and any other information considered appropriate. The REI will be issued to the sources recommended by the panel, and to others, as appropriate; it will be synopsisized, as required by (48 CFR) FAR 5.201, and it will normally allow a minimum of 60 days for preparation of an expression of interest. Guidelines for preparation of expressions of interest are contained in attachment 1 to (48 CFR) AIDAR appendix F.

(5) The contracting officer will transmit all expressions of interest to the evaluation panel for evaluation and selection recommendation. The panel may conduct on site evaluations at its discretion, as part of the evaluation process.

(6) The chairman of the evaluation panel will prepare a written selection recommendation with supporting justification, recommending that negotiations be conducted with the prospective contractor(s) selected by the evaluation panel. The selection recommendation shall be transmitted to the contracting officer together with the complete official file on the project which was being maintained by the evaluation panel.

(7) The contracting officer will review the selection recommendation, obtain necessary cost and other data, and proceed to negotiate with the recommended sources.

Subpart 715.70 - Partner Vetting

715.70 Partner vetting.

If an acquisition is identified as subject to vetting, see (48 CFR) AIDAR [704.70](#) for the applicable procedures and requirements.

Subpart 715.6 - Unsolicited Proposals

715.602 Policy.

(a) USAID encourages the submission of unsolicited proposals which contribute new ideas consistent with and contributing to the accomplishment of the Agency's objectives. However, the requirements for contractor resources are normally quite program specific, and thus widely varied, and must be responsive to host country needs. Further, USAID's

projects are usually designed in collaboration with the cooperating country. These factors can limit both the need for, and USAID's ability to use unsolicited proposals. Therefore, prospective offerors are encouraged to contact USAID to determine the Agency's technical and geographical requirements as related to the offeror's interests before preparing and submitting a formal unsolicited proposal.

(b) USAID's basic policies and procedures regarding unsolicited proposals are those established in FAR subpart 15.6 and this subpart.

(c) For detailed information on unsolicited proposals including point of contact information see (48 CFR) AIDAR 715.604.

715.604 Agency points of contact.

(a) Information on USAID's policies for unsolicited proposals is available from the U.S. Agency for International Development, Bureau for Management, Office of Acquisition and Assistance, Evaluation Division (M/OAA/E), SA-44, Room 858-E, 1300 Pennsylvania Ave. NW., Washington, DC 20523 or by email to *UnsolicitedProposals@usaid.gov*. Initial inquiries and subsequent unsolicited proposals must be submitted to the address specified above.

(b) The information available includes:

- (1) Contact points within USAID;
- (2) Definitions;
- (3) Information source on USAID objectives and areas of potential interest;
- (4) Characteristics of a suitable proposal;
- (5) Determination of contractor responsibility;
- (6) Organizational conflicts of interest;
- (7) Cost sharing; and
- (8) Procedures for submission and evaluation of proposals;
- (9) Guidance on preferred methods for submitting ideas/concepts to the Government;
- (10) Instructions for identifying and marking proprietary information so that it is projected and restrictive legends conform to (48 CFR) FAR 15.609.

PART 716 - TYPES OF CONTRACTS

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445 (22 U.S.C. 2381) as amended: E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

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PART 716 - TYPES OF CONTRACTS

Subpart 716.3 - Cost Reimbursement Contracts

716.303 Cost-sharing contracts.

(a)-(b) [Reserved]

(c) *Limitations.* In addition to the limitations specified in (48 CFR) FAR 16.301-3, prior approval of the M/OAA Director (see 701.601(a)(1)) is required in order to use a cost-sharing contract with an educational institution.

716.306 [Reserved]

716.406 Contract clauses.

The contracting officer must insert the clause at 752.216-70, Award Fee, in solicitations and contracts when an award-fee contract is contemplated.

Subpart 716.5 - Indefinite-Delivery Contracts

Source: 77 FR 8171, Feb. 14, 2012, unless otherwise noted.

716.501-270 Partner vetting - indefinite-delivery contracts.

If a task order or delivery order under an indefinite-delivery contract has the potential to be subject to vetting, then the contract itself will be subject to the applicable procedures and requirements for partner vetting in (48 CFR) AIDAR [704.70](#).

716.505-70 Partner vetting - orders under indefinite delivery contracts.

(a) The task order contracting officer will specify in the request for task or delivery order proposals whether the order is subject to vetting and when awardees must submit the USAID Partner Information Form.

(b) For orders under multiple award contracts, fair opportunity selection procedures are conducted separately from vetting. The contracting officer for the order must follow the ordering procedures in the contract to select the order awardee without knowledge of vetting-related information, other than that the contractor has passed or not passed vetting.

(c) The contracting officer may only place an order subject to vetting with an awardee that has passed vetting for that order.

716.506 Solicitation provision and contract clause.

(a) As prescribed in 48 CFR 704.7005(a), the contracting officer will insert the provision at 752.204-70 Partner Vetting Pre-Award Requirements, in solicitations for indefinite delivery contracts when USAID anticipates that any orders placed under the contract will be subject to vetting.

(b)

(1) The contracting officer will insert the clause at 752.216-71 Partner Vetting, in those solicitations and contracts for indefinite-delivery contracts that USAID identifies as subject to vetting.

(2) The contracting officer will use the clause with its Alternate I when USAID determines that subcontracts at any tier for certain classes of supplies or services are subject to vetting.

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PART 717 - SPECIAL CONTRACTING METHODS

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

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PART 717 - SPECIAL CONTRACTING METHODS**Subpart 717.70 - Pharmaceutical Products****717.770 General.**

Section 606(c) of the Foreign Assistance Act bars procurement by the Government of drug and pharmaceutical products manufactured outside the United States if their manufacture involves the use of or is covered by an unexpired U.S. patent which has not been held invalid by an unappealed or unappealable court decision unless the manufacture is expressly authorized by the patent owner. Applicable policies and procedures are set forth in USAID Automated Directive System Chapter 312.

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SUBCHAPTER D - SOCIOECONOMIC PROGRAMS

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PART 719 - SMALL BUSINESS PROGRAMS

Sec.

Authority: 42 U.S.C. 7254, 40 U.S.C. 486(c), 42 U.S.C. 2201.

Source: 49 FR 13243, Apr. 3, 1984, unless otherwise noted.

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PART 719 - SMALL BUSINESS PROGRAMS

Subpart 719.2 - Policies

719.270 Small business policies.

(a) In keeping with section 602 of the Foreign Assistance Act of 1961 (22 U.S.C. 2352), as amended, USAID shall, insofar as practicable and to the maximum extent consistent with the accomplishment of the purposes of said Act, assist U.S. small businesses to participate equitably in the furnishing of supplies and services for Foreign Assistance activities.

(b) It is the policy of USAID to:

(1) Fully endorse and carry out the Government's small business program for placing a fair proportion of its purchases and contracts for supplies, construction (including maintenance and repair), research and development, and services (including personal, professional, and technical services) with small business, including minority small business concerns; and

(2) Increase their participation in USAID procurement.

(c) In furtherance of this policy:

(1) Contracting officer's representatives shall make positive efforts (see 719.271-5) to identify potentially qualified small and minority business firms during precontract development of activities and shall, with the responsible contracting officers, assure that such firms are given full opportunity to participate equitably;

(2) Small business set-asides shall be made for all contracts to be executed in USAID/Washington which qualify for small business set-aside action under part 19 of the (48 CFR) FAR; and

(3) Consideration shall be given in appropriate cases to the award of the contract to the Small Business Administration for subcontracting to small business firms pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

(d) This program shall be implemented by all USAID/Washington contracting activities in order to attain these policy objectives. In accordance with 719.271, all USAID/Washington direct-procurement requirements which exceed the simplified acquisition threshold shall be screened for small business opportunities by the Office of Small and Disadvantaged Business Utilization (OSDBU) except those exempted by 719.271-6(a).

(e) Where practicable and desirable, small business and minority business enterprise award goals will be established for the respective USAID/Washington procuring activities to provide incentive for contracting personnel to increase awards to small firms. The goals will be set by OSDBU after consultation with the respective head of the contracting activity (see 702-170).

(f) In the event of a disagreement between OSDBU and the contracting officer concerning:

(1) A recommended set-aside, or (2) a request for modification or withdrawal of a class or individual set-aside, complete documentation of the case including the reasons for disagreement shall be transmitted within five working days to the head of the contracting activity (see 719.271-6(e)) for a decision. Procurement action shall be suspended pending a decision.

(g) The above suspension shall not apply where the contracting officer:

(1) Certifies in writing, with supporting information, that in order to protect the public interest award must be made without delay;

(2) Promptly provides a copy of said certification to OSDBU; and

(3) Includes a copy of the certification in the contract file.

(h) OSDBU shall be the Small Business Advisor and Minority Business Procurement Policy Manager for all USAID/Washington procuring activities.

(i) The details on the Agency's direction and operation of the small business program are set forth in 719.271.

(j) No decision rendered, or action taken, under the coverage set forth in 719.271 shall preclude the Small Business Administration from appealing directly to the USAID Administrator as provided for in part 19 of the FAR.

719.271 Agency program direction and operation.**719.271-1 General.**

The purpose of this section is to prescribe responsibilities and procedures for carrying out the small business program policy set forth in 219.270, and in part 19 of the (48 CFR) FAR. Small business concerns are defined in (48 CFR) FAR subpart 19.1; in addition, small business concerns are concerns organized for profit. Nonprofit organizations are not considered small business concerns. Small disadvantaged business enterprises are defined in (48 CFR) FAR subpart 19.1. Small disadvantaged business enterprises are included in the term “small business” when used in this subpart; specific reference to disadvantaged business enterprises is for added emphasis.

719.271-2 The USAID Office of Small and Disadvantaged Business Utilization (OSDBU).

(a) OSDBU is responsible for administering, implementing, and coordinating the Agency's small business (including minority business enterprises) program.

(b) OSDBU, headed by the Director, OSDBU, who also serves as the Minority Business Procurement Manager, shall be specifically responsible for:

(1) Developing policies, plans, and procedures for a coordinated Agency-wide small business and minority business enterprise procurement program;

(2) Advising and consulting regularly with USAID/Washington procuring activities on all phases of their small business program, including, where practicable and desirable, the establishment of small business and minority business enterprise award goals;

(3) Collaborating with officials of the Small Business Administration (SBA), other Government Agencies, and private organizations on matters affecting the Agency's small business program;

(4) [Reserved]

(5) Cooperating with contracting officers in administering the performance of contractors subject to the Small Business and Minority Business Enterprises Subcontracting Program clauses;

(6) Developing a plan of operation designed to increase the share of contracts awarded to small business concerns, including small minority business enterprises;

(7) Establishing small business class set-aside for types and classes of items of services where appropriate;

(8) Reviewing each procurement requisition to make certain individual or class set-asides are initiated on all suitable USAID/Washington proposed contract actions in excess of the simplified acquisition threshold which are subject to screening (see 719.271-6);

(9) Maintaining a program designed to:

(i) Locate capable small business sources for current and future procurements through GSA and other methods;

(ii) Utilize every source available to determine if an item is obtainable from small business; and

(iii) Develop adequate small business competition on all appropriate procurements;

(10) Taking action to assure that unnecessary qualifications, restrictive specifications, or other features (such as inadequate procurement lead time) of the programming or procurement process, which may prevent small business participation in the competitive process, are modified to permit such participation where an adequate product or service can be obtained;

(11) Recommending that portions of large planned procurements or suitable components of end items or services be purchased separately so small firms may compete;

(12) On proposed non-competitive procurements, recommending to the contracting officer that the procurement be made competitive when, in the opinion of OSDBU, there are small business or minority business enterprises believed competent to furnish the required goods or services, and supplying the contracting officer a list of such firms;

(13) Assisting small business concerns with individual problems;

(14) Promoting increased awareness by the technical staff of the availability of small business firms;

(15) Making available to GSA copies of solicitations when so requested;

(16) Counseling non-responsive or non-responsible small business bidders/offerors to help them participate more effectively in future solicitations; and

(17) Examining bidders lists to make certain small business firms are appropriately identified and adequately represented for both negotiated and advertised procurements.

719.271-3 USAID contracting officers.

With respect to procurement activities within their jurisdiction, contracting officers are responsible for:

- (a) Being thoroughly familiar with part 19 of the (48 CFR) FAR and this section dealing with the small business program;
- (b) Screening abstracts of bids and other award data to determine set-aside potential for future procurements;
- (c) Assuring that small business concerns and minority business enterprises are appropriately identified on source lists and abstracts of bids or proposals by an "S" and "M", respectively, or other appropriate symbol;
- (d) Reviewing types and classes of items and services to determine where small business set-asides can be applied;
- (e) Recommending that portions of large planned procurements of suitable components of end items or services be purchased separately so small firms may compete;
- (f) Making a unilateral determination for total or partial small business set-asides in accordance with subpart 19.5 of the Federal Acquisition Regulations;
- (g) Submitting proposed procurement actions for USAID/Washington contracts to OSDDBU for screening (see 719.271-6);
- (h) Taking action to assure that unnecessary qualifications, restrictive specifications or other features (such as inadequate procurement lead time) of the programming or procurement process which may prevent small business participation in the competitive process are modified to permit such participation where an adequate product or service can be obtained;
- (i) Prior to rendering a final decision on a proposed non-competitive procurement action, and as part of his/her findings and determinations, the contracting officer shall consider the recommendations, if any, of SDB together with the latter's list of additional sources;
- (j) As appropriate, referring small business concerns, including small minority business enterprises, to OSDDBU for information and advice;
- (k) Promoting increased awareness by the technical staff of the availability of small business concerns;
- (l) Making available to OSDDBU copies of solicitations when requested;
- (m) Assisting OSDDBU in counseling non-responsive or non-responsible small business bidders/offerors to help them to participate more effectively in future solicitations; and
- (n) Including the Small Business and Minority Business Enterprises Subcontracting Program clauses in all contracts where required by part 19 of the (48 CFR) FAR.

719.271-4 Heads of contracting activities.

In order for the Agency small business program to be effective, the active support of top management is required. The heads of the contracting activities shall be responsible for:

- (a) Rendering decisions in cases resulting from non-acceptances by their contracting officers of set-aside recommendations made by OSDDBU;
- (b) Consulting with OSDDBU in establishing small business and minority business enterprise award goals, where practicable and desirable; and
- (c) Advising contracting officer's representatives of their responsibilities as set forth in 719.271-5.

719.271-5 Contracting officer's representatives.

Since the procurement process starts with the establishment of a requirement, the actions of the Contracting officer's representatives can affect the opportunity of small business to participate equitably; therefore, each contracting officer's representative shall, during the formulation of activities which will require contractual implementation:

- (a) Consult with OSDDBU on the availability and capabilities of small business firms to permit making a tentative set-aside determination where appropriate; and
- (b) Provide sufficient procurement lead time in the activity implementation schedule to allow potential small business participation.

719.271-6 Small business screening procedure.

(a) *General.* All USAID/Washington proposed contract actions in excess of the simplified acquisition threshold shall be screened by OSDDBU, with the exception of:

- (1) Class set-asides and those unilaterally set-aside by contracting officers (719.271-3(f));
- (2) Those where the contracting officer certifies in writing that the public exigency will not permit the delay incident to screening (719.271-7(b));

(3) "Institution building" contracts (contracts for development of a counterpart capability in the host country) with educational or nonprofit institutions; or collaborative assistance contracts pursuant to (48 CFR) AIDAR 715.370-2.

(4) Those involving the payment of tuition and fees for participant training at academic institutions; and

(5) Personal services contract requirements (see 719.270).

(b) *Preparation of Form USAID 1410-14 (the Small Business/Minority Business Enterprise Procurement Review Form).*

(1) The contracting officer shall prepare the subject form in an original and 3 copies and forward the original and 2 copies to OSDBU within one working day of receipt by the contracting activity of a procurement requisition.

(2) The contracting officer will attach to his/her transmittal a complete copy of the procurement request and a copy of the recommended source list as furnished by the technical office and supplemented by him/her.

(3) The contracting officer shall complete blocks 2, 3, 4, 5, 9, and 10 (when appropriate) prior to submittal to OSDBU.

(c) *Screening of Form USAID 1410-14 by OSDBU.*

(1) OSDBU will screen the contracting officer's recommendations on set-aside potential, small business subcontracting opportunities, and section 8(a) subcontracting, and furnish him/her with either a written concurrence in his/her recommendations or written counter-recommendations on the original and duplicate copy within five working days from receipt of the form from the contracting officer.

(2) OSDBU will complete Blocks 1, 6, 7, 8, 11, and 12 (when appropriate) prior to returning the screened form to the contracting officer.

(d) *Concurrence or rejection procedure.*

(1) The contracting officer shall complete Block 13 upon receipt of the original and duplicate copy of the screened form from OSDBU.

(2) If the contracting officer rejects the OSDBU counter-recommendation, he/she shall return the original and duplicate forms with his/her written reasons for rejection to OSDBU within two working days.

(3) Upon receipt of the contracting officer's rejection, OSDBU may:

(i) accept, or (ii) appeal, the rejection. In the case of acceptance of the contracting officer's rejection, OSDBU shall annotate Block 14 when it renders a decision and return the original form to the contracting officer within two working days.

(e) *Appeal procedure.*

(1) When informal efforts fail to resolve the set-aside disagreement between the contracting officer and OSDBU, the latter official may appeal the contracting officer's decision to the head of the contracting activity. Such an appeal will be made within five working days after receipt of the contracting officer's rejection.

(2) In the case of an appeal, OSDBU will send the original and duplicate form, with the appeal noted in Block 14, directly to the head of the contracting activity with its written reasons for appealing. The contracting officer will be notified of OSDBU's appeal by means of a copy of the written reasons for appealing.

(3) The head of the contracting activity shall render a decision on the appeal (complete Block 15) within three working days after receipt of same and return the original to OSDBU and the duplicate to the contracting officer.

719.271-7 Reports on procurement actions that are exempted from screening.

(a) *Unilateral and class set-asides.* The contracting officer shall prepare Form USAID 1410-14 as stated in 719.271-6, but forward only the duplicate copy with the documentation required by Block 5 of the form to OSDBU. The original will be filed in the contract file.

(1) If, upon review of the material submitted under 719.271-7(a) above, OSDBU concludes that it would be practicable to accomplish all or a portion of the procurement involved under section 8(a) subcontracting, it shall so advise the contracting officer in writing within five days after receipt of such material.

(2) Such advice shall be considered a counter-recommendation and shall be processed in accordance with 719.271-6 (d) and (e).

(b) *Public exigency exemption.* The contracting officer shall prepare Form USAID 1410-14 as stated in 719.271-6, but forward only the duplicate copy with the documentation required by Block 5 of the form to OSDBU. In addition to the documentation called for in 719.271-6, the contracting officer shall furnish a copy of his/her written determination exempting the procurement from screening. The determination shall cite the pertinent facts which led to his/her decision. This exemption is not intended to be used as substitute for good procurement planning and lead-time; OSDBU will report abuses of this exemption to the head of the contracting activity for appropriate action in accordance with 719.271-4(c).

(c) *Institution building contract (IBC) exemption.* The contracting officer shall prepare Form USAID 1410-14 as stated in 719.271-6, but forward only the duplicate copy with the documentation required by Block 5 of the form to OSDBU.

(d) *Personal services contract exemption.* Preparation of Form USAID 1410-14 is not required for personal services contracts.

719.272 [Reserved]

Subpart 719.273 - The U.S. Agency for International Development (USAID) Mentor-Protégé Program

Source: 72 FR 32543, June 13, 2007, unless otherwise noted.

719.273 The U.S. Agency for International Development (USAID) Mentor-Protégé Program.

719.273-1 Purpose.

The USAID Mentor-Protégé Program is designed to assist small business, including veteran-owned small business, service-disabled veteran-owned small business, HUBZone, small socially and economically disadvantaged business, and women-owned small business in enhancing their capabilities to perform contracts and sub-contracts for USAID and other Federal agencies. The Mentor-Protégé Program is also designed to improve the performance of USAID contractors and subcontractors by providing developmental assistance to Protégé entities, fostering the establishment of long-term business relationships between small business and prime contractors, and increasing the overall number of small business that receive USAID contract and subcontract awards. A firm's status as a Protégé under a USAID contract shall not have an effect on the firm's eligibility to seek other prime contracts or subcontracts.

719.273-2 Definitions.

Throughout, the term “small business” includes all categories of small firms as defined by the Small Business Administration (SBA) on whose behalf the Office of Small and Disadvantaged Business Utilization (OSDBU) is chartered to advocate, including small business, small disadvantaged business, women-owned small business, veteran-owned and service-disabled veteran-owned small business and small business located in HUBZones, as those terms are defined in 13 CFR part 124. The determination of affiliation is a function of the SBA.

(a) A “Mentor” is a prime contractor that elects to promote and develop small business subcontractors by providing developmental assistance designed to enhance the business success of the Protégé.

(b) “Program” refers to the USAID Mentor-Protégé Program as described in this Chapter.

(c) “Protégé” means a small business, small disadvantaged business, women-owned small business, HUBZone small business, veteran-owned small business or service-disabled veteran owned small business that is the recipient of developmental assistance pursuant to a Mentor-Protégé Agreement.

719.273-3 Incentives for prime contractor participation.

(a) Under the Small Business Act, 15 U.S.C. 637(d)(4)(E), USAID is authorized to provide appropriate incentives to encourage subcontracting opportunities for small business consistent with the efficient and economical performance of the contract. This authority is limited to negotiated procurements. (48 CFR) FAR 19.202-1 provides additional guidance.

(b) Costs incurred by a Mentor to provide developmental assistance, as described in 719.273-8 to fulfill the terms of their agreement(s) with a Protégé firm(s), are not reimbursable as a direct cost under a USAID contract. If USAID is the mentor's responsible audit agency under (48 CFR) FAR 42.703-1, USAID will consider these costs in determining indirect cost rates. If USAID is not the responsible audit agency, mentors are encouraged to enter into an advance agreement with their responsible audit agency on the treatment of such costs when determining indirect cost rates.

(c) In addition to subparagraph (b) above, contracting officers may give Mentors evaluation credit under (48 CFR) FAR 15.101-1 considerations for subcontracts awarded pursuant to their Mentor-Protégé Agreements and their subcontracting plans. Therefore:

(1) Contracting officers may evaluate subcontracting plans containing Mentor-Protégé arrangements more favorably than subcontracting plans without Mentor-Protégé Agreements.

(2) Contracting officers may assess the prime contractor's compliance with the subcontracting plans submitted in previous contracts as a factor in evaluating past performance under (48 CFR) FAR 15.305(a)(2)(v) and determining contractor responsibility (48 CFR) 19.705-5(a)(1).

(d) OSDBU Mentoring Award. A non-monetary award will be presented annually to the Mentoring firm providing the most effective developmental support of a Protégé. The Mentor-Protégé Program Manager will recommend an award winner to the Director of the Office of Small and Disadvantaged Business Utilization (OSDBU).

(e) OSDBU Mentor-Protégé Annual Conference. At the conclusion of each year in the Mentor-Protégé Program, Mentor firms will be invited to brief contracting officers, program leaders, office directors and other guests on Program progress.

719.273-4 Eligibility of Mentor and Protégé firms.

Eligible business entities approved as Mentors may enter into agreements (hereafter referred to as "Mentor-Protégé Agreement" or "Agreement" and explained in section 719.273-6) with eligible Protégés. Mentors provide appropriate developmental assistance to enhance the capabilities of Protégés to perform as contractors and/or subcontractors. Eligible small business entities capable of providing developmental assistance may be approved as Mentors. Protégés may participate in the Program in pursuit of a prime contract or as subcontractors under the Mentor's prime contract with the USAID, but are not required to be a subcontractor to a USAID prime contractor or be a USAID prime contractor. Notwithstanding eligibility requirements in this section, USAID reserves the right to limit the number of participants in the Program in order to insure its effective management of the Mentor-Protégé Program.

(a) *Eligibility. A Mentor:*

- (1) May be either a large or small business entity;
- (2) Must be eligible for award of Government contracts;
- (3) Must be able to provide developmental assistance that will enhance the ability of Protégés to perform as prime contractors or subcontractors; and
- (4) Will be encouraged to enter into arrangements with entities with which it has established business relationships.

(b) *Eligibility. A Protégé:*

- (1) Must be a small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone, small socially and economically disadvantaged business, and women-owned small business);
- (2) Must meet the size standard corresponding to the NAICS code that the Mentor prime contractor believes best describes the product or service being acquired by the subcontract; and
- (3) Eligible for award of Government contracts.

(c) Protégés may have multiple Mentors. Protégés participating in Mentor-Protégé programs in addition to USAID's Program should maintain a system for preparing separate reports of Mentoring activity so that results of the USAID Program can be reported separately from any other agency program.

(d) A Protégé firm shall self-certify to a Mentor firm that it meets the requirements set forth in paragraph (b) of this section and possess related certifications granted by the Small Business Administration (e.g., HUBZone, 8(a), etc.). Mentors may rely in good faith on written representations by potential Protégés that they meet the specified eligibility requirements. HUBZone and small disadvantaged business status eligibility and documentation requirements are determined according to 13 CFR part 124.

719.273-5 Selection of Protégé firms.

(a) Mentor firms will be solely responsible for selecting Protégé firms. Mentors are encouraged to select from a broad base of small business including small disadvantaged business, women-owned small business, veteran-owned small business, service-disabled veteran-owned small business, and HUBZone firms whose core competencies support USAID's mission.

(b) Mentors may have multiple Protégés. However, to preserve the integrity of the Program and assure the quality of developmental assistance provided to Protégés, USAID reserves the right to limit the total number of Protégés participating under each Mentor firm for the Mentor-Protégé Program.

(c) The selection of Protégé firms by Mentor firms may not be protested, except that any protest regarding the size or eligibility status of an entity selected by a Mentor shall be handled in accordance with the Federal Acquisition Regulation (FAR) and the Small Business Administration regulations.

719.273-6 Application process.

Entities interested in becoming a Mentor firm must apply in writing to the USAID Office of Small and Disadvantaged Business Utilization (OSDBU) by submitting form AID 321-1 (OMB Control number 0412-0574 approved on 5/22/2007). The application shall contain the Mentor-Protégé Agreement and shall be evaluated for approval. Evaluations will consider the nature and extent of technical and managerial support as well as any proposed financial assistance in the form of equity investment, loans, joint-venture, and traditional subcontracting support. The Mentor-Protégé Agreement must contain:

- (a) Names, addresses, phone numbers, and e-mail addresses (if available) of Mentor and Protégé firm(s) and a point of contact for both Mentor and Protégé;
- (b) A description of the developmental assistance that will be provided by the Mentor to the Protégé, including a description of the work or product contracted for (if any), a schedule for providing assistance, and criteria for evaluation of the Protégé's developmental success;
- (c) A listing of the number and types of subcontracts to be awarded to the Protégé;
- (d) Duration of the Agreement, including rights and responsibilities of both parties (Mentor and Protégé);
- (e) Termination procedures, including procedures for the parties' voluntary withdrawal from the Program. The Agreement shall require the Mentor or the Protégé to notify the other firm in writing at least 30 days in advance of its intent to voluntarily terminate the Agreement;
- (f) Procedures requiring the parties to notify OSDBU immediately upon receipt of termination notice from the other party;
- (g) A plan for accomplishing the work or product contracted for should the Agreement be terminated; and
- (h) Other terms and conditions, as appropriate.

719.273-7 OSDBU review of application.

(a) OSDBU will review the information to establish the Mentor and Protégé eligibility and to ensure that the information that is in section 719.273-6 is included. If the application relates to a specific contract, then OSDBU will consult with the responsible contracting officer on the adequacy of the proposed Agreement, as appropriate. OSDBU will complete its review no later than 30 calendar days after receipt of the application or after consultation with the contracting officer, whichever is later. Application for and enrollment into the Program are free and open to the public.

(b) After OSDBU completes its review and provides written approval, the Mentor may execute the Agreement and implement the developmental assistance as provided under the Agreement. OSDBU will provide a copy of the Mentor-Protégé Agreement to the USAID contracting officer for any USAID contracts affected by the Agreement.

(c) The Agreement defines the relationship between the Mentor and Protégé firms only. The Agreement itself does not create any privity of contract or contractual relationship between the Mentor and USAID nor the Protégé and USAID.

(d) If the application is disapproved, the Mentor may provide additional information for reconsideration. OSDBU will complete review of any supplemental material no later than 30 days after its receipt. Upon finding deficiencies that USAID considers correctable, OSDBU will notify the Mentor and Protégé and request correction of deficiencies to be provided within 15 days.

719.273-8 Developmental assistance.

The forms of developmental assistance a Mentor can provide to a Protégé include and are not limited to the following:

- (a) Guidance relating to -
 - (1) Financial management;
 - (2) Organizational management;
 - (3) Overall business management/planning;
 - (4) Business development; and
 - (5) Technical assistance.
- (b) Loans;
- (c) Rent-free use of facilities and/or equipment;
- (d) Property;
- (e) Temporary assignment of personnel to a Protégé for training; and
- (f) Any other types of permissible, mutually beneficial assistance.

719.273-9 Obligations under the Mentor-Protégé Program.

(a) A Mentor or Protégé may voluntarily withdraw from the Program. However, in no event shall such withdrawal impact the contractual requirements under any prime contract.

(b) Mentor and Protégé entities shall submit to the USAID Office of Small and Disadvantaged Business Utilization (OSDBU) annual reports on progress under the Mentor-Protégé Agreement. USAID will evaluate annual reports by considering the following:

(1) Specific actions taken by the Mentor during the evaluation period to increase the participation of their Protégé(s) as suppliers to the Federal Government and to commercial entities;

(2) Specific actions taken by the Mentor during the evaluation period to develop technical and administrative expertise of a Protégé as defined in the Agreement;

(3) The extent to which the Protégé has met the developmental objectives in the Agreement;

(4) The extent to which the Mentor's participation in the Mentor-Protégé Program impacted the Protégé's ability to receive contract(s) and subcontract(s) from private firms and Federal agencies other than USAID; and, if deemed necessary;

(5) Input from the Protégé on the nature of the developmental assistance provided by the Mentor.

(c) OSDBU will submit annual reports to the relevant contracting officer regarding participating prime contractor(s)' performance in the Program.

(d) Mentor and Protégé firms shall submit an evaluation to OSDBU at the conclusion of the mutually agreed upon Program period, the conclusion of the contract, or the voluntary withdrawal by either party from the Program, whichever comes first.

719.273-10 Internal controls.

(a) OSDBU will oversee the Program and will work in concert with the Mentor-Protégé Program Manager and relevant contracting officers to achieve Program objectives. OSDBU will establish internal controls as checks and balances applicable to the Program. These controls will include:

(1) Reviewing and evaluating Mentor applications for validity of the provided information;

(2) Reviewing annual progress reports submitted by Mentors and Protégés on Protégé development to measure Protégé progress against the plan submitted in the approved Agreement;

(3) Reviewing and evaluating financial reports and invoices submitted by the Mentor to verify that USAID is not charged by the Mentor for providing developmental assistance to the Protégé; and

(4) Limiting the number of participants in the Mentor-Protégé Program within a reporting period, in order to insure the effective management of the Program.

(b) USAID may rescind approval of an existing Mentor-Protégé Agreement if it determines that such action is in USAID's best interest. The rescission shall be in writing and sent to the Mentor and Protégé after approval by the Director of OSDBU. Rescission of an Agreement does not change the terms of any subcontract between the Mentor and the Protégé.

719.273-11 Solicitation provision and contract clause.

(a) The contracting officer shall insert the provision at (48 CFR) AIDAR 752.219-70 in all unrestricted solicitations exceeding \$550,000 (\$1,000,000 for construction) that offer subcontracting opportunities.

(b) The contracting officer shall insert the clause at (48 CFR) AIDAR 752.219-71 in all contracts where the prime contractor has signed a Mentor-Protégé Agreement with USAID.

Subpart 719-7 - The Small Business Subcontracting Program**719.708 Contract clause.**

The Foreign Assistance Act calls for USAID to give U.S. Small Businesses an opportunity to provide supplies and services for foreign assistance projects. To help USAID meet this obligation, the contracting officer must insert the clause at (48 CFR) AIDAR 752.219-8 in all solicitations and contracts that contain the (48 CFR) FAR clause at 52.219-8, Utilization of Small Business Concerns.

PART 722 - APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITION

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

Source: 49 FR 13246, Apr. 3, 1984, unless otherwise noted.

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PART 722 - APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITION

Subpart 722.1 - Basic Labor Policies

722.103 Overtime.

722.103-1 Definitions.

Compensatory time off means leave equal to overtime worked, which, unless otherwise authorized in a contract or approved by a contracting officer, must be taken not later than the end of the calendar month following that in which the overtime is worked.

722.103-2 Policy.

(a) Most contracts covered by this regulation call for the performance of professional or technical services overseas on a cost-reimbursement basis. The compensation for employees performing such services is normally fixed on a monthly or annual basis, and the contracts usually state minimum work week hours. It is not expected that these employees will receive additional pay, overtime or shift premiums, or compensatory time off.

(b) When the contracting officer determines it is in the best interests of the Government, specific provision may be made in contracts to permit such benefits for non-technical and non-professional employees serving overseas, subject to approvals to be required in the contract.

722.103-3 [Reserved]

722.103-4 Approvals.

The contracting officer may make the determinations referred to in (48 CFR) FAR 22.103-4.

722.170 Employment of third country nationals (TCN's) and cooperating country nationals (CCN's).

(a) *General.* It is USAID policy that cooperating country nationals (CCNs) and third country nationals (TCNs), who are hired abroad for work in a cooperating country under USAID-direct contracts, generally be extended the same benefits, and be subject to the same restrictions as TCNs and CCNs employed by the USAID Mission. Exceptions to this policy may be granted either by the Mission Director or the Assistant Administrator having program responsibility for the project. (TCN's and CCN's who are hired to work in the United States shall be extended benefits and subject to restrictions on the same basis as U.S. citizens who work in the United States.)

(b) *Compensation.* Compensation, including merit or promotion increases paid to TCN's and CCN's may not, without the approval of the Mission Director or the Assistant Administrator having program responsibility for the project, exceed the prevailing compensation paid to personnel performing comparable work in the cooperating country as determined by the USAID Mission. Unless otherwise authorized by the Mission Director or the Assistant Administrator having program responsibility for the project, the compensation of such TCN and CCN employees shall be paid in the currency of the cooperating country.

(c) *Allowances and differentials.* TCN's and CCN's, hired abroad for work in a cooperating country, are not eligible for allowances or differentials under USAID-direct contracts, unless authorized by the Mission Director or the Assistant Administrator having program responsibility for the project.

(d) *Country and security clearances.* The contractor shall insure that the necessary clearances, including security clearances, if required, have been obtained for TCN and CCN employees in accordance with any such requirements set forth in the contract or required by the USAID Mission, prior to the TCN or CCN starting work under the contract.

(e) *Physical fitness.* Contractors are required to insure that prospective TCN and CCN employees are examined prior to employment to determine whether the prospective employee meets the minimum physical requirements of the position and is free from any contagious disease.

(f) *Workweek, holidays, and leave.* The workweek, holidays, and leave for TCN and CCN employees shall be the same as for all other employees of the contractor, under the terms of the contract; however, TCN and CCN employees are not eligible for home leave or military leave unless authorized by the Mission Director or the Assistant Administrator having program responsibility for the project.

(g) *Travel and transportation for TCN's and CCN's.* Travel and transportation shall be provided TCN and CCN employees on the same basis as for all other employees of the contractor, under the terms of the contract.

(h) *Household effects and motor vehicles.* USAID will not provide household effects to TCN and CCN employees; such employees may ship their household effects and motor vehicles to their place of employment on the same basis as for all other employees of the contractor, under the terms of the contract unless they are residents of the cooperating country.

Subpart 722.8 - Equal Employment Opportunity

722.805-70 Procedures.

(a) The procedures in this section apply, as appropriate, for all contracts excluding construction, which shall be handled in accordance with (48 CFR) FAR 22.804-1. Contracting officers are responsible for ensuring that the requirements of (48 CFR) FAR 22.8 and related clauses are met before awarding any contracts or consenting to subcontracts subject to these requirements.

(b) *Representations and certifications.* The first step in ensuring compliance with these requirements is to obtain all necessary representations and certifications (Reps and Certs) as required by (48 CFR) FAR 22.810 and FAR 4.1202. When applicable, the contracting officer must review the Reps and Certs to determine whether they have been completed and signed as required, and are acceptable.

(c) *OFCCP's National Preaward Registry.* If the Reps and Certs are complete, signed, and deemed acceptable, and the contracting officer has no reason to doubt their accuracy, the contracting officer must then consult the OFCCP's National Preaward Registry at the internet website in 48 CFR 22.805(a)(4) (i) to see if the offeror is listed.

(1) If the conditions stated in (48 CFR) FAR 22.805(a) (4) are met (including the contract file documentation requirement in paragraph (a)(4)(iii)), then the contracting officer does not need to take any further action in verifying the offeror's compliance with the requirements of this subpart and (48 CFR) FAR 22.8.

(2) If the offeror does not appear in the National Preaward Registry, and the estimated amount of the contract or subcontract is expected to be under \$10 million then the contracting officer may rely on the Reps and Certs as sufficient verification of the offeror's compliance.

(3) If the offeror does not appear in the National Preaward Registry and the estimated amount of the contract or subcontract is \$10 million or more, then the contracting officer must request a preaward clearance from the appropriate OFCCP regional office, in accordance with 48 CFR 22.805(a). If the initial contact with OFCCP is by telephone, the contracting officer and OFCCP are to mutually determine what information is to be included in the written verification request. The contracting officer may need to provide the following information in addition to the items listed in (48 CFR) FAR 22.805(a)(5), if so requested by the OFCCP regional office:

- (i) Name, title, address, and telephone number of a contract person for the prospective contractor;
- (ii) A description of the type of organization (university, nonprofit, etc.) and its ownership (private, foreign, state, etc.).
- (iii) Names and addresses of the organizations in a joint venture (if any).
- (iv) Type of procurement (new contract - RFP or IFB, amendment, etc.) and the period of the contract.
- (v) Copy of approved Reps and Certs.

(d) In the event that OFCCP reports that the offeror is not in compliance, negotiations with the offeror shall be terminated.

(e) *Documentation for the contract file.* Every contract file must contain completed and signed Reps and Certs. The file must clearly show that these documents have been reviewed and accepted by the contracting officer. If the Reps and Certs were revised to make them acceptable (see paragraph (b) of this section), the file must also document what changes were required and why, and verify that the changes were made. The contracting officer shall also document the OFCCP National Preaward Registry review (see paragraph (c)

(1) of this section), and, if the Registry does not include the offeror:

(1) For contracts or modifications over \$10,000 but less than \$10 million, the file must contain a statement from the contracting officer that the contractor is considered in compliance with EEO requirements, and giving the basis for

this statement (see paragraph (c)(2) of this section). This statement may be in a separate memorandum to the file or in the memorandum of negotiation.

(2) For contracts or modifications of \$10 million or more, the file must document all communications with OFCCP regarding the offeror's compliance. Such documentation includes copies of any written correspondence and a record of telephone conversations, specifying the name, address, and telephone number of the person contacted, a summary of the information presented, and any advice given by OFCCP.

(f) *Documentation in the event of non-compliance.* In the event OFCCP determines that a prospective contractor is not in compliance, a copy of OFCCP's written determination, and a summary of resultant action taken (termination of negotiations, notification of offeror and contracting officer's representative, negotiation with next offeror in competitive range, resolicitation, etc.) will be placed in the contract file for any contract which may result, together with other records related to unsuccessful offers, and retained for at least six months following award.

722.810 Solicitation provisions and contract clauses.

(a) The contracting officer must insert the clause at 752.222-70, USAID Disability Policy in section I of all solicitations and resulting contracts.

(b) The contracting officer must insert the clause at 752.222-71, Nondiscrimination in section I of all solicitations and resulting contracts

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PART 724 - PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

Source: 49 FR 13248, Apr. 3, 1984, unless otherwise noted.

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PART 724 - PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Subpart 724.2 - Freedom of Information Act

724.202 Policy.

The U.S. Agency for International Development's policies concerning implementation of the Freedom of Information Act are codified in 22 CFR part 212 (USAID Regulation 12).

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PART 725 - FOREIGN ACQUISITION

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

Source: 49 FR 13248, Apr. 3, 1984, unless otherwise noted.

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PART 725 - FOREIGN ACQUISITION

Subpart 725.1 - Buy American Act - Supplies

725.170 Exceptions for Foreign Assistance Act functions.

In addition to the exception stated in (48 CFR) FAR 25.102 for purchases for use outside the United States, there is an exception for economic assistance functions performed under authority of the Foreign Assistance Act. This exception is stated in Executive Order 11223, dated May 12, 1965 (30 FR 6635). U.S. procurement restrictions are applied by USAID, however, as shown elsewhere in this part. These restrictions are generally tighter than the Buy American Act. As a general rule, the tighter USAID restrictions will be used. In the case of certain procurements for use within the United States, the Buy American provision may be used instead in the interest of uniformity among Federal Agencies procuring for domestic use.

Subpart 725.4 - Trade Agreements

725.403 Exceptions.

(48 CFR) FAR 25.4 establishes procedures for purchases under the Trade Agreements Act of 1979 (including GATT's Agreement on Government Procurement) and the North American Free Trade Agreement (NAFTA). Under both such agreements, USAID's contracts for the purpose of providing foreign assistance are not subject to the procedures set forth in (48 CFR) FAR 25.4. In contrast, USAID's operating expense-type administrative purchases (i.e., purchases for the direct benefit and use of USAID) are subject to the procedures in (48 CFR) FAR 25.4, unless otherwise exempted by one of the exemptions specified in (48 CFR) FAR 25.4.

Subpart 725.70 - Source and Nationality

Source: 79 FR 74994, Dec. 16, 2014, unless otherwise noted.

725.701 General.

USAID's source and nationality requirements for program-funded contracts and subcontracts are set forth in 22 CFR part 228, Rules on Procurement of Commodities and Services Financed by USAID. 22 CFR part 228 is supplemented by the policies and procedures in ADS Chapters 310 and 312.

725.702 Designation of authorized geographic code.

(a) Unless another geographic code is specified in the Schedule of the contract, in accordance with 22 CFR part 228, the authorized code for all Agency contracts is Geographic Code 937, which is the U.S., the cooperating/recipient country, and developing countries other than advanced developing countries, and excluding prohibited sources.

(b) The list of developing countries is available in ADS Chapter 310.

725.703 Source and Nationality requirements - Contract clause.

Insert the clause at 752.225-70, Source and Nationality Requirements in all USAID program-funded solicitations and contracts for goods or services, unless source and nationality requirements do not apply as set forth at 22 CFR 228.02.

725.704 Geographic Code waivers.

(a) Authority to approve waivers of source, nationality, and transportation services requirements, pursuant to 22 CFR part 228, subpart D, is set forth in ADS Chapters 103 and 310.

(b) If a Geographic Code other than Code 937 is authorized by a waiver, the contracting officer must insert the authorized geographic code approved in the waiver, in the Schedule of the contract as required in 725.702. In addition, the contracting officer must place a copy of the approved geographic code waiver in the official contract file.

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PART 726 - OTHER SOCIOECONOMIC PROGRAMS

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O.12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

Source: 55 FR 8470, Mar. 8, 1990, unless otherwise noted.

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PART 726 - OTHER SOCIOECONOMIC PROGRAMS

Subpart 726.70 [Reserved]

Subpart 726.71 - Relocation of U.S. Businesses, Assistance to Export Processing Zones, Internationally Recognized Workers' Rights

726.7101 Policy.

USAID Policy Determination (PD) 20, "Guidelines to Assure USAID Programs do not Result in the Loss of Jobs in the U.S." implemented statutory prohibitions on expenditure of appropriated funds. The PD contains a standard provision for inclusion in USAID-funded grants and inter-agency agreements and indicates that when the PD applies to a contract, appropriate provisions covering the subject matter are to be included. When the provisions of PD 20 do apply to a contract, the cognizant technical office shall provide to the contracting officer appropriate language tailored to the specific circumstances for the contract statement of work, or if applicable to the circumstances, the provision included in the PD (see 726.7102) may be used as a clause in the contract. The provision is not required in subcontracts.

726.7102 PD 20 provision.

Relocation of U.S. Businesses, Assistance to Export Processing Zones, Internationally Recognized Workers' Rights (JAN 1994)

No funds or other support provided hereunder may be used in an activity reasonably likely to involve the relocation or expansion outside of the United States of an enterprise located in the United States if non-U.S. production in such relocation or expansion replaces some or all of the production of, and reduces the number of employees at, said enterprise in the United States.

No funds or other support provided hereunder may be used in an activity the purpose of which is the establishment or development in a foreign country of any export processing zone or designated area where the labor, environmental, tax, tariff, and safety laws of the country would not apply, without the prior approval of USAID.

No funds or other support provided hereunder may be used in an activity which contributes to the violation of internationally recognized rights of workers in the recipient country, including those in any designated zone or area in that country.

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SUBCHAPTER E - GENERAL CONTRACTING REQUIREMENTS

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PART 727 - PATENTS, DATA, AND COPYRIGHTS

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

Source: 72 FR 53163, Sept. 18, 2007, unless otherwise noted.

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PART 727 - PATENTS, DATA, AND COPYRIGHTS

Subpart 727.3 - Patent Rights under Government Contracts

727.303 Contract clause.

Contracting officers must insert the clause at 752.227-70, Patent Reporting Procedures, in all solicitations and contracts that contain the clause at (48 CFR) FAR 52.227-11, Patent Rights - Ownership by the Contractor.

Subpart 727.4 - Rights in Data and Copyrights

727.404 Basic rights in data clause.

(a) through (f) [Reserved]

(g) When the contract includes a requirement for the contractor to assign copyright to the Government or another party, the contracting officer must insert (48 CFR) 752.227-14 and/or include an express limitation or restriction in the contract. USAID contracting officers will assert such a right in limited circumstances in accordance with the principles as stated in (48 CFR) 27.402.

727.409 Solicitation provisions and contract clauses.

(a) When the contracting officer inserts (48 CFR) FAR 52.227-14, and if the release or publication of data first produced in the performance of the contract may be sensitive to U.S. Government relations with the cooperating country, the contracting officer must use the clause at (48 CFR) AIDAR 752.227-14.

(b) through (m) [Reserved]

(n) The prescriptions for provisions and clauses in (48 CFR) FAR 27.409 apply to all USAID contracts regardless of place of performance.

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PART 728 - BONDS AND INSURANCE

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

Source: 49 FR 13249, Apr. 3, 1984, unless otherwise noted.

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PART 728 - BONDS AND INSURANCE

Subpart 728.1 - Bonds

728.105-1 Advance payment bonds.

(a) Generally, advance payment bonds will not be required in connection with USAID contracts containing an advance payment provision. In lieu thereof, contracting officers will follow procedures set forth in (48 CFR) FAR 32.409-3.

(b) Whenever a contracting officer considers that an advance payment bond is necessary, the contracting officer will:

(1) Establish a bond penalty that will adequately protect interests of the Government;

(2) Use the USAID Advance Payment Bond format;

(3) Place bond with a surety currently approved by the U.S. Treasury Department according to the latest Treasury Department Circular 570; and

(4) Stipulate that the cost of the bond shall not exceed a rate of \$7.50 per \$1,000 per annum based on the penalty of the bond, without the prior written approval of the Bureau for Management, Office of Acquisition and Assistance, Policy Division (M/OAA/P).

(c) Where the surety's obligation under an advance payment bond covers all advances made to the contractor during the term of the contract, no release should be issued to the surety until all advances made and to be made under the contract have been fully liquidated in accordance with the provisions of the contract, such as no-pay vouchers, reports of expenditures, or by refund. Where the surety's obligation under the bond is limited to advances made during a specified period of time, no release should be issued to the surety until all advances made and to be made during the specified period have been liquidated as aforesaid.

Subpart 728.3 - Insurance

728.305-70 Overseas worker's compensation and war-hazard insurance - waivers and USAID insurance coverage.

(a) Upon the recommendation of the USAID Administrator, the Secretary of Labor may waive the applicability of the Defense Base Act (DBA) with respect to any contract, subcontract, or subordinate contract, work location, or classification of employees. Either the contractor or USAID can request a waiver from coverage. Such a waiver can apply to any employees who are not U.S. citizens, not residents of, or not hired in the United States. Waivers requested by the contractor are submitted to the contracting officer for approval and further submission to the Department of Labor, which grants the waiver. Application for a waiver is submitted on Labor Department Form BEC 565. USAID has a number of blanket waivers already in effect for certain countries that are applicable to its direct contracts with contractors performing in such countries. Where such waivers are granted from coverage under the DBA, the waiver is conditioned on providing other worker's compensation coverage to employees to which the waiver applies. Usually this takes the form of securing worker's compensation coverage of the country where work will be performed or of the country of the employee's nationality, whichever offers greater benefits. The Department of Labor has granted partial blanket waivers of DBA coverage applicable to USAID-financed contracts performed in certain countries, subject to two conditions:

(1) Employees hired in the United States by the contractor, and citizens or residents of the United States are to be provided DBA insurance coverage;

(2) Waived employees (i.e., employees who are neither U.S. citizens nor U.S. resident aliens, and who were hired outside the United States) will be provided worker's compensation benefits as required by the laws of the country in which they are working or the laws of their native country, whichever offers greater benefits. Information as to whether a DBA Waiver has been obtained by USAID for a particular country may be obtained from the cognizant USAID contracting officer.

(b) To assist contractors in securing insurance at minimal rates for the workmen's compensation insurance required under the DBA, and to facilitate meeting insurance requirements for such coverage, USAID, after open and competitive negotiation, has entered into a contract with an insurance carrier to provide such coverage at a specified rate. The terms of this contract require the insurance carrier to provide coverage, and the contractor to make payments to and handle its claims with that insurance carrier. Contracting officers are responsible for explaining and advising contractors of the details of securing such insurance.

728.307-2 Liability.

(a)-(b) [Reserved]

(c) *Automobile liability.* In order to ensure that private automobiles used by contractor employees stationed overseas under an USAID contract are properly insured, USAID has established minimum required coverages as a supplement to the (48 CFR) FAR clause at 52.228-7. This supplemental coverage is specified in (48 CFR) AIDAR 752.228-7, and is to be used in all USAID-direct contracts involving performance overseas.

728.307-70 Medical Evacuation (MEDEVAC) Services (MAR 1993).

The contracting officer must insert the clause at 752.228-70 in all contracts which require performance by contractor employees overseas.

728.309 Contract clause for worker's compensation insurance.

(a) Because of the volume of projects performed overseas resulting in contracts which require worker's compensation insurance, USAID has contracted with an insurance carrier to provide the required insurance for all USAID contractors. It is therefore necessary to supplement the (48 CFR) FAR clause at 52.228-3 with the additional coverage specified in (48 CFR) AIDAR 752.228-3. The coverage specified in (48 CFR) AIDAR 752.228-3 shall be used in addition to the coverage specified in (48 CFR) FAR 52.228-3 in all USAID-direct contracts involving performance overseas.

728.313 Contract clauses for insurance of transportation or transportation-related services.

(a) USAID is required by law to include language in all its direct contracts and subcontracts ensuring that all U.S. marine insurance companies have a fair opportunity to bid for marine insurance when such insurance is necessary or appropriate under the contract. USAID has therefore established a supplementary preface to the clause at (48 CFR) FAR 52.228-9. This supplementary preface is set forth in (48 CFR) AIDAR 752.228-9, and is required for use in any USAID-direct contract where marine insurance is necessary or appropriate.

PART 729 - TAXES

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, 44 FR 56673, 3 CFR 1979 Comp., p. 435.

Source: 81 FR 48716, July 26, 2016, unless otherwise noted.

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PART 729 - TAXES

Subpart 729.4 - Contract Clauses

729.402-70 Foreign contracts.

(a) Section 579 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of FY 2003 requires certain steps to prevent countries from imposing taxes [defined as Value Added Tax (VAT) or customs duties] on U.S. foreign assistance, or if imposed, requires the countries to reimburse the assessed taxes or duties. The Act also requires certain reporting to Congress. The Department of State has published guidance for implementing this section of the Act. See <http://2001-2009.state.gov/s/d/rm/c10443.htm> for further information.

(b) Contracting Officers (COs) must insert the clause at 752.229-71, Reporting of Foreign Taxes in section I of solicitations and resulting contracts that obligate or subobligate FY 2003 or later funds except for the following:

- (1) Contracts funded with Operating Expense, Public Law 83-480 funds, or trust funds; or
- (2) Contracts where there will be no commodity transactions in a foreign country over the amount of \$500.

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PART 731 - CONTRACT COST PRINCIPLES AND PROCEDURES

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; and 3 CFR 1979 Comp., p. 435.

Source: 49 FR 13250, Apr. 3, 1984, unless otherwise noted.

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PART 731 - CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 731.1 - Applicability

731.109 Advance agreements.

Advance agreements on selected costs may be negotiated with USAID contractors by the Bureau for Management, Office of Acquisition and Assistance, Cost Audit Support Division, Overhead and Special Cost and Contract Close-Out Branch (M/OAA/CAS/OCC). Such advance understandings will be applicable to all USAID contracts with that contractor.

Subpart 731.2 - Contracts With Commercial Organizations

731.205-6 Compensation for personal services.

(a) *General.* When establishing the workweek for employees overseas the contractor will take local and USAID Mission practice into account and will insure that the workweek is compatible with that of those USAID Mission and Cooperating Country employees with whom the contractor will be working.

(b) *Salaries and wages.* It is USAID policy that if an employee's base salary plus overseas recruitment incentive, if any (see (48 CFR) AIDAR 731.205-70) exceeds the USAID Contractor Salary Threshold (USAID CST), as stated in USAID's Automated Directives System (ADS) Chapter 302 USAID Direct Contracting (available at <http://www.usaid.gov/policy/ads/300/302.pdf>), it will be allowable only if approved in writing by the contracting officer. The contracting officer shall only provide such approval after internal Agency procedures for review/approval of salaries in excess of the USAID CST in ADS 302 have been followed. USAID policies on compensation of third country national or cooperating country national employees are set forth in (48 CFR) AIDAR 722.170.

(d)-(l) [Reserved]

(m) *Fringe benefits.* USAID's policies on certain fringe benefits related to overseas service, including but not limited to leave, holidays, differentials and allowances, etc. are set forth in the appropriate contract clauses in (48 CFR) AIDAR subpart [752.70](#).

731.205-43 Trade, business, technical and professional activity costs - USAID conference approval requirements.

(a) The contractor must obtain prior written approval from the contracting officer, or the contracting officer's representative (COR), if delegated in the Contracting Officer's Representative Designation Letter, for costs related to conferences funded in whole or in part with USAID funds when:

(1) Twenty (20) or more USAID employees are expected to attend.

(2) The net conference expense funded by USAID will exceed \$100,000 (excluding salary of employees), regardless of the number of USAID participants.

(b) The contracting officer or the contracting officer's representative will follow the internal Agency procedures for review and approval of conference costs, as specified in Automated Directive System (ADS) chapter 580, prior to providing such approval to the contractor.

(c) Costs associated with a conference that meets the criteria above, incurred without USAID prior written approval, are unallowable.

(d) Contracting officers must insert the clause at 752.231-72 in all USAID-funded solicitations and contracts anticipated to include a requirement for a USAID-funded conference. See (48 CFR) AIDAR 752.231-72 for the definition of a conference and specific requirements and procedures.

731.205-46 Travel costs.

It is USAID policy to require prior written approval of international travel by the contracting officer, or the contracting officer's representative (COR) if delegated in the Contracting Officer's Representative Designation Letter. See (48 CFR) AIDAR 752.7032 for specific requirements and procedures.

731.205-70 Overseas recruitment incentive.

Note:

The term *employee* as used in this section means an employee who is a U.S. citizen or a U.S. resident alien.)

(a) If a contractor employee serving overseas under a contract does not qualify for the exemption for overseas income provided under section 911 of the U.S. Internal Revenue Code (26 U.S.C. 911), such employee is eligible to receive an overseas recruitment incentive (ORI), to the extent the ORI: Is authorized by the contractor's normal policy and practice; is deemed necessary by the contractor to recruit and retain qualified employees for overseas services; and does not exceed 10% of the base salary of the employee from date of arrival at overseas post to begin assignment to date of departure from post at the end of assignment. ORI is to be paid as a single payment at the end of the employee tour of duty overseas. The contractor shall take all reasonable and prudent steps to ensure that ORI is not paid to any employee who has received the IRS section 911 exemption.

(b) In the event that an employee subsequently receives a section 911 exclusion for any part of the base salary upon which this supplement has been paid, such supplement or appropriate portion thereof shall be reimbursed by the contractor to USAID with interest. The interest shall be calculated at the average U.S. Treasury rate in effect for the period that the contractor or his employee had the funds. Neither the contractor's nor the subcontractor's inability to collect refunds from eligible employees shall be used as a basis to excuse subsequent refunds by the contractor to USAID.

731.205-71 Salary supplements for Host Government employees.

(a) *Definitions.*

(1) A Host Government (HG) employee is a person paid by the HG, occupying an established position, either temporary or permanent, part-time or full-time, within a HG institution.

(2) An HG institution is an organization in which the government owns at least a fifty percent share or receives at least fifty percent of its financial support from the government.

(b) *General.* Salary supplement occurs when payments are made that augment an HG employee's base salary or premiums, overtime, extra payments, incentive payment and allowances for which the HG employee would qualify under HG rules or practices for the performance of his/hers regular duties or work performed during his/hers regular office hours. Per diem, invitational travel, honoraria and payment for work carried out outside of normal working hours are not considered to be salary supplements subject to the provisions in USAID policy referenced in paragraph (c) of this section.

(c) Salary supplements are eligible for USAID financing only when authorized in accordance with USAID policy established in the cable State 119780 dated April 15, 1988 in ADS Chapter 302. If salary supplements have been authorized in a particular case, the contracting officer shall provide written approval to the contractor in order for such costs to be eligible. Any specific requirements or limitations shall be specified in the approval.

(d) Contracting officers shall insert the Clause at 752.231-71 in all contracts in which there is a possibility of the need of HG employees. It should also be inserted in all subsequent subcontracts.

Subpart 731.3 - Contracts With Educational Institutions

731.370 Predetermined fixed rates for indirect costs.

Section 635(k) of the Foreign Assistance Act of 1961, as amended, authorizes USAID to use predetermined fixed rates in determining the indirect costs applicable under contracts with educational institutions.

731.371 Compensation for personal services.

(a) *General.* When establishing the workweek for employees overseas the contractor will take local and USAID Mission practice into account and will ensure that the workweek is compatible with that of those USAID Mission and Cooperating Country employees with whom the contractor will be working.

(b) *Salaries and wages.*

(1) The policies set forth in (48 CFR) AIDAR 731.205-6(b) are also applicable to contracts with a nonprofit organization.

(2) In considering consulting income as a factor when determining allowable salary for service under a contract:

(i) For faculty members working under annual appointments, salary for service under the contract may include the employee's on-campus salary plus "consulting income" (that is, income from employment other than the employee's regular on-campus appointment, excluding business or other activities not connected with the employee's profession) earned during the year preceding employment under the contract.

(ii) For faculty members working under academic year appointments, salary for service under the contract may include the employee's on-campus academic year salary plus "consulting income" as defined above earned during the year proceeding employment under the contract, or salary for service under the contract may be derived by annualizing the academic year salary (in which case "consulting income" may not be included).

(3) USAID policies and compensation of third country national or cooperating country national employees are set forth in (48 CFR) AIDAR 722.170.

731.372 Fringe benefits.

USAID's policies on certain fringe benefits related to overseas service, including but not limited to leave, holidays, differentials and allowances, etc. are set forth in the appropriate contract clauses in (48 CFR) AIDAR [752.70](#).

731.373 Overseas recruitment incentive.

USAID's policies regarding overseas recruitment incentives are set forth in (48 CFR) AIDAR 731.205-70. These policies are also applicable to contracts with an educational institution.

Subpart 731.7 - Contracts With Nonprofit Organizations

731.770 OMB Circular A-122, cost principles for nonprofit organizations; USAID implementation.

(a) Paragraph 6 of the transmittal letter for OMB Circular A-122 specifies that "Agencies shall designate a liaison official to serve as the agency representative on matters relating to the implementation of this Circular." The Director, Bureau for Management, Office of Acquisition and Assistance, has been so designated. The Bureau for Management, Office of Acquisition and Assistance, Cost Audit Support Division, Overhead and Special Cost and Contract Close-Out Branch (M/OAA/CAS/OCC) provides staff assistance to the Director concerning OMB Circular A-122. M/OAA/CAS/OCC is also responsible for obtaining cognizance under the criteria in the transmittal letter for OMB Circular A-122; for liaison with other cognizant agencies; for authorizing exclusion of OMB Circular A-122 coverage for a particular nonprofit organization pursuant to paragraph 5 of the OMB Circular A-122 transmittal letter; and for advice and assistance in applying OMB Circular A-122 cost principles.

(b) Paragraph 4b of the OMB Circular A-122 transmittal letter contains a definition of *prior approval* as follows:

Prior approval means securing the awarding agency's permission in advance to incur costs for those items that are designated as requiring prior approval by OMB Circular A-122. Generally, this permission will be in writing. Where an item of cost requiring prior approval is specified in the budget of an award, approval of the budget constitute approval of that cost.

Consequently, an award containing a budget constitutes prior approval of the direct cost item in the budget, unless otherwise annotated. Accordingly, award budgets should be appropriately annotated substantially as follows:

Inclusion of any cost in the line item budget of this award does not obviate the requirement for prior approval of cost items designated as requiring prior approval by OMB Circular A-122 ; or

In accordance with the requirements to OMB Circular No. A-122, approval is granted to incur costs for (name specific item or items) which are included in the budget of this award.

731.771 Bid and proposal costs.

Pending the establishment of Government-wide principles in Attachment B of OMB Circular A-122, USAID will treat bid and proposal costs as follows:

(a) Bid and proposal costs are the costs of preparing bids, proposals, and applications for potential activities such as Government and non-Government grants, contracts and other agreements, including the development of scientific, cost, and other data needed to support such bids, proposals, and applications. Except as provided in (b) below, bid and proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect costs for allocation to all current activities, and no bid and proposal costs of past accounting periods will be allocable to the current period. However, if the organization's established practice is to treat bid and proposal costs by some other method, the results obtained may be accepted only if found to be reasonable and equitable.

(b) Bid and proposal costs incurred by the organization to obtain unrestricted funds are to be treated as fund raising and allocated an appropriate share of indirect costs under the conditions described in paragraph B.3 of Attachment A to OMB Circular A-122.

731.772 Compensation for personal services.

The policies set forth in (48 CFR) AIDAR 731.205-6 are also applicable to contracts with a nonprofit organization.

731.773 Independent research and development costs.

Pending establishment of Government-wide principles in Attachment B of OMB Circular A-122, USAID will apply the cost principles at (48 CFR) FAR 31.205-18 for independent research and development costs.

731.774 Overseas recruitment incentive.

USAID's policies regarding overseas recruitment incentives are set forth in (48 CFR) AIDAR 731.205-70. These policies are also applicable to contracts with a nonprofit organization.

PART 732 - CONTRACT FINANCING

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

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PART 732 - CONTRACT FINANCING

Subpart 732.4 - Advance Payments for Non-Commercial Items

Source: 56 FR 67225, Dec. 30, 1991, unless otherwise noted.

732.401 Statutory authority.

(a) Sections 635 (b) of the Foreign Assistance Act and Executive Order 11223, May 12, 1965, 30 FR 6635, permit the making of advance payments with respect to functions authorized by the Foreign Assistance Act. Advance payments may also be made under section 305 of the Federal Property and Administrative Services Act of 1949, which provides authority, not otherwise available to USAID, to take a paramount lien.

(b) The Act of August 28, 1968, Public Law 85-804 does not apply to USAID.

732.402 General.

(a)-(d) [Reserved]

(e)

(1) U.S. Dollar advances to for-profit organizations for any award, including advances for disbursement to grantees, must be processed and approved in accordance with ADS Chapter 636.

(2) All local currency advances to for-profit organizations for any award require the approval of the head of the contracting activity, with concurrence of the Mission Controller.

732.403 Applicability.

References to nonprofit contracts with nonprofit educational or research institutions for experimental, research and development work include nonprofit contracts with nonprofit institutions for: (a) technical assistance services provided to or for another country or countries, and (b) projects which concern studies, demonstrations and similar activities related to economic growth or the solution of social problems of developing countries.

732.406-70 Agency-issued letters of credit.

This subsection provides guidance on use of USAID issued letters of credit (LOC) for advance payments.

732.406-71 Applicability for use of a Letter of Credit (LOC).

An LOC must be used when:

(a) The contracting officer has determined that an advance payment is necessary and appropriate in accordance with this subpart and the requirements found in (48 CFR) FAR 32.4;

(b) USAID has, or expects to have, a continuing relationship of at least one year with the organization, and the annual amount required for advance financing will be at least \$50,000; and

(c) The advance payment is approved in accordance with (48 CFR) AIDAR 732.402(e). Additionally, the advance payments made by LOC under for fee or profit contracts, must be approved by the Procurement Executive.

732.406-72 Establishing an LOC.

(a) While the contract will provide for the use of an LOC when it is applicable under 732.406-71, the LOC is a separate agreement between the contractor and USAID. The terms and conditions of the LOC are contained in the LOC instructions issued by USAID and the general operating requirements are those imposed by the USAID LOC servicing agent. LOCs for both USAID/Washington and Mission-executed awards are established by the Bureau for Management, Office of the Chief Financial Officer, Cash Management and Payment Division (M/CFO/CMP) through the Agency LOC servicing agent.

(b) To establish a new LOC account, the contractor must submit to USAID the documentation specified in (48 CFR) AIDAR Clause 752.232-70(b).

732.406-73 LOC contract clause.

(a) If payment is to be provided by LOC, the contract must contain the clause in 752.232-70.

(b) Contracting officers must ensure that an appropriate (48 CFR) FAR payment clause is also inserted in the contract, in the event that the LOC is revoked pursuant to 732.406-74.

732.406-74 Revocation of the LOC.

If during the term of the contract M/CFO/CMP believes that the LOC should be revoked, M/CFO/CMP may, after consultation with the cognizant contracting officer(s) and GC, revoke the LOC by written notification to the contractor. A copy of any such revocation notice will immediately be provided to the cognizant contracting officer(s).

PART 733 - PROTESTS, DISPUTES, AND APPEALS

Sec.

Authority: Sec. 621. Pub. L. 87-195, 73 Stat. 445 (22 U.S.C. 2381), as amended: E.O. 12163, Sept. 29, 1979, 44 FR 56673, 3 CFR, 1979 Comp. p. 435.

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PART 733 - PROTESTS, DISPUTES, AND APPEALS

Subpart 733.1 - Protests

Source: 61 FR 39094, July 26, 1996, unless otherwise noted.

733.101 Definitions.

(a) All “days” referred to in this subpart are deemed to be “calendar days”, in accordance with (48 CFR) FAR 33.101. In the case of USAID overseas offices with non-Saturday/Sunday weekend schedules, the official post weekend applies in lieu of Saturday and Sunday.

(b) All other terms defined in (48 CFR) FAR 33.101 are used herein with the same meaning.

733.103-70 Protests to the agency.

USAID follows the agency protest procedures in (48 CFR) FAR 33.103, as supplemented by this section.

733.103-71 Filing of protest.

(a) Protests must be in writing and addressed to the contracting officer for consideration by the M/OAA Director.

(b) A protest shall include, in addition to the information required in (48 CFR) FAR 33.103(d)(2), the name of the issuing Mission or office.

(c) Material submitted by a protester will not be withheld from any interested party outside the Government or from any Government agency if the M/OAA Director decides to release such material, except to the extent that the withholding of such information is permitted or required by law or regulation.

733.103-72 Responsibilities.

(a) *M/OAA Director*. The decision regarding an agency protest shall be made by the M/OAA Director within 30 days from the date a proper protest is filed unless the M/OAA Director determines that a longer period is necessary to resolve the protest, and so notifies the protester in writing. The M/OAA Director shall make his or her decision after personally reviewing and considering all aspects of the case as presented in the protest itself and in any documentation provided by the contracting officer, and after obtaining input and clearance from the Office of the General Counsel's Division for Litigation and Enforcement (GC/LE). The decision shall be in writing and constitutes the final decision of the Agency.

(b) *Contracting officer*. The contracting officer is responsible for requesting an extension of the time for acceptance of offers as described in (48 CFR) FAR 33.103(f)(2).

733.103-73 Protests excluded from Agency consideration.

(a) *Contract administration*. Disputes between a contractor and USAID are resolved pursuant to the disputes clause of the contract and the Contract Disputes Act of 1978.

(b) *Small business size standards and standard industrial classification*. Challenges of established size standards or the size status of particular firms, and challenges of the selected standard industrial classification are for review solely by the Small Business Administration.

(c) *Procurement under Section 8(a) of the Small Business Act*. Contracts are let under Section 8(a) of the Small Business Act to the Small Business Administration solely at the discretion of the contracting officer, and are not subject to review.

(d) *Protests filed in the Government Accountability Office (GAO)*. Protests filed with the GAO will not be reviewed.

(e) *Procurements funded by USAID to which USAID is not a party*. No protest of a procurement funded by USAID shall be reviewed unless USAID is a party to the acquisition agreement.

(f) *Subcontractor protests*. Subcontractor protests will not be considered.

(g) *Judicial proceedings*. Protests will not be considered when the matter involved is the subject of litigation before a court of competent jurisdiction or when the matter involved has been decided on the merits by a court of competent jurisdiction.

(h) *Determinations of responsibility by the contracting officer*. A determination by the contracting officer that a bidder or offeror is or is not capable of performing a contract will not be reviewed by the M/OAA Director.

(i) *Small Business Certificate of Competency Program*. Any referral made to the Small Business Administration pursuant to section 8(b)(7) of the Small Business Act, or any issuance of, or refusal to issue, a certificate of competency under that section will not be reviewed by the M/OAA Director.

Subpart 733.27 - USAID Procedures for Disputes and Appeals

733.270 Designation of Civilian Board of Contract Appeals (CBCA) to hear and determine appeals under USAID contracts.

(a) The Civilian Board of Contract Appeals (CBCA) was established by section 847 of the National Defense Authorization Act for Fiscal Year 2006 to hear and decide contract disputes between Government contractors and executive civilian agencies under the provisions of the Contract Disputes Act of 1978, 41 U.S.C. 7101-7109, and regulations and rules issued under that statute. The CBCA is USAID's board for hearing and deciding appeals to contracting officer decisions.

(b) USAID must follow CBCA Rules of Procedure (see www.cbca.gsa.gov).

(c) The Office of the General Counsel's Division of Litigation and Enforcement (GC/LE) will assure representation of the interests of the Government in proceedings before the CBCA.

(d) All officers and employees of USAID must cooperate with the CBCA and GC/LE in the processing of appeals so as to assure their speedy and just determination.

SUBCHAPTER F - SPECIAL CATEGORIES OF CONTRACTING

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PART 734 - MAJOR SYSTEM ACQUISITION

Sec.

734.002-70 USAID policy.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673, 3 CFR, 1979 Comp., p. 435.

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734.002-70 USAID policy.

In order for an USAID acquisition to be considered a major system acquisition it must meet the criteria of OMB Circular A-109 and FAR part 34, and must have an estimated value of \$15 million or more during the first year of the contract. All major systems acquisition must be approved in advance by the M/OAA Director.

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PART 736 - CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

Source: 49 FR 13254, Apr. 3, 1984, unless otherwise noted.

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PART 736 - CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Subpart 736.5 - Contract Clauses

736.570 Disability standards in construction contracts.

Contracting officers must insert the clause at 752.236-70, Standards for Accessibility for the Disabled in USAID Construction Contracts, in all solicitations and contracts for construction or renovations made using program funds.

Subpart 736.6 - Architect-Engineer Services

736.602-2 Evaluation boards.

(a)-(b) [Reserved]

(c) Each evaluation board will include a representative of the contracting officer and, as appropriate, the cognizant bureau.

736.602-3 Evaluation board functions.

Agency architect-engineer evaluation boards shall perform the following functions:

(a) Prepare a selection memorandum recommending no less than three firms which are considered most highly qualified to perform the required services for submission to the head of the contracting activity for his/her approval. This selection memorandum shall include the information specified in 736.602-3(c).

(b) In evaluating architect-engineer firms, the architect-engineer evaluation board shall apply the following criteria, other criteria established by Agency regulations, and any criteria set forth in the public notice on a particular contract:

(1) Specialized experience of the firm (including each member of joint venture or association) with the type of service required;

(2) Capacity of the firm to perform the work (including any specialized services) within the time limitations;

(3) Past record of performance on contracts with USAID or other Government agencies and private industry with respect to such factors as control of costs, quality of work, and ability to meet schedules, to the extent such information is available;

(4) Ability to assign an adequate number of qualified key personnel from the organization, including a competent supervising representative having considerable experience in responsible positions on work of a similar nature;

(5) The portions of the work the architect-engineer is able to perform with its own forces when required;

(6) Ability of the architect-engineer to furnish or to obtain required materials and equipment;

(7) If the geographical or topographical aspects of the project are deemed vital, familiarity with the locality where the project is situated;

(8) Financial capacity;

(9) Responsibility of the architect-engineer under standards provided in (48 CFR) FAR subpart 9.1. No contract may be awarded to a contractor that does not meet these standards;

(10) Volume of work previously awarded to the firm by the Agency, with the object of effecting an equitable distribution of architect-engineer contracts among qualified firms. Each architect-engineer evaluation board shall give favorable consideration, to the fullest extent practicable to the most highly qualified firms that have not had prior experience on Government projects (including small business firms and firms owned by the socially and/or economically deprived).

(c) The evaluation board shall prepare a selection memorandum for the approval of the head of the contracting activity. The selection memorandum will be signed by the board chairman and cleared by each board member. The selection memorandum shall include the following information:

(1) A listing by name of all firms reviewed by the board;

(2) A listing of the evaluation criteria applied;

(3) An analysis of the selection showing the rationale for the board's recommendation;

(4) The board's recommendation of the three most highly qualified firms, in order of preference;

(5) An independent Government cost estimate. The evaluation board shall require the project engineer to develop an independent Government estimate of the cost of the required architect-engineer services. Consideration shall be given to the estimated value of the services to be rendered, the scope, complexity, and the nature of the project and the estimated costs

expected to be generated by the work. The independent Government estimate shall be revised as required during negotiations to correct noted deficiencies and reflect changes in or clarification of, the scope of the work to be performed by the architect-engineer. A cost estimate based on the application of percentage factors to cost estimates of the various segments of the work involved, e.g., construction project, may be developed for comparison purposes, but such a cost estimate shall not be used as a substitute for the independent Government estimate.

736.602-4 Selection authority.

(a) The head of the contracting activity or his/her authorized designee shall review the selection memorandum and shall either approve it or return it to the board for reconsideration for specified reasons.

(b) Approval of the selection memorandum by the head of the contracting activity or his/her authorized designee shall serve as authorization for the contracting office to commence negotiation.

736.602-5 Short selection process for procurements not to exceed the simplified acquisition threshold.

References to (48 CFR) FAR 36.602-3 and 36.602-4 contained in (48 CFR) FAR 36.602-5 shall be construed as references to 736.602-3 and 736.602-4 of this subpart.

736.603 [Reserved]

736.605 Government cost estimate for architect-engineer work.

See 736.602-3(c)(5).

PART 737 [RESERVED]

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SUBCHAPTER G - CONTRACT MANAGEMENT

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PART 742 - CONTRACT ADMINISTRATION

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

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PART 742 - CONTRACT ADMINISTRATION

Subpart 742.7 - Indirect Cost Rates

742.770 Negotiated indirect cost rate agreement.

Except for educational institutions having a cognizant agency (as defined in OMB Circular A-88, 44 FR 70094, 12/5/79) other than USAID, USAID may establish negotiated overhead rates in a Negotiated Indirect Cost Rate Agreement, executed by both parties. The Negotiated Indirect Cost Rate Agreement is automatically incorporated in each contract between the parties and shall specify: (a) The final rate(s), (b) the base(s) to which the rate(s) apply, (c) the period(s) for which the rate(s) apply, (d) the items treated as direct costs, and (e) the contract(s) to which the rate(s) apply. The Negotiated Indirect Cost Rate Agreement shall not change any monetary ceiling, obligation, or specific cost allowance or disallowance provided for in each contract between the parties.

Subpart 742.11 - Production, Surveillance, and Reporting

Source: 72 FR 53163, Sept. 18, 2007, unless otherwise noted.

742.1170 Performance monitoring and progress reporting.

742.1170-1 General.

Performance monitoring is a function of contract administration used to determine contractor progress towards achieving the goals and objectives of the contract and to identify any factors that may delay or prevent the accomplishment of those goals and objectives. Performance monitoring requires USAID personnel, particularly the contracting officer's representative, to maintain adequate knowledge of the contractor's activities and progress in order to ensure that USAID's objectives, as stated in the contract's Statement of Work, will be achieved.

742.1170-2 Applicability.

(a) This section applies to USAID non-personal, professional/technical services contracts exceeding the simplified acquisition threshold, but may be applied to other USAID contracts, if the contracting officer and requiring office determine that doing so is in the best interests of the Agency. The contracting officer must ensure that this determination is documented in the contract file. This section does not apply to personal services contracts.

(b) The underlying principles of (48 CFR) FAR subpart 42.11 apply to USAID contracts and are inherent to this section. However, not all of the specific requirements and terminology in (48 CFR) FAR subpart 42.11 are compatible with the types of technical assistance contracts usually awarded by USAID. Therefore, this section 742.1170 applies when the requirements of (48 CFR) FAR subpart 42.11 do not meet USAID requirements or are otherwise not appropriate.

(c) The progress reports discussed in this section are separate from the performance evaluation reports prepared in accordance with (48 CFR) FAR subpart 42.15 and internal Agency procedures, although they may be used by USAID personnel or their authorized representatives when evaluating the contractor's performance. Furthermore, the policies, procedures, and limitations of this section do not apply to technical reports, studies, papers, etc., the acquisition of which may be part of or even the sole purpose of the contract.

742.1170-3 Policy.

(a) The contractor is responsible for timely contract performance. Performance monitoring by USAID does not obviate this responsibility.

(b) The requiring office, particularly the contracting officer's representative and the contracting officer, will determine how to monitor the contractor's performance to protect the Government's interests, by considering:

- (1) The contract requirements for reporting progress;
- (2) The contract performance schedule;
- (3) The contractor's implementation plan or workplan;
- (4) The contractor's history of contract performance;

(5) The contractor's experience with the services or supplies being provided under the contract;

(6) The contractor's financial capability;

(7) Any other factors the requiring office, particularly the contracting officer's representative and the contracting officer, considers appropriate and necessary to adequately monitor contractor performance (for example, the day-to-day working proximity of the contracting officer's representative or contracting officer to the contractor's place of performance).

(c) In monitoring contractor performance, the requiring office (particularly the contracting officer's representative and contracting officer) must utilize any of the contractor's existing systems or processes for monitoring progress, provided that doing so is not contrary to the terms of the contract. The requiring officer or contracting officer's representative must not require anything from the contractor that is outside the scope or terms of the contract or may result in claims of waivers, of changes, or of other contract modifications. Further, progress reports shall not require information already available from other sources.

742.1170-4 Progress reporting requirements and contract clause.

(a) When the requiring office needs information on contract performance status on a regular basis, the contracting officer may require the contractor to submit periodic progress reports, tailored to address specific contract requirements but limited to only that information essential to USAID's needs in monitoring the contractor's progress.

(b) Because the contracting officer's representative is the individual most familiar with the contractor's performance, the contractor must submit the progress reports directly to the cognizant technical officer. The contracting officer's representative must review the reports and advise the contracting officer, in writing, of any recommended action, including any action needed to address potential or actual delays in performance. The contracting officer's representative must so advise the contracting officer in sufficient time, typically thirty days, for him or her to take any action that the contracting officer determines is appropriate. The requirements of this paragraph do not relieve the contractor of notification requirements identified elsewhere in the contract.

(c) The contracting officer must insert the clause at 752.242-70, Periodic Progress Reports, in solicitations and contracts that require progress reporting, as specified in this section. The contracting officer must include specific reporting instructions in the Schedule.

Subpart 742.15 - Contractor Performance Information

Source: 65 FR 36642, June 9, 2000, unless otherwise noted.

742.1501 [Reserved]

742.1502 Policy.

(a) [Reserved]

(b) Performance for personal services contracts awarded under (48 CFR) AIDAR appendices D and J shall not be evaluated under the contractor performance reporting procedures prescribed in (48 CFR) FAR subpart 42.15.

742.1503 Procedures.

(a) [Reserved]

(b) Personal services contractors shall be recognized as Government personnel for the purposes of the restriction on access to contractor performance information in (48 CFR) FAR 42.1503.

PART 744 - SUBCONTRACTING POLICIES AND PROCEDURES

Sec.

Source: 77 FR 8171, Feb. 14, 2012, unless otherwise noted.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

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PART 744 - SUBCONTRACTING POLICIES AND PROCEDURES

Subpart 744.2 - Consent to Subcontracts

744.202-170 Partner vetting.

If an acquisition is identified as subject to partner vetting, see (48 CFR) AIDAR [704.70](#) for the applicable procedures and requirements.

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PART 745 - GOVERNMENT PROPERTY

Sec.

Authority: Sec. 621, Pub. L. 787-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

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PART 745 - GOVERNMENT PROPERTY

Subpart 745.1 - General

745.107 Contract clauses.

(a) The contracting officer must insert the clause at (48 CFR) AIDAR 752.245-71 in all contracts under which the contractor will acquire property for use overseas and the contract funds were obligated under a Development Objective Agreement (DOAG) (or similar bilateral obligating agreement) with the cooperating country.

(b) The contracting officer must insert the applicable clause as required in (48 CFR) FAR 45.107 and (48 CFR) AIDAR 752.245-70 in all contracts under which the contractor will acquire property with funds not already obligated under a DOAG (or similar bilateral obligating agreement) with the cooperating country.

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PART 747 - TRANSPORTATION

Sec.

Authority: Sec. 621, Pub. L. 98-195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

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PART 747 - TRANSPORTATION

Subpart 747.5 - Ocean Transportation by U.S.-Flag Vessels

747.507 Contract clauses.

Contracting officer must insert the clause at 752.247-70 in solicitations and contracts solely for ocean transportation services, and in solicitations and contracts for goods and ocean transportation services when the ocean transportation will be fixed at the time the contract is awarded. Contracting officer must use (48 CFR) FAR 52.247-64 as prescribed in (48 CFR) FAR 47.507(a) in other situations.

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PART 749 - TERMINATION OF CONTRACTS

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

Source: 49 FR 13256, Apr. 3, 1984, unless otherwise noted.

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PART 749 - TERMINATION OF CONTRACTS

Subpart 749.1 - General Principles

749.100 Scope of subpart.

The Foreign Aid and Related Agencies Appropriation Act, 1963, and subsequent appropriation Acts, have imposed the following requirement:

None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, as amended, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

See, for example, section 110 of the Foreign Assistance and Related Agencies Appropriation Act, 1965.

749.111 Review of proposed settlements.

749.111-70 Termination settlement review boards.

(a) The USAID Settlement Review Board shall be composed of the following members or their delegates (except as provided under 749.111-71(b)):

- (1) M/OAA Director;
- (2) Controller;
- (3) General Counsel.

(b) The M/OAA Director or his/her delegate shall be designated as chairman of the board. Delegate members of the board shall have broad business and contracting experience and shall be senior USAID officials. Each member or his/her delegate must be in attendance in order to conduct business, and the board shall act by majority vote. No individual shall serve as a member of a board for the review of a proposed settlement if he/she has theretofore reviewed, approved or disapproved or recommended approval, disapproval or other action with respect to any substantive element of such settlement proposal.

(c) The chairman shall appoint a nonvoting recorder who shall be responsible for receiving cases, scheduling and recording the proceedings at meetings, maintaining a log of all cases received by him/her for the board, and other duties as assigned by the board.

749.111-71 Required review and approval.

(a) *When required.* The USAID Settlement Review Board shall receive and approve all USAID/W and Mission proposed settlements or determinations if:

- (1) The amount of settlement, by agreement or determination, involves \$100,000 or more;
- (2) The settlement or determination is limited to adjustment of the fee of a cost-reimbursement contract or subcontract

and:

(i) In the case of complete termination, the fee, as adjusted, with respect to the terminated portion of the contract or subcontract is \$100,000 or more; or (ii) in the case of a partial termination, the fee, as adjusted, with respect to the terminated portion of the contract or subcontract is \$100,000 or more;

(3) The head of the contracting activity concerned determines that a review of a specific case or class of cases is desirable; or

(4) The contracting officer, in his/her discretion, desires review by the board.

(b) *Level of review.* Proposed settlements in excess of \$5 million shall be reviewed and approved by a board consisting of the M/OAA Director, the General Counsel, and the Controller, without power of redelegation.

(c) *Submission of information.* The contracting officer shall submit to the board a statement of the proposed settlement agreement or determination, supported by such detailed information as is required for an adequate review. This information should normally include copies of:

(1) The contractor's or subcontractor's settlement proposal, (2) the audit report, (3) the property disposal report and any required approvals in connection therewith, and (4) the contracting officer's memorandum explaining the settlement. The board may, in its discretion, require the submission of additional information.

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PART 750 - EXTRAORDINARY CONTRACTUAL ACTIONS

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

Source: 49 FR 13257, Apr. 3, 1984, unless otherwise noted.

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PART 750 - EXTRAORDINARY CONTRACTUAL ACTIONS

750.000 Scope of part.

USAID is not among the agencies named in the Act or authorized by the President to take actions under it; however, see Subpart [750.71](#) - Extraordinary Contractual Actions to Protect Foreign Policy Interests of the United States.

Subpart 750.70 [Reserved]

Subpart 750.71 - Extraordinary Contractual Actions To Protect Foreign Policy Interests of the United States

750.7100 Scope of subpart.

This subpart sets forth the standards and the procedures for disposition of requests for extraordinary contractual actions under Executive Order 11223.

750.7101 Authority.

Under section 633 of the Foreign Assistance Act of 1961, 75 Stat. 454 (22 U.S.C. 2933), as amended; Executive Order 11223, dated May 12, 1965 (30 FR 6635), as amended; and Executive Order 12163, dated September 29, 1979 (44 FR 56673), as amended, the Administrator of the U.S. Agency for International Development has been granted authority to provide extraordinary contractual relief. The Authority is set forth in sections 3 and 4 of Executive Order 11223, as follows:

Section 3. With respect to cost-type contracts heretofore or hereafter made with non-profit institutions under which no fee is charged or paid, amendments or modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or of the form of the contract amended or modified, or of the amending or modifying contract and irrespective of rights which may have accrued under the contract or the amendments or modifications thereof.

Section 4. With respect to contracts heretofore or hereafter made, other than those described in section 3 of this order, amendments and modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or the form of the contract amended or modified, or of the amending or modifying contract, and irrespective of rights which may have accrued under the contract or the amendments or modifications thereof, if the Secretary of State or the Director of the United States International Development Cooperation Agency (with respect to functions vested in or delegated to Director) determines in each case that such action is necessary to protect the foreign policy interests of the United States.

750.7102 General policy.

Extra-contractual claims arising from foreign assistance contracts will be processed in accordance with this subpart, which is similar to that utilized to process claims for extraordinary relief under (48 CFR) FAR part 50, as modified to meet the circumstances involved under the Foreign Assistance Act and the different authority involved.

750.7103 Definitions.

- (a) The term *approving authority* as used in this subpart means an officer or official having been delegated authority to approve actions under the Executive Order. This authority is distinguished from authority to take appropriate contractual action pursuant to such approval.
- (b) The term *the Executive Order* shall mean Executive Order 11223 (30 FR 6635) as amended, unless otherwise stated.
- (c) The term *the Act* shall mean the Foreign Assistance Act of 1961, as amended.

750.7104 Types of actions.

Three types of actions may be taken by or pursuant to the direction of an approving authority under the Executive Order. These are contractual adjustments such as amendments without consideration, correction of mistakes, and formalization of informal commitments.

750.7105 Approving authorities.

All authority to approve actions under this subpart has been delegated to the M/OAA Director.

750.7106 Standards for deciding cases.**750.7106-1 General.**

The mere fact that losses occur under a Government contract is not, by itself, a sufficient basis for the exercise of the authority conferred by the Executive Order. Whether, in a particular case, appropriate action such as amendment without consideration, correction of a mistake or ambiguity in a contract, or formalization of an informal commitment, will protect the foreign policy interests of the United States is a matter of sound judgment to be made on the basis of all of the facts of such case. Although it is obviously impossible to predict or enumerate all the types of cases with respect to which action may be appropriate, examples of certain cases or types of cases where action may be proper are set forth in sections 750.7106-2 through 750.7106-4. Even if all of the factors contained in any of the examples are present, other factors or considerations in a particular case may warrant denial of the request. These examples are not intended to exclude other cases where the approving authority determines that the circumstances warrant action.

750.7106-2 Amendments without consideration.

(a) Where an actual or threatened loss under a foreign assistance contract, however caused, will impair the productive ability of a contractor whose continued performance of any foreign assistance contract or whose continued operation as a source of supply is found to be essential to protect the foreign policy interests of the United States, the contract may be adjusted but only to the extent necessary to avoid such impairment to the contractor's productive ability.

(b) Where a contractor suffers a loss (not merely a diminution of anticipated profits) on a foreign assistance contract as a result of Government action, the character of the Government action will generally determine whether any adjustment in the contract will be made and its extent. Where the Government action is directed primarily at the contractor and is taken by the Government in its capacity as the other contracting party, the contract may be adjusted if fairness so requires; thus where such Government action, although not creating any liability on its part, increases the cost of performance, considerations of fairness may make appropriate some adjustment in the contract.

750.7106-3 Mistakes.

A contract may be amended or modified to correct or mitigate the effect of a mistake, including the following examples:

(a) A mistake or ambiguity which consists of the failure to express or to express clearly in the written contract the agreements as both parties understood them;

(b) A mistake on the part of the contractor which is so obvious that it was or should have been apparent to the contracting officer; and

(c) A mutual mistake as to a material fact.

Amending contracts to correct mistakes with the least possible delay normally will protect the foreign policy interests of the United States by expediting the procurement program and by giving contractors proper assurance that such mistakes will be corrected expeditiously and fairly.

750.7106-4 Informal commitments.

Informal commitments may be formalized under certain circumstances to permit payment to persons who have taken action without a formal contract; for example, where any person, pursuant to written or oral instructions from an officer or official of the Agency and relying in good faith upon the apparent authority of the officer or official to issue such instructions, has arranged to furnish or has furnished property or services to the agency and/or to a foreign assistance contractor or subcontractor without formal contractual coverage for such property or services. Formalization of commitments under such circumstances normally will protect the foreign policy interests of the United States by assuring persons that they will be treated fairly and paid expeditiously.

750.7107 Limitations upon exercise of authority.

- (a) The Executive Order is not authority for:
 - (1) The use of the cost-plus-a-percentage-of-cost system of contracting;
 - (2) The making of any contract in violation of existing law relating to limitation on profit or fees;
 - (3) The waiver of any bid, payment performance or other bond required by law.
- (b) No amendments, or modifications shall be entered into under the authority of the Executive Order:
 - (1) Unless, with respect to cases falling within Section 4 of the Executive Order, a finding is made that the action is necessary to protect the foreign policy interests of the United States;
 - (2) Unless other legal authority in the Agency is deemed to be lacking or inadequate;
 - (3) Except within the limits of the amounts appropriated and the statutory contract authorization.
- (c) No contract shall be amended or modified unless the request therefor has been filed before all obligations (including final payment) under the contract have been discharged.
- (d) No informal commitment shall be formalized unless:
 - (1) A request for payment has been filed within six months after arranging to furnish or furnishing property or services in reliance upon the commitment;
 - (2) USAID has received the services satisfactorily performed, or has accepted property furnished in reliance on the commitment;
 - (3) The USAID employees alleged to have made the informal commitment have accepted responsibility for making the informal commitment in question; and
 - (4) USAID has taken appropriate action to prevent recurrence.

750.7108 Contractual requirements.

Every contract amended or modified pursuant to this subpart shall contain:

- (a) A citation of the Act and Executive Order.
- (b) A brief statement of the circumstances justifying the action;
- (c) A recital of the finding, with respect to cases falling within Section 4 of the Executive Order, that the action is necessary to protect the foreign policy interests of the United States.

750.7109 Submission of requests by contractors.

750.7109-1 Filing requests.

Any person (hereinafter called the “contractor”) seeking an adjustment under standards set forth in 750.7106 may file a request in duplicate with the cognizant contracting officer or his/her duly authorized representative. If such filing is impracticable, requests will be deemed to be properly filed if filed with the Chief of the Bureau for Management, Office of Acquisition and Assistance, Evaluation Division (M/OAA/E) for forwarding to the cognizant contracting officer.

750.7109-2 Form of requests by contractors.

The contractor's request shall normally consist of a letter to the contracting officer providing the information specified in (48 CFR) FAR 50.103-3.

750.7109-3 Facts and evidence.

The contracting officer or the approving authority may, where considered appropriate, request the contractor to furnish the facts and evidence as described in (48 CFR) FAR 50.103-4.

750.7110 Processing cases.

750.7110-1 Investigation.

The Bureau for Management, Office of Acquisition and Assistance, Evaluation Division (M/OAA/E) shall be responsible for assuring that the case prepared by the cognizant contracting officer makes a thorough investigation of all facts and issues relevant to each situation. Facts and evidence shall be obtained from contractor and Government personnel and shall include signed statements of material facts within the knowledge of the individuals where documentary evidence is lacking and audits where considered necessary to establish financial or cost related facts. The investigation shall establish the facts essential to

meet the standards for deciding the particular case and shall address the limitations upon exercise of the authority of the M/OAA Director to approve the request.

750.7110-2 Office of General Counsel coordination.

Prior to the submission of a case to the M/OAA Director recommending extraordinary contractual relief, the claim shall be fully developed by the cognizant contracting officer and concurrences or comments shall be obtained from the Office of General Counsel for the proposed relief to be granted. Such concurrences or comments shall be incorporated in or accompany the action memorandum submitted for consideration to the M/OAA Director in accordance with 750.7110-3.

750.7110-3 Submission of cases to the M/OAA Director.

Cases to be submitted for consideration by the M/OAA Director shall be prepared and forwarded by the cognizant contracting officer through M/OAA/E to the M/OAA Director by means of an action memorandum. M/OAA/E will review the action memorandum for accuracy and completeness. The action memorandum shall provide for approval or disapproval by the M/OAA Director of the disposition recommended by the contracting officer. The action memorandum shall address:

- (a) The nature of the case;
- (b) The basis for authority to act under section 750.7101;
- (c) The findings of fact essential to the case (see 750.7109-3) arranged chronologically with cross references to supporting enclosures;
- (d) The conclusions drawn from applying the standards for deciding cases, as set forth in 750.7106, to the findings of fact;
- (e) Compliance with the limitations upon exercise of authority, as set forth in section 750.7107 (for informal commitments, include statements addressing each of the limitations in paragraph (d) of 750.7107);
- (f) Concurrences or comments obtained from the Office of General Counsel;
- (g) Verification of funds availability and the contracting officer's determination of cost/price reasonableness when the disposition recommended requires payment to a contractor;
- (h) The disposition recommended and, if contractual action is recommended with respect to cases falling within Section 4 of the Executive Order, the opinion of the contracting officer that such action is necessary to protect the foreign policy interest of the United States; and
- (i) The action memorandum shall enclose all evidentiary materials, including the reports and comments of all cognizant Government or other officials, and a copy of the contractor's request. The action memorandum should provide the following information related to the contractor's request, as applicable:
 - (1) Date of request;
 - (2) Date request received by USAID;
 - (3) Contract number;
 - (4) Contractor's name and address;
 - (5) Name, address, and phone number of contractor's representative;
 - (6) Name, office symbol, and phone number of cognizant contracting officer;
 - (7) Amount of request.

750.7110-4 Processing by M/OAA Director.

When the action memorandum has been determined to be as accurate and complete as possible and has been prepared in accordance with this subpart, M/OAA/E will forward the action memorandum to the M/OAA Director. The M/OAA Director will sign and date the action memorandum indicating approval or disapproval of the disposition recommended by the contracting officer.

750.7110-5 Contract files.

The fully executed action memorandum indicating approval/disapproval and a copy of the contractual document implementing any approved contractual action shall be placed in the contract file.

750.7110-6 Inter-agency coordination.

(a) *General.* Where a case involves matters of interest to more than one department or agency, USAID should maintain liaison with other departments and agencies of the Government and take such joint action as may be proper under the circumstances, including holding joint meetings.

(b) *Cases involving funds of other departments or agencies.* Requests for adjustment within any category, involving the funds of another department or agency, shall not be approved by USAID until advice is requested and received from the department or agency whose funds are involved.

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SUBCHAPTER H - CLAUSES AND FORMS

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PART 752 - SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

Source: 49 FR 13259, Apr. 3, 1984, unless otherwise noted.

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PART 752 - SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 752.1 - Instructions for Using Provisions and Clauses

Source: 79 FR 74997, Dec. 16, 2014, unless otherwise noted.

752.102 Incorporating provisions and clauses.

(a) As authorized by FAR 52.102, FAR and AIDAR provisions and clauses should be incorporated by reference in solicitations and contracts to the maximum practical extent, except as provided in paragraph (b) of this section. For provisions that require fill-ins or input by the contracting officer, the paragraph that contains the fill-in information must be included directly below the title of the provision or clause.

(b) If applicable, the following AIDAR provisions and clauses must be incorporated in full text in all solicitations and awards:

No. AIDAR (48 CFR chapter 7)	Title	Date
752.225-4	Buy American Act - Trade Agreements	July 1997.
752.232-70	Letter of Credit Advance Payment	Mar 2015.
752.245-70	Government property - USAID reporting requirements	July 1997.
752.7003	Documentation for payment	Nov 1998.

(c) Contracting activities may choose to incorporate provisions in full text, when:

(1) A new clause or significant revisions to an existing clause is issued less than six months prior to issuance of a solicitation or a contract award;

(2) Listing a clause in full text will ensure compliance with the contract terms and conditions;

(3) Inclusion of clauses in full text is more practical under the local conditions (*e.g.*, situations where doing so will assist small local entities, the prospective contractors may have limited Internet access, etc.).

(d) If a solicitation or contract contains one or more FAR provisions or clauses incorporated by reference, the contracting officer must insert the following Internet address: <http://www.acquisition.gov/comp/far/index.html> in FAR clause 52.252-1, Solicitation Provisions Incorporated by Reference or 52.252-2, Clauses Incorporated by Reference.

752.107 AIDAR provisions and clauses prescribed in this subpart.

(a) The contracting officer must insert the provision at 752.252-1, Solicitation Provisions Incorporated by Reference, in solicitations in order to incorporate AIDAR provisions by reference.

(b) The contracting officer must insert the clause at 752.252-2, AIDAR Clauses Incorporated by Reference, in solicitations and contracts in order incorporate AIDAR clauses by reference.

(c) The contracting officer must insert the provision at 752.252-70, Provisions and Clauses to be Completed by the Offeror, in full text in solicitations or contract containing FAR or AIDAR provision(s) or clause(s) that must be completed by offerors or prospective contractors and submitted with the quotation or offer.

Subpart 752.2 - Texts of Provisions and Clauses

752.200 Scope of subpart.

None of the clauses specified in this subpart are for use in USAID personal services contracts. For personal services contract clauses, see (48 CFR) AIDAR Appendix D - Direct USAID Contracts with U.S. Citizens or U.S. Residents for Personal Services Abroad and (48 CFR) AIDAR Appendix J - Direct USAID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad.

752.202-1 Definitions.

(a) As prescribed in [702.270](#) and in (48 CFR) FAR Subpart 2.2, USAID contracts use the Definitions clause in (48 CFR) FAR 52.202-1 and its Alternate I, as appropriate, and the following additional definitions.

(b) *Alternate 70*. For use in all USAID contracts. Use in addition to the clause in FAR 52.202-1.

USAID Definitions Clause - General Supplement for Use in All USAID Contracts (JAN 1990)

(a) *USAID* shall mean the U.S. Agency for International Development.

(b) *Administrator* shall mean the Administrator or the Deputy Administrator of USAID.

(c) When this contract is with an educational institution *Campus Coordinator* shall mean the representative of the Contractor at the Contractor's home institution, who shall be responsible for coordinating the activities carried out under the contract.

(d) When this contract is with an educational institution *Campus Personnel* shall mean representatives of the Contractor performing services under the contract at the Contractor's home institution and shall include the Campus Coordinator.

(e) *Consultant* shall mean any especially well qualified person who is engaged, on a temporary or intermittent basis to advise the Contractor and who is not an officer or employee of the Contractor who performs other duties for the Contractor.

(f) *Contractor employee* shall mean an employee of the Contractor assigned to work under this contract.

(g) *Cooperating Country or Countries* shall mean the foreign country or countries in or for which services are to be rendered hereunder.

(h) *Cooperating Government* shall mean the government of the Cooperating Country.

(i) *Federal Acquisition Regulations (FAR)*, when referred to herein shall include U.S. Agency for International Development Acquisition Regulations (AIDAR).

(j) *Government* shall mean the United States Government.

(k) *Mission* shall mean the United States AID Mission to, or principal USAID office in, the Cooperating Country.

(l) *Mission Director* shall mean the principal officer in the Mission in the Cooperating Country, or his/her designated representative.

(c) *Alternate 71*. For use in USAID contracts with an educational institution for participant training. Use in addition to the clauses in (48 CFR) FAR 52.202-1 and in 752.202-1(b) of this chapter.

USAID Definitions Clause - Supplement for Contracts With an Educational Institution for Participant Training (MAY 2011)

(a) *Catalog* shall mean any medium by which the Institution publicly announces terms and conditions for enrollment in the Institution, including tuition and fees to be charged. This includes "bulletins," "announcements," or any other similar word the Institution may use.

(b) *Director* shall mean the individual who fills the USAID position of Director, Bureau for Economic Growth, Education and Environment, Office of Education (E3/ED), or authorized representative acting within the limits of the individual's authority.

(c) *Fees* shall mean those applicable charges directly related to enrollment in the Institution. This shall not include any permit charge (e.g., parking, vehicle registration), or charges for services of a personal nature (e.g., food, housing, laundry) unless specifically called for in this contract.

(d) *Institution* shall mean the educational institution providing services hereunder. The terms "Institution" and "Contractor" are synonymous.

(e) *Tuition* shall mean the amount of money charged by an institution for instruction, not including fees as described in this section.

(d) *Alternate 72*. For use in all USAID contracts which involve any performance overseas. Use in addition to the clauses in (48 CFR) FAR 52.202-1 and in 752.202-1(b) of this chapter.

USAID Definitions Clause - Supplement for USAID Contracts Involving Performance Overseas (JUN 2009)

(a) *Contractor's Chief of Party* shall mean the representative of the Contractor in the Cooperating Country who shall be responsible for supervision of the performance of all duties undertaken by the Contractor in the Cooperating Country.

(b) *Cooperating Country National (CCN) employee* means an individual who meets the citizenship requirements of the CCN definition in (48 CFR) AIDAR [702.170](#) and is hired while residing outside the United States for work in a cooperating country.

(c) *Dependents* shall mean:

(1) Spouse;

(2) Children (including step and adopted children) who are unmarried and under 21 years of age or, regardless of age, are incapable of self support.

(3) Parents (including step and legally adoptive parents), of the employee or of the spouse, when such parents are at least 51 percent dependent on the employee for support; and

(4) Sisters and brothers (including step or adoptive sisters or brothers) of the employee, or of the spouse, when such sisters and brothers are at least 51 percent dependent on the employee for support, unmarried and under 21 years of age, or regardless of age, are incapable of self support.

(d) *Local currency* shall mean the currency of the Cooperating Country.

(e) *Regular employee* shall mean a Contractor employee appointed to serve one year or more in the Cooperating Country.

(f) *Short-term employee* shall mean a Contractor employee appointed to serve less than one year in the Cooperating Country.

(g) *Third Country National (TCN) employee* means an individual who meets the citizenship requirements of the TCN definition in (48 CFR) AIDAR [702.170](#) and is hired while residing outside the United States for work in a Cooperating Country.

752.204-2 Security requirements.

As prescribed in (48 CFR) AIDAR 704.404(a), when the clause in (48 CFR) FAR 52.204-2 is used in USAID contracts, paragraph (a) of the clause is revised as follows:

Security Requirements (FEB 1999)

Pursuant to the Foreign Affairs Manual, 12 FAM 540 (<http://www.state.gov/documents/organization/88404.pdf>), USAID applies the safeguards applicable to “Confidential” information to administratively controlled information designated as “Sensitive But Unclassified”. Therefore, when the clause in (48 CFR) FAR 52.204-2 is used in USAID contracts, pursuant to 704.404(a), paragraph (a) of the clause is revised as follows:

(a) This clause applies to the extent that this contract involves access to classified (‘Confidential’, ‘Secret’, or ‘Top Secret’), or administratively controlled (‘Sensitive But Unclassified’) information.

752.204-70 Partner vetting pre-award requirements.

As prescribed in (48 CFR) AIDAR 704.7005(a), insert the following provision in all solicitations subject to vetting:

Partner Vetting Pre-award Requirements (FEB 2012)

(a) USAID has determined that any contract resulting from this solicitation is subject to vetting. Terms used in this provision are defined in paragraph (b) of the (48 CFR) AIDAR clause at 752.204-71 Partner Vetting, of this solicitation. An offeror that has not passed vetting is ineligible for award.

(b) The following are the vetting procedures for this solicitation:

(1) Prospective offerors review the attached USAID Partner Information Form, USAID Form 500-13, and submit any questions about the USAID Partner Information Form or these procedures to the contracting officer by the deadline for questions in the solicitation.

(2) The contracting officer notifies the offeror when to submit the USAID Partner Information Form. For this solicitation, USAID will vet at *[insert in the provision the applicable stage of the source selection process at which the contracting officer will notify the offeror(s) who must be vetted]*. Within the timeframe set by the contracting officer in the notification, the offeror must complete and submit the information on the USAID Partner Information Form in accordance with instructions from the vetting official named in paragraph (d) of the (48 CFR) AIDAR clause at 752.204-71 Partner Vetting, of this solicitation.

Note:

Offerors who submit using non-secure methods of transmission do so at their own risk.

(3) The offerors must notify proposed subcontractors of this requirement when the subcontractors are subject to vetting.

(c) Source selection proceeds separately from vetting. Vetting is conducted independently from any discussions the contracting officer may have with an offeror. The offeror and any subcontractor subject to vetting must not provide vetting information to other than the vetting official. The offeror and any subcontractor subject to vetting will communicate only with the vetting official regarding their vetting submission(s) and not with any other USAID or USG personnel, including the contracting officer or his/her representatives. Exchanges between the Government and an offeror about vetting information submitted by the offeror or any proposed subcontractor are clarifications in accordance with (48 CFR) FAR 15.306(a) (48

CFR 15.306(a)). The contracting officer designates the vetting official as the only individual authorized to clarify the offeror's and proposed subcontractor's vetting information.

(d)

(1) The vetting official notifies the offeror that it:

(i) Has passed vetting,

(ii) Has not passed vetting, or

(iii) Must provide additional information, and resubmit the USAID Partner Information Form with the additional information within the number of days the vetting official specified in the notification.

(2) The vetting official will include in the notification any information that USAID's Office of Security (SEC) determines releasable. In its determination, SEC will take into consideration the classification or sensitivity of the information, the need to protect sources and methods, or status of ongoing law enforcement and intelligence community investigations or operations.

(e) *Reconsideration.*

(1) Within 7 calendar days after the date of the vetting official's notification, an offeror that has not passed vetting may request in writing to the vetting official that the Agency reconsider the vetting determination. The request should include any written explanation, legal documentation and any other relevant written material for reconsideration.

(2) Within 7 calendar days after the vetting official receives the request for reconsideration, the Agency will determine whether the offeror's additional information warrants a revised decision.

(3) The Agency's determination of whether reconsideration is warranted is final.

(f) *Revisions to vetting information.*

(1) Offerors who change key individuals, whether the offeror has previously passed vetting or not, must submit a revised USAID Partner Information Form to the vetting official. This includes changes to key personnel resulting from revisions to the technical proposal.

(2) The vetting official will follow the vetting process in paragraph (d) of this clause for any revision of the offeror's Form.

(g) *Award.* At the time of award, the contracting officer will confirm with the vetting official that the apparently successful offeror has passed vetting. The contracting officer may award only to an apparently successful offeror that has passed vetting.

752.204-71 Partner vetting.

As prescribed in (48 CFR) AIDAR 704.7005(b)(1) and 716.506(a), insert the following clause in all contracts subject to vetting:

Partner Vetting (FEB 2012)

(a) The contractor must comply with the vetting requirements for key individuals under this contract.

(b) Definitions. As used in this provision -

Key individual means:

(i) Principal officers of the organization's governing body (e.g., chairman, vice chairman, treasurer and secretary of the board of directors or board of trustees);

(ii) The principal officer and deputy principal officer of the organization (e.g., executive director, deputy director, president, vice president);

(iii) The program manager or chief of party for the USG-financed program; and

(iv) Any other person with significant responsibilities for administration of the USG-financed activities or resources, such as key personnel as described in Automated Directives System Chapter 302. Key personnel, whether or not they are employees of the prime contractor, must be vetted.

Vetting official means the USAID employee identified in paragraph (d) of this clause as having responsibility for receiving vetting information, responding to questions about information to be included on the USAID Partner Information Form, USAID Form 500-13, coordinating with the USAID Office of Security, and conveying the vetting determination to each offeror, potential subcontractors subject to vetting, and to the contracting officer. The vetting official is not part of the contracting office and has no involvement in the source selection process.

(c) The Contractor must submit a USAID Partner Information Form, USAID Form 500-13, to the vetting official identified below during the contract when the Contractor replaces key individuals with individuals who have not been previously vetting for this contract. Note: USAID will not approve any key personnel who have not passed vetting.

(d) The designated vetting official is:

Vetting official:

Address:

Email: _____ (for inquiries only)

(e)

(1) The vetting official will notify the Contractor that it -

(i) Has passed vetting,

(ii) Has not passed vetting, or

(iii) Must provide additional information, and resubmit the USAID Partner Information Form with the additional information within the number of days the vetting official specifies.

(2) The vetting official will include in the notification any information that USAID's Office of Security (SEC) determines releasable. In its determination, SEC will take into consideration the classification or sensitivity of the information, the need to protect sources and methods, or status of ongoing law enforcement and intelligence community investigations or operations.

(f) *Reconsideration.*

(1) Within 7 calendar days after the date of the vetting official's notification, the contractor or prospective subcontractor that has not passed vetting may request in writing to the vetting official that the Agency reconsider the vetting determination. The request should include any written explanation, legal documentation and any other relevant written material for reconsideration.

(2) Within 7 calendar days after the vetting official receives the request for reconsideration, the Agency will determine whether the contractor's additional information warrants a revised decision.

(3) The Agency's determination of whether reconsideration is warranted is final.

(g) A notification that the Contractor has passed vetting does not constitute any other approval under this contract.

(h) When the contractor anticipates awarding a subcontract for which consent is required under (48 CFR) FAR clause 52.244-2, Subcontracts, the subcontract is subject to vetting. The prospective subcontractor must submit a USAID Partner Information Form, USAID Form 500-13, to the vetting official identified in paragraph (d) of this clause. The contracting officer must not consent to award of a subcontract to any organization that has not passed vetting when required.

(i) The contractor agrees to incorporate the substance of paragraphs (a) through (g) of this clause in all subcontracts under this contract.

(End of clause)

Alternate I (FEB 2012). As prescribed in 704.7005(b)(2), substitute paragraphs (h) and (i) below for paragraphs (h) and (i) of the basic clause:

(h)

(1) When the contractor anticipates awarding a subcontract for which consent is required under (48 CFR) FAR clause 52.244-2, Subcontracts, the subcontract is subject to vetting. The prospective subcontractor must submit a USAID Partner Information Form, USAID Form 500-13, to the vetting official identified in paragraph (d) of this clause. The contracting officer must not consent to award of a subcontract to any organization that has not passed vetting when required.

(2) In addition, prospective subcontractors at any tier providing the following classes of items (supplies and services): must pass vetting. Contractors must not place subcontracts for these classes of items until they receive confirmation from the vetting official that the prospective subcontractor has passed vetting.

(i) The contractor agrees to incorporate the substance of this clause in all subcontracts under this contract.

752.204-72 Access to USAID facilities and USAID's information systems.

As prescribed in (48 CFR) AIDAR 704.404(b), insert the following clause in all solicitations and contracts that contain the provision at (48 CFR) FAR 52.204-9(a):

Access to USAID Facilities and USAID's Information Systems (AUG 2013)

(a) A U.S. citizen or resident alien engaged in the performance of this award as an employee, consultant, or volunteer of a U.S. firm may obtain access to USAID facilities or logical access to USAID's information systems only when and to the extent necessary to carry out this award and in accordance with this clause. The contractor's employees, consultants, or volunteers who are not U.S. citizen as well as employees, consultants, or volunteers of non-U.S. firms, irrespective of

their citizenship, will not be granted logical access to U.S. Government information technology systems (such as Phoenix, GLAAS, etc.) and must be escorted to use U.S. Government facilities (such as office space).

(b) Before a contractor (or a contractor employee, consultant, or volunteer) or subcontractor at any tier may obtain a USAID ID (new or replacement) authorizing the individual routine access to USAID facilities in the United States, or logical access to USAID's information systems, the individual must provide two forms of identity source documents in original form to the Enrollment Office personnel when undergoing processing. One identity source document must be a valid Federal or State Government-issued picture ID. Contractors may contact the USAID Security Office to obtain the list of acceptable forms of documentation. Submission of these documents, to include documentation of security background investigations, are mandatory in order for the contractor to receive a PIV/FAC card and be granted access to any of USAID's information systems. All such individuals must physically present these two source documents for identity proofing at their enrollment.

(c) The contractor or its Facilities Security Officer must return any issued building access ID and remote authentication token to the contracting officer's representative (COR) upon termination of the individual's employment with the contractor or completion of the contract, whichever occurs first.

(d) Individuals engaged in the performance of this award as employees, consultants, or volunteers of the contractor must comply with all applicable Homeland Security Presidential Directive-12 (HSPD-12) and Personal Identity Verification (PIV) procedures, as described above, and any subsequent USAID or Government-wide HSPD-12 and PIV procedures/policies.

(e) The contractor is required to insert this clause in any subcontracts that require the subcontractor, subcontractor employee, or consultant to have routine physical access to USAID space or logical access to USAID's information systems.

752.209-71 Organizational conflicts of interest discovered after award.

As prescribed in 709.507-2, insert the following clause in any solicitation containing a provision in accordance with (48 CFR) FAR 9.507-1, or a clause in accordance with (48 CFR) FAR 9.507-2, establishing a restraint on the contractor's eligibility for future contracts.

Organizational Conflicts of Interest Discovered After Award (JUN 1993)

(a) The Contractor agrees that, if after award it discovers either an actual or potential organizational conflict of interest with respect to this contract, it shall make an immediate and full disclosure in writing to the contracting officer which shall include a description of the action(s) which the Contractor has taken or proposes to take to avoid, eliminate or neutralize the conflict.

(b) The contracting officer shall provide the contractor with written instructions concerning the conflict. USAID reserves the right to terminate the contract if such action is determined to be in the best interest of the Government.

(End of clause)

752.211-70 Language and measurement.

The following clause shall be used in all USAID-direct contracts.

Language and Measurement (JUN 1992)

(a) The English language shall be used in all written communications between the parties under this contract with respect to services to be rendered and with respect to all documents prepared by the contractor except as otherwise provided in the contract or as authorized by the contracting officer.

(b) Wherever measurements are required or authorized, they shall be made, computed, and recorded in metric system units of measurement, unless otherwise authorized by USAID in writing when it has found that such usage is impractical or is likely to cause U.S. firms to experience significant inefficiencies or the loss of markets. Where the metric system is not the predominant standard for a particular application, measurements may be expressed in both the metric and the traditional equivalent units, provided the metric units are listed first.

(End of clause)

752.216-70 Award fee.

As prescribed in 716.406, insert the following clause in solicitations and contracts in which an award-fee contract is contemplated.

Award Fee (MAY 1997)

(a) The Government shall pay the Contractor for performing this contract such base fee and such additional fee as may be awarded, as provided in the Schedule.

(b) Payment of the base fee and award fee shall be made as specified in the Schedule; provided, that after payment of 85 percent of the base fee and potential award fee, the contracting officer may withhold further payment of the base fee and award fee until a reserve is set aside in an amount that the contracting officer considers necessary to protect the Government's interest. This reserve shall not exceed 15 percent of the total base fee and potential award fee or \$100,000, whichever is less. The contracting officer shall release 75 percent of all fee withholds under this contract after receipt of the certified final indirect cost rate proposal covering the year of physical completion of this contract, provided the Contractor has satisfied all other contract terms and conditions, including the submission of the final patent and royalty reports, and is not delinquent in submitting final vouchers on prior years' settlements. The contracting officer may release up to 90 percent of the fee withholds under this contract based on the Contractor's past performance related to the submission and settlement of final indirect cost rate proposals.

(End of clause)

752.216-71 Partner vetting in indefinite delivery contracts.

As prescribed in (48 CFR) AIDAR 716.506(b)(1), insert the following clause in all indefinite-delivery contracts subject to vetting:

Partner Vetting in Indefinite Delivery Contracts (FEB 2012)

(a) The contractor must comply with the vetting requirements for key individuals under this contract and in any orders that are identified as subject to vetting.

(b) Definitions. As used in this provision -

Key individual means:

(i) Principal officers of the organization's governing body (e.g., chairman, vice chairman, treasurer and secretary of the board of directors or board of trustees);

(ii) The principal officer and deputy principal officer of the organization (e.g., executive director, deputy director, president, vice president);

(iii) The program manager or chief of party for the USG-financed program; and

(iv) Any other person with significant responsibilities for administration of the USG-financed activities or resources, such as key personnel as described in Automated Directives System Chapter 302. Key personnel, whether or not they are employees of the prime contractor, must be vetted.

Vetting official means the USAID employee identified in paragraph (d) of this clause as having responsibility for receiving vetting information, responding to questions about information to be included on the USAID Partner Information Form, USAID Form 500-13, coordinating with the USAID Office of Security, and conveying the vetting determination to each contractor, potential subcontractors subject to vetting, and to the cognizant contracting officer. The vetting official is not part of the contracting office and has no involvement in the source selection process.

(c) The contractor must submit a USAID Partner Information Form, USAID Form 500-13 to the designated vetting official:

(1) when the contractor replaces key individuals under the basic contract with individuals who have not been previously vetted.

(2) when the contractor replaces key individuals under an order subject to vetting with individuals who have not been previously vetted. For changes to any key individuals associated with both the basic contract and any orders subject to vetting, the contractor must submit updated vetting forms to each designated vetting official. Note: USAID will not approve any key personnel who have not passed vetting.

(d)

(1) The designated vetting official for the basic contract is:

Vetting official:

Address:

Email: _____ (for inquiries only)

(2) Each order subject to vetting will identify the vetting official for that order. The contractor must submit vetting information specific to an order to the vetting official identified in that order.

(e)

(1) The vetting official will notify the contractor that it -

(i) Has passed vetting,

(ii) Has not passed vetting, or

(iii) Must provide additional information, and resubmit the USAID Partner Information Form with the additional information within the number of days the vetting official specifies.

(2) The vetting official will include in the notification any information that USAID's Office of Security (SEC) determines releasable. In its determination, SEC will take into consideration the classification or sensitivity of the information, the need to protect sources and methods, or status of ongoing law enforcement and intelligence community investigations or operations.

(f) Reconsideration.

(1) Within 7 calendar days after the date of the vetting official's notification, the contractor or prospective subcontractor that has not passed vetting may request in writing to the vetting official that the Agency reconsider the vetting determination. The request should include any written explanation, legal documentation and any other relevant written material for reconsideration.

(2) Within 7 calendar days after the vetting official receives the request for reconsideration, the Agency will determine whether the contractor's additional information warrants a revised decision.

(3) The Agency's determination of whether reconsideration is warranted is final.

(g) A notification that the contractor has passed vetting does not constitute any other approval under this contract.

(h) The request for task or delivery order proposals will identify whether the order is subject to vetting. The following are the procedures for vetting orders under this contract. Note that the term "awardee" as used below refers to a contractor under multiple-award indefinite-delivery contracts, consistent with the use of the term in (48 CFR) FAR 16.505(b):

(1) The contracting officer will notify the awardees when to complete and submit the USAID Partner Information Form to the vetting official named in the request for order proposals. Note: Awardees who submit using non-secure methods of transmission do so at their own risk.

(2) The awardee must notify proposed subcontractors of this requirement when the subcontractors are subject to vetting.

(3) The fair opportunity process proceeds separately from vetting. Vetting is conducted independently from any discussions the contracting officer may have with an awardee. The awardee and any subcontractor subject to vetting must not provide vetting information to other than the vetting official identified in the request for order proposal. The awardee and any subcontractor subject to vetting will communicate only with the vetting official regarding their vetting submission(s) and not with any other USAID or USG personnel, including the contracting officer or his/her representatives.

(4)

(i) The vetting official notifies the awardee that it:

(A) Has passed vetting,

(B) Has not passed vetting, or

(C) Must provide additional information, and resubmit the USAID Partner Information Form with the additional information within the number of days the vetting official specified in the notification.

(ii) The vetting official will include in the notification any information that USAID's Office of Security (SEC) determines releasable. In its determination, SEC will take into consideration the classification or sensitivity of the information, the need to protect sources and methods, or status of ongoing law enforcement and intelligence community investigations or operations.

(5) Reconsideration.

(i) Within 7 calendar days after the date of the vetting official's notification, an awardee that has not passed vetting may request in writing to the vetting official that the Agency reconsider the vetting determination. The request should include any written explanation, legal documentation and any other relevant written material for reconsideration.

(ii) Within 7 calendar days after the vetting official receives the request for reconsideration, the Agency will determine whether the contractor's additional information warrants a revised decision.

(iii) The Agency's determination of whether reconsideration is warranted is final.

(6) Revisions to vetting information.

(i) Before the order is awarded, any awardee who changes key individuals, whether it has previously passed vetting or not, must submit a revised USAID Partner Information Form to the vetting official. This includes changes to key personnel resulting from revisions to the technical proposal.

(ii) The order vetting official will follow the vetting process in paragraph (e) of this clause for any revision of the awardee's Form.

(7) *Award of order.* The contracting officer may award an order subject to vetting only to an apparently successful awardee that has passed vetting for that order.

(i) When the contractor anticipates awarding a subcontract for which consent is required under (48 CFR) FAR clause 52.244-2, Subcontracts, the subcontract is subject to vetting. The prospective subcontractor must submit a USAID Partner Information Form, USAID Form 500-13, to the designated vetting official. The contracting officer must not consent to award of a subcontract to any organization that has not passed vetting when required.

(j) The contractor agrees to incorporate the substance of paragraphs (a) through (g) of this clause in all subcontracts under this contract.

(End of clause)

Alternate I (FEB 2012). As prescribed in 716.506(b), substitute paragraphs (i) and (j) below for paragraphs (i) and (j) of the basic clause:

(i)

(1) When the contractor anticipates awarding a subcontract for which consent is required under (48 CFR) FAR clause 52.244-2, Subcontracts, the subcontract is subject to vetting. The prospective subcontractor must submit a USAID Partner Information Form, USAID Form 500-13, to the designated vetting official. The contracting officer must not consent to award of a subcontract to any organization that has not passed vetting when required.

(2) In addition, prospective subcontractors at any tier providing the following classes of items (supplies and services): must pass vetting. Contractors must not place subcontracts for these classes of items until they receive confirmation from the vetting official that the prospective subcontractor has passed vetting.

(j) The contractor agrees to incorporate the substance of this clause in all subcontracts under this contract.

752.219-8 Utilization of small business concerns and small disadvantaged business concerns.

As prescribed in (48 CFR) AIDAR 719.708, insert the following clause in solicitations and contracts that contain the clause at 52.219-8, Utilization of Small Business Concerns:

Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (MAR 2015)

In addition to the FAR clause at 52.219-8, Utilization of Small Business Concerns, the contractor must comply with the following USAID small business provision: To permit USAID, in accordance with the small business provisions of the Foreign Assistance Act, to give small business firms an opportunity to participate in supplying equipment supplies and services financed under this contract, the contractor must, to the maximum extent possible, provide the following information to the U.S. Agency for International Development(USAID), Office of Small and Disadvantaged Business Utilization (OSDBU), 1300 Pennsylvania Ave. NW., SA-44, Room 848, Washington, DC 20523, at least 45 days prior to placing any order in excess of the simplified acquisition threshold except where a shorter time is requested of, and granted by OSDBU:

- (1) Brief general description and quantity of commodities or services;
- (2) Closing date for receiving quotations or bids; and
- (3) Address where invitations or specifications may be obtained.

752.219-70 USAID Mentor-Protégé Program.

As prescribed in 719.273-11(a), insert the following provision:

USAID Mentor-Protégé Program (JUL 2007)

(a) Large and small business are encouraged to participate in the USAID Mentor-Protégé Program (the "Program"). Mentor firms provide eligible small business Protégés with developmental assistance to enhance their business capabilities and ability to obtain Federal contracts.

(b) Mentor firms are large prime contractors or eligible small business capable of providing developmental assistance. Protégé firms are small business as defined in 13 CFR parts 121, 124, and 126.

(c) Developmental assistance is technical, managerial, financial, and other mutually beneficial assistance that aids Protégés. The costs for developmental assistance are not chargeable to the contract.

(d) Firms interested in participating in the Program are encouraged to contact the USAID Mentor-Protégé Program Manager (202-712-1500) for more information.

(End of provision)

752.219-71 Mentor requirements and evaluation.

As prescribed in (48 CFR) AIDAR 719.273-11(b), insert the following clause:

Mentor Requirements and Evaluation (JUL 2007)

(a) Mentor and Protégé firms shall submit an evaluation of the overall experience in the Program to OSDDBU at the conclusion of the mutually agreed upon Program period, the conclusion of the contract, or the voluntary withdrawal by either party from the Program, whichever occurs first. At the conclusion of each year in the Mentor-Protégé Program, the Mentor and Protégé will formally brief the USAID Mentor-Protégé Program Manager regarding Program accomplishments under their Mentor-Protégé Agreement.

(b) Mentor or Protégé shall notify OSDDBU in writing, at least 30 calendar days in advance of the effective date of the firm's withdrawal from the Program.

(End of clause)

752.222-70 USAID disability policy.

As prescribed in 722.810, the contracting officer must insert the following clause in Section H of all solicitations and resulting awards.

USAID Disability Policy (DEC 2004)

(a) The objectives of the USAID Disability Policy are:

(1) To enhance the attainment of United States foreign assistance program goals by promoting the participation and equalization of opportunities of individuals with disabilities in USAID policy, country and sector strategies, activity designs and implementation;

(2) To increase awareness of issues of people with disabilities both within USAID programs and in host countries;

(3) 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; and

(4) To support international advocacy for people with disabilities. The full text of USAID's policy can be found at the following Web site: http://pdf.usaid.gov/pdf_docs/PDABQ631.pdf.

(b) USAID therefore requires that the contractor not discriminate against people with disabilities in the implementation of USAID programs and that it make every effort to comply with the objectives of the USAID Disability Policy in performing this contract. To that end and within the scope of the contract, the contractor's actions must demonstrate a comprehensive and consistent approach for including men, women, and children with disabilities.

752.222-71 Nondiscrimination.

As prescribed in (48 CFR) AIDAR 722.810(b), insert the following clause in section I of all solicitations and resulting contracts.

Nondiscrimination (JUN 2012)

FAR part 22 and the clauses prescribed in that part prohibit contractors performing in or recruiting from the U.S. from engaging in certain discriminatory practices.

USAID is committed to achieving and maintaining a diverse and representative workforce and a workplace free of discrimination. Based on law, Executive Order, and Agency policy, USAID prohibits discrimination in its own workplace on the basis of race, color, religion, sex (including pregnancy and gender identity), national origin, disability, age, veteran's status, sexual orientation, genetic information, marital status, parental status, political affiliation, and any other conduct that does not adversely affect the performance of the employee. USAID does not tolerate any type of discrimination (in any form, including harassment) of any employee or applicant for employment on any of the above-described bases.

Contractors are required to comply with the nondiscrimination requirements of the FAR. In addition, the Agency strongly encourages all its contractors (at all tiers) to develop and enforce nondiscrimination policies consistent with USAID's approach to workplace nondiscrimination as described in this clause, subject to applicable law.

(End of clause)

752.225-9 Buy American Act - Trade Agreements Act - Balance of Payments Program.

The clause prescribed by FAR 25.408(a)(2) is not generally included in USAID contracts when more stringent source requirements are stated in the contract or when inclusion is not appropriate under FAR 25.403, or 725.403 of this chapter.

(See Executive Order 11223, dated May 12, 1965, 30 FR 6635.) The clause setting forth USAID's source restrictions is shown in section 752.225-70.

752.225-70 Source and nationality requirements.

As prescribed in 725.704, insert the following clause:

Source and Nationality Requirements (FEB 2012)

(a) Except as may be specifically approved by the contracting officer, the contractor must procure all commodities (*e.g.*, equipment, materials, vehicles, supplies) and services (including commodity transportation services) in accordance with the requirements at 22 CFR part 228 "Rules on Procurement of Commodities and Services Financed by USAID." The authorized source for procurement is Geographic Code 937 unless otherwise specified in the schedule of this contract. Guidance on eligibility of specific goods or services may be obtained from the contracting officer.

(b) *Ineligible goods and services.* The contractor must not procure any of the following goods or services under this contract:

- (1) Military equipment;
- (2) Surveillance equipment;
- (3) Commodities and services for support of police and other law enforcement activities;
- (4) Abortion equipment and services;
- (5) Luxury goods and gambling equipment; or
- (6) Weather modification equipment.

(c) *Restricted goods.* The contractor must obtain prior written approval of the contracting officer or comply with required procedures under an applicable waiver as provided by the contracting officer when procuring any of the following goods or services:

- (1) Agricultural commodities;
- (2) Motor vehicles;
- (3) Pharmaceuticals and contraceptive items;
- (4) Pesticides;
- (5) Fertilizer;
- (6) Used equipment; or
- (7) U.S. Government-owned excess property.

If USAID determines that the contractor has procured any of these specific restricted goods under this contract without the prior written authorization of the contracting officer or fails to comply with required procedures under an applicable waiver as provided by the contracting officer, and has received payment for such purposes, the contracting officer may require the contractor to refund the entire amount of the purchase.

752.226-1 --752.226-3 [Reserved]

752.227-14 Rights in Data - general.

As prescribed in 727.409(b), insert the following clause:

Rights in Data - General (OCT 2007)

The following paragraph (d) replaces paragraph (d) of (48 CFR) FAR 52.227-14 Rights in Data - General.

(d) *Release, publication and use of data.*

(1) For all data first produced or specifically used by the Contractor in the performance of this contract in the United States, its territories, or Puerto Rico, the Contractor shall have the right to use, release to others, reproduce, distribute, or publish such data, except to the extent such data may be subject to the Federal export control or national security laws or regulations, or unless otherwise provided in this paragraph of this clause or expressly set forth in this contract [see paragraph (d)(3) for limitations on contracts performed outside of the US].

(2) The Contractor agrees that to the extent it receives or is given access to data necessary for the performance of this contract which contain restrictive markings, the Contractor shall treat the data in accordance with such markings unless otherwise specifically authorized in writing by the contracting officer.

(3) For all data first produced or specifically used by the Contractor in the overseas performance of this contract, the Contractor shall not release, reproduce, distribute, or publish such data without the written permission of the contracting

officer. The Government also may require the contractor to assign copyright to the Government or another party as circumstances warrant or as specifically stated elsewhere in the contract.

752.227-70 Patent reporting procedures.

As prescribed in (48 CFR) AIDAR 727.303, insert the following clause in all solicitations and contracts that contain the clause at (48 CFR) FAR 52.227-11.

Patent Reporting Procedures (AUG 1999)

(a) *Reporting inventions.* In accordance with 37 CFR part 401, each USAID-funded research recipient must disclose each subject invention to USAID as required in (48 CFR) FAR 52.227-11(c). Such reports must be made via the National Institutes of Health (NIH) EDISON Patent Reporting and Tracking system. NIH created EDISON to help assist research recipients to comply with the Bayh-Dole Act and report in a timely manner all patentable inventions arising out of Federally-sponsored research programs. The EDISON system uses Web technology to allow research recipients to report and monitor their invention reports, with the assurance that proprietary data is securely stored. The Web site for EDISON (<http://www.iedison.gov>) provides users with an invention reporting test site, as well as applicable instructions for complying with Government regulations, and increases the potential for successful commercialization of the inventions by helping to ensure that all reporting requirements are met and that ownership rights are clearly established.

(b) Reports on utilization of subject inventions as required under (48 CFR) FAR 52.227-11(f) must be provided to the USAID contracting officer's technical representative annually, and the last report under an agreement must be provided within 90 days of the expiration of the agreement.

752.228-3 Worker's compensation insurance (Defense Base Act).

As prescribed in 728.309, the following supplemental coverage must be added to the clause specified in (48 CFR) FAR 52.228-3 by the USAID contracting officer.

Worker's Compensation Insurance (Defense Base Act) (DEC 1991)

In addition to the requirements specified in (48 CFR) FAR 52.228-3, the contractor agrees to the following:

(a) The Contractor agrees to procure Defense Base Act (DBA) insurance pursuant to the terms of the contract between USAID and USAID's DBA insurance carrier unless the Contractor has a DBA self insurance program approved by the Department of Labor or has an approved retrospective rating agreement for DBA.

(b) If USAID or the contractor has secured a waiver of DBA coverage (see (48 CFR) AIDAR 728.305-70(a)) for contractor's employees who are not citizens of, residents of, or hired in the United States, the contractor agrees to provide such employees with worker's compensation benefits as required by the laws of the country in which the employees are working, or by the laws of the employee's native country, whichever offers greater benefits.

(c) The Contractor further agrees to insert in all subcontracts hereunder to which the DBA is applicable, a clause similar to this clause, including this sentence, imposing on all subcontractors a like requirement to provide overseas workmen's compensation insurance coverage and obtain DBA coverage under the USAID requirements contract.

752.228-7 Insurance - liability to third persons.

As prescribed in 728.307-2(c), the following paragraph must be added to the clause specified in (48 CFR) FAR 52.228-7 as either paragraph (h) (if (48 CFR) FAR 52.228-7 *Alternate I* is not used) or (i) (if (48 CFR) FAR 52.228-7 *Alternate I* is used):

Insurance - Liability to Third Persons (JUL 1997)

The following paragraph is added to the clause specified in (48 CFR) FAR 52.228-7:

() *Insurance on private automobiles.* If the Contractor or any of its employees or their dependents transport or cause to be transported (whether or not at contract expense) privately owned automobiles to the Cooperating Country, or they or any of them purchase an automobile within the Cooperating Country, the Contractor agrees to make certain that all such automobiles during such ownership within the Cooperating Country will be covered by a paid-up insurance policy issued by a reliable company providing the following minimum coverage or such other minimum coverage as may be set by the Mission Director, payable in United States dollars or its equivalent in the currency of the Cooperating Country: injury to persons, \$10,000/\$20,000; property damage, \$5,000. The premium costs for such insurance shall not be a reimbursable cost under this contract. Copies of such insurance policies shall be preserved and made available as part of the Contractor's records which are required to be preserved and made available by the "Audit and Records - Negotiation" clause of this contract.

752.228-9 Cargo insurance.

As prescribed in 728.313(a), the following preface is to be used preceding the text of the clause at (48 CFR) FAR 52.228-9:

Cargo Insurance (DEC 1998)

Preface: To the extent that marine insurance is necessary or appropriate under this contract, the contractor shall ensure that U.S. marine insurance companies are offered a fair opportunity to bid for such insurance. This requirement shall be included in all subcontracts under this contract.

752.228-70 Medical Evacuation (MEDEVAC) Services.

As prescribed in 728.307-70, for use in all contracts requiring performance overseas:

Medical Evacuation (MEDEVAC) Services (JUL 2007)

(a) The contractor must provide MEDEVAC service coverage to all U.S. citizen, U.S. resident alien, and Third Country National employees and their authorized dependents (hereinafter "individual") while overseas under a USAID-financed direct contract. USAID will reimburse reasonable, allowable, and allocable costs for MEDEVAC service coverage incurred under the contract. The contracting officer will determine the reasonableness, allowability, and allocability of the costs based on the applicable cost principles and in accordance with cost accounting standards.

(b) *Exceptions.* (i) The Contractor is not required to provide MEDEVAC insurance to eligible employees and their dependents with a health program that includes sufficient MEDEVAC coverage as approved by the contracting officer.

(ii) The Mission Director may make a written determination to waive the requirement for such coverage. The determination must be based on findings that the quality of local medical services or other circumstances obviate the need for such coverage for eligible employees and their dependents located at post.

(c) Contractor must insert a clause similar to this clause in all subcontracts that require performance by contractor employees overseas.

752.229-70 Federal, state and local taxes.

For contracts involving performance overseas the clauses prescribed in (48 CFR) FAR 29.401-3 or 29.401-4 may be modified to specify that the taxes referred to are United States taxes.

752.229-71 Reporting of foreign taxes.

As prescribed in (48 CFR) AIDAR 729.402-70, insert the following clause in section I of applicable solicitations and resulting contracts. The contracting officer must insert address and point of contact at the Embassy, Mission, or M/CFO/CMP as appropriate under paragraph (d) of this clause.

Reporting of Foreign Taxes (JUL 2007)

(a) The contractor must annually submit a report by April 16 of the next year.

(b) *Contents of report.* The report must contain:

(1) Contractor name.

(2) Contact name with phone, fax number and email address.

(3) Contract number(s).

(4) Amount of foreign taxes assessed by a foreign government [each foreign government must be listed separately] on commodity purchase transactions valued at \$500 or more financed with U.S. foreign assistance funds under this agreement during the prior U.S. fiscal year.

(5) Only foreign taxes assessed by the foreign government in the country receiving U.S. assistance are to be reported. Foreign taxes by a third party foreign government are not to be reported. For example, if a contractor performing in Lesotho using foreign assistance funds should purchase commodities in South Africa, any taxes imposed by South Africa would not be included in the report for Lesotho (or South Africa).

(6) Any reimbursements received by the contractor during the period in paragraph (b)(4) of this clause regardless of when the foreign tax was assessed and any reimbursements on the taxes reported in paragraph (b)(4) of this clause received through March 31.

(7) Report is required even if the contractor did not pay any taxes during the reporting period.

(8) Cumulative reports may be provided if the contractor is implementing more than one program in a foreign country.

(c) *Definitions.* As used in this clause -

(1) *Agreement* includes USAID direct and country contracts, grants, cooperative agreements and interagency agreements.

(2) *Commodity* means any material, article, supply, goods, or equipment.

(3) *Foreign government* includes any foreign governmental entity.

(4) *Foreign taxes* means value-added taxes and customs duties assessed by a foreign government on a commodity. It does not include foreign sales taxes.

(d) *Where*. Submit the reports to: [contracting officer must insert address and point of contact at the Embassy, Mission, or CFO/CMP as appropriate].

(e) *Subagreements*. The contractor must include this reporting requirement in all applicable subcontracts and other subagreements.

(f) For further information see <http://2001-2009.state.gov/s/d/rm/c10443.htm>.

(End of clause)

752.231-71 Salary supplements for HG employees.

As prescribed in 731.205-71, for use in all contracts with a possible need or services of a HG employee. The clause should also be inserted in all subsequent sub-contracts.

Salary Supplements for HG Employees (MAR 2015)

(a) Salary supplements are payments made that augment an employee's base salary or premiums, overtime, extra payments, incentive payment and allowances for which the HG employee would qualify under HG rules or practice for the performance of his/hers regular duties or work performed during his/hers regular office hours. Per diem, invitational travel, honoraria and payment for work carried out outside of normal working hours are not considered to be salary supplements.

(b) Salary supplements to HG Employees are not allowable without the written approval of the contracting officer.

(c) The Contractor must insert a clause containing all the terms of this clause, including the requirement to obtain the written approval of the contracting officer for all salary supplements, in all subcontracts under this contract that may entail HG employee salary supplements.

752.231-72 Conference planning and required approvals.

As prescribed in (48 CFR) AIDAR 731.205-43, insert the following clause in section I of all solicitations and resulting contracts anticipated to include a requirement for a USAID-funded conference, as defined in the clause.

Conference Planning and Required Approvals (AUG 2013)

(a) *Definitions*. *Conference* means a seminar, meeting, retreat, symposium, workshop, training activity or other such event that requires temporary duty travel of USAID employees. For the purpose of this policy, an employee is defined as a U.S. direct hire; personal services contractor, including U.S. PSCs, Foreign Service National (FSN)/Cooperating Country National (CCN) and Third Country National (TCN); or a Federal employee detailed to USAID from another government agency.

(b) The contractor must obtain approval from the contracting officer or the contracting officer's representative (COR), if delegated in the Contracting Officer's Representative Designation Letter, as prescribed in 731.205-43, prior to committing costs related to conferences funded in whole or in part with USAID funds when:

(1) Twenty (20) or more USAID employees are expected to attend.

(2) The net conference expense funded by USAID will exceed \$100,000 (excluding salary of employees), regardless of the number of USAID participants.

(c) Conferences approved at the time of award will be incorporated into the award. Any subsequent requests for approval of conferences must be submitted by the contractor to the USAID contracting officer representative (COR). The contracting officer representative will obtain the required agency approvals and communicate such approvals to the contractor in writing.

(d) The request for conference approval must include:

(1) A brief summary of the proposed event;

(2) A justification for the conference and alternatives considered, e.g., teleconferencing and videoconferencing;

(3) The estimated budget by line item (e.g., travel and per diem, venue, facilitators, meals, equipment, printing, access fees, ground transportation);

(4) A list of USAID employees attending and a justification for each; and the number of other USAID-funded participants (e.g., institutional contractors);

(5) The venues considered (including government-owned facility), cost comparison, and justification for venue selected if it is not the lowest cost option;

(6) If meals will be provided to local employees (a local employee would not be in travel status), a determination that the meals are a necessary expense for achieving Agency objectives; and

(7) A certification that strict fiscal responsibility has been exercised in making decisions regarding conference expenditures, the proposed costs are comprehensive and represent the greatest cost advantage to the U.S. Government, and that the proposed conference representation has been limited to the minimum number of attendees necessary to support the Agency's mission.

(End of clause)

752.232-70 Letter of credit advance payment.

As required by 732.406-73, insert the following clause in contracts being paid by Letter of Credit.

Letter of Credit Advance Payment (MAR 2015)

(a) Payment under this contract must be by means of a Letter of Credit (LOC) in accordance with the terms and conditions of the LOC and any instructions issued by the USAID, Bureau for Management, Office of the Chief Financial Officer, Cash Management and Payment Division (M/CFO/CMP).

(b) Immediately upon award, or as soon as the Letter of Credit payment method is approved by the contracting officer, contractors without an established LOC account must submit the following forms with original signatures, to the address specified below:

Forms:

(1) A signed original SF-1199A (Direct Deposit Sign-Up Form); and

(2) "Division of Payment Management Payment Management System Access Form" found at the Department of State and Human Services (DHHS) Web site.

Address:

ATTN: James DuBois,

U.S. Agency for International Development,

M/CFO/CMP - LOC Unit,

1300 Pennsylvania Ave. NW.,

SA-44, Room 430-J,

Washington, DC 20523-7700.

Contractors must also submit the forms specified above electronically to loc@usaid.gov.

(c) As long as the LOC is in effect, the terms and conditions of the LOC and any instructions issued by M/CFO/CMP constitute the payment conditions of this contract, superseding and taking precedence over any other clause of this contract concerning payment.

(d) If the LOC is revoked, payment may be made on a cost-reimbursement basis, in accordance with the other clauses of this contract concerning payment.

(e) Revocation of the LOC is at the discretion of M/CFO/CMP after consultation with the contracting officer. Notification to the contractor of revocation must be in writing and must specify the reasons for such action. The contractor may appeal any such revocation to the contracting officer, in accordance with the Disputes clause of this contract. Pending final decision, payments under the contract will be in accordance with paragraph (d) of this clause.

752.236-70 Standards for accessibility for the disabled in USAID construction contracts.

As prescribed in 736.570, for contracts for construction or renovation using program funds, insert the following clause.

Standards for Accessibility for the Disabled in USAID Construction Contracts (JUL 2007)

(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 Web site: http://www.usaid.gov/about_usaid/disability/.

(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 must 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 must comply with the above standards for accessibility.

(e) *Alterations.* Changes to an existing structure that affect, or could affect, the usability of the structure must 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) of this section:

(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."

752.242-70 Periodic progress reports.

As prescribed in (48 CFR) AIDAR 742.1170-4(c), insert the following clause in contracts for which periodic progress reports are required from the contractor. The term "contract" shall be interpreted as "task order" or "delivery order" when this clause is used in an indefinite-delivery contract.

Periodic Progress Reports (OCT 2007)

(a) The contractor shall prepare and submit progress reports as specified in the contract schedule. These reports are separate from the interim and final performance evaluation reports prepared by USAID in accordance with (48 CFR) FAR 42.15 and internal Agency procedures, but they may be used by USAID personnel or their authorized representatives when evaluating the contractor's performance.

(b) During any delay in furnishing a progress report required under this contract, the contracting officer may withhold from payment an amount not to exceed US\$25,000 (or local currency equivalent) or 5 percent of the amount of this contract, whichever is less, until such time as the contractor submits the report or the contracting officer determines that the delay no longer has a detrimental effect on the Government's ability to monitor the contractor's progress.

752.245-70 Government property - USAID reporting requirements.

USAID contracts, except those for commercial items, must contain the following preface and reporting requirement as additions to the appropriate Government Property clause prescribed by (48 CFR) FAR 45.107, per a GAO audit recommendation.

Preface: To be inserted preceding the text of the FAR clause.

Government Property - USAID Reporting Requirements (OCT 2017)

(a)

(1) The term Government-furnished property, wherever it appears in the following clause, shall mean (i) non-expendable personal property owned by or leased to the U.S. Government and furnished to the contractor, and (ii) personal property furnished either prior to or during the performance of this contract by any U.S. Government accountable officer to the contractor for use in connection with performance of this contract and identified by such officer as accountable. All mobile Information Technology (IT) equipment, including but not limited to, mobile phones (e.g. smartphones), laptops, tablets, and encrypted devices provided as government furnished property, title to which vests in the U.S. Government, are considered accountable personal property.

(2) The term Government property, wherever it appears in the following clause, shall mean Government-furnished property, Contractor acquired mobile IT equipment and non-expendable personal property title to which vests in the U.S. Government under this contract.

(3) Non-expendable personal property, for purposes of this contract, is defined as personal property that is complete in itself, does not lose its identity or become a component part of another article when put into use; is durable, with an expected service life of two years or more; and that has a unit cost of more than \$500.

(b) *Reporting Requirement:* To be inserted following the text of the (48 CFR) FAR clause.

Reporting Requirements: The Contractor will submit an annual report on all Government property in a form and manner acceptable to USAID substantially as follows:

Annual Report of Government Property in Contractor's Custody

[Name of Contractor as of (end of contract year), 20XX]

	Motor vehicles	Furniture and furnishings -	Other Government property
A. Value of property as of last report			
B. Transactions during this reporting period			
1. Acquisitions (add):			
a. Contractor acquired property ¹			
b. Government furnished ²			
c. Transferred from others, without reimbursement ³			
2. Disposals (deduct):			
a. Returned to USAID			
b. Transferred to USAID - Contractor purchased			
c. Transferred to other Government agencies ³			
d. Other disposals ³			
C. Value of property as of reporting date			
D. Estimated average age of contractor held property			
	Years	Years	Years

1

Property Inventory Verification

I attest that (1) physical inventories of Government property are taken not less frequently than annually; (2) the accountability records maintained for Government property in our possession are in agreement with such inventories; and (3) the total of the detailed accountability records maintained agrees with the property value shown opposite line C above, and the estimated average age of each category of property is as cited opposite line D above.

Authorized Signature

Name

Title

Date

(End of clause)

752.245-71 Title to and care of property.

As prescribed in paragraph (a) of (48 CFR) AIDAR 745.107, the following clause must be inserted in all contracts when the contractor will acquire property under the contract for use overseas and the contract funds were obligated under a Development Objective Agreement (DOAG) (or similar bilateral obligating agreement) with the cooperating country.

Title to and Care of Property (APR 1984)

(a) Title to all non-expendable property purchased with contract funds under this contract and used in the Cooperating Country, shall at all times be in the name of the Cooperating Government, or such public or private agency as the Cooperating Government may designate, unless title to specified types or classes of non-expendable property is reserved to USAID under provisions set forth in the schedule of this contract; but all such property shall be under the custody and control of Contractor until the owner of title directs otherwise, or completion of work under this contract or its termination, at which time custody and control shall be turned over to the owner of title or disposed of in accordance with its instructions. All performance guaranties and warranties obtained from suppliers shall be taken in the name of the title owner. (Non-expendable property is property which is complete in itself, does not lose its identity or become a component part of another article when put into use; is durable, with an expected service life of two years or more; and which has a unit cost of \$500 or more.)

(b) Contractor shall prepare and establish a program, to be approved by the Mission, for the receipt, use, maintenance, protection, custody, and care of non-expendable property for which it has custodial responsibility, including the establishment of reasonable controls to enforce such program.

(c)

(1) For non-expendable property to which title is reserved to the U.S. Government under provisions set forth in the schedule of this contract, Contractor shall submit an annual report on all non-expendable property under its custody as required in the clause of this contract entitled "Government Property".

(2) For non-expendable property titled to the Cooperating Government, the Contractor shall, within 90 days after completion of this contract, or at such other date as may be fixed by the contracting officer, submit an inventory schedule covering all items of non-expendable property under its custody, which have not been consumed in the performance of this contract. The Contractor shall also indicate what disposition has been made of such property.

752.247-70 Preference for privately owned U.S.-flag commercial vessels.

As prescribed in 747.507, insert the following clause:

Preference for Privately Owned U.S.-Flag Commercial Vessels (OCT 1996)

(a) Under the provisions of the Cargo Preference Act of 1954 (46 U.S.C. 55305)) at least 50 percent of the gross tonnage of equipment, materials, or commodities financed by USAID, or furnished without provision for reimbursement, or at least 50 percent of the gross tonnage of cargo moving under P.L. 480 financed by the U.S. Department of Agriculture, that may be transported in ocean vessels (computed separately for dry bulk carriers, dry cargo liners, and tankers) shall be transported in privately owned U.S.-flag commercial vessels.

¹ Non-expendable property and all mobile IT equipment.

² Government-furnished property listed in this contract as nonexpendable or accountable, including all mobile IT equipment.

³ Explain if transactions were not processed through or otherwise authorized by USAID.

(b) In accordance with USAID regulations and consistent with the regulations of the Maritime Administration, USAID applies Cargo Preference requirements on the basis of program that generally include more than one contract. Thus, the amount of cargo fixed on privately owned U.S.-flag vessels under this contract may be more or less than the required 50 percent, depending on current compliance with Cargo Preference requirements.

(c)

(1) The contractor must submit one legible copy of a rated on-board ocean bill of lading for each shipment to both Office of Cargo and Commercial Sealift, Maritime Administration (MARAD), U.S. Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC 20590, and the U.S. Agency for International Development (USAID), Bureau for Management, Office of Acquisition and Assistance, 1300 Pennsylvania Ave. NW., SA-44, Room 859, Washington, DC 20523 as follows:

(i) for PL 480 (Food aid shipments) scanned copies must be sent to: *freightbills@usaid.gov*.

(ii) For all Non P.L. 480 (Non Food Aid Shipments) scanned copies must be sent to:
Oceantransportation@USAID.gov.

(iii) For all shipments, scanned copies for MARAD must be sent to: *Cargo.MARAD@DOT.gov*.

(2) The contractor shall furnish these bill of lading copies within 20 working days of the date of loading for shipments originating in the United States, or within 30 working days for shipments originating outside the United States. Each bill of lading copy shall contain the following information:

(i) Sponsoring U.S. Government agency.

(ii) Name of vessel.

(iii) Vessel flag registry.

(iv) Date of loading.

(v) Port of loading.

(vi) Port of final discharge.

(vii) Description of commodity.

(viii) Gross weight in kilograms/pounds and volume in liters/cubic feet, if available.

(ix) Total ocean freight revenue in U.S. dollars.

752.252-1 AIDAR solicitation provisions incorporated by reference

In accordance with 752.107(a), insert the following clause.

AIDAR Solicitation Provisions Incorporated By Reference (MAR 2015)

This solicitation incorporates one or more provisions by reference, with the same force and effect as if they were given in full text. Upon request, the contracting officer will make their full text available. Also, the full text of all AIDAR solicitation provisions is contained in the Code of Federal Regulations (CFR) located at 48 CFR chapter 7.

752.252-2 AIDAR clauses incorporated by reference

In accordance with 752.107(b), insert the following clause.

AIDAR Clauses Incorporated By Reference (MAR 2015)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the contracting officer will make their full text available. Also, the full text of all AIDAR solicitation provisions and contract clause is contained in the Code of Federal Regulations (CFR) located at 48 CFR chapter 7.

752.252-70 Provisions and clauses to be completed by the offeror.

In accordance with 752.107(c), insert the following clause.

Provisions and Clauses To Be Completed by the Offeror (MAR 2015)

The following FAR and AIDAR provisions or clauses incorporated by reference in this solicitation or contract must be completed by the offeror or prospective contractor and submitted with the quotation or offer:

NUMBER TITLE DATE

AIDAR (48 CFR chapter 7)

[The contracting officer must list all FAR and AIDAR provisions or clauses incorporated by reference that must be completed by the offeror or prospective contractor and submitted with the quotation or offer.]

Subpart 752.70 - Texts of USAID Contract Clauses

752.7000 Scope of subpart.

Subpart 752.70 contains the text of USAID-specific contract clauses for which there is no (48 CFR) FAR equivalent. The clauses in this subpart do not apply to contracts for personal services. For personal service contract clauses see (48 CFR) AIDAR Appendix D - Direct USAID Contracts with U.S. Citizens or U.S. Residents for Personal Services Abroad and (48 CFR) AIDAR Appendix J - Direct USAID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad.

752.7001 Biographical data.

The following clause is to be inserted in all USAID cost reimbursement contracts.

Biographical Data (JUL 1997)

The Contractor agrees to furnish to the contracting officer on USAID Form 1420-17, "Contractor Employee Biographical Data Sheet", biographical information on the following individuals to be employed in the performance of the contract: (1) All individuals to be sent outside the United States, or (2) any employees designated as "key personnel". Biographical data in the form usually maintained by the Contractor on the other individuals employed under the contract shall be available for review by USAID at the Contractor's headquarters. A supply of USAID Form 1420-17 will be provided with this contract. The Contractor may reproduce additional copies as necessary.

752.7002 Travel and transportation.

For use in cost reimbursement contracts performed in whole or in part overseas.

Travel and Transportation (JAN 1990)

(a) *General.* The Contractor will be reimbursed for reasonable, allocable and allowable travel and transportation expenses incurred under and for the performance of this contract. Determination of reasonableness, allocability and allowability will be made by the contracting officer based on the applicable cost principles, the Contractor's established policies and procedures, USAID's established policies and procedures for USAID direct-hire employees, and the particular needs of the project being implemented by this contract. The following paragraphs provide specific guidance and limitations on particular items of cost.

(b) *International travel.* For travel to and from post of assignment the Contractor shall be reimbursed for travel costs and travel allowances of travelers from place of residence in the United States (or other location provided that the cost of such travel does not exceed the cost of the travel from the employee's residence in the United States) to the post of duty in the Cooperating Country and return to place of residence in the United States (or other location provided that the cost of such travel does not exceed the cost of travel from the post of duty in the Cooperating Country to the employee's residence) upon completion of services by the individual. Reimbursement for travel will be in accordance with the applicable cost principles and the provisions of this contract, and will be limited to the cost of travel by the most direct and expeditious route. If a regular employee does not complete one full year at post of duty (except for reasons beyond his/her control), the costs of going to and from the post of duty for that employee and his/her dependents are not reimbursable hereunder. If the employee serves more than one year but less than the required service in the Cooperating Country (except for reasons beyond his/her control) the costs of going to the post of duty are reimbursable hereunder but the costs of going from post of duty to the employee's permanent, legal place of residence at the time he or she was employed for work under this contract or other location as approved by the contracting officer are not reimbursable under this contract for the employee and his/her dependents. When travel is by economy class accommodations, the Contractor will be reimbursed for the cost of transporting up to 10 kilograms/22 pounds of accompanied personal baggage per traveler in addition to that regularly allowed with the economy ticket provided that the total number of kilograms/pounds of baggage does not exceed that regularly allowed for first class travelers. Travel allowances for travelers must not be in excess of the rates authorized in the Department of State Standardized Regulations - hereinafter referred to as the Standardized Regulations - as from time to time amended, for not more than the travel time required by scheduled commercial air carrier using the most expeditious route. One stopover en route for a period of not to exceed 24 hours is allowable when the traveler uses economy class accommodations for a trip of 14 hours or more of scheduled duration. Such stopover shall not be authorized when travel is by indirect route or is delayed for the convenience of the traveler. Per diem during such stopover shall be paid in accordance with the established practice of the Contractor but not to exceed the amounts stated in the Standardized Regulations.

(c) *Local travel.* Reimbursement for local travel in connection with duties directly referable to the contract shall not be in excess of the rates established by the Mission Director for the travel costs of travelers in the Cooperating Country. In the absence of such established rates the Contractor shall be reimbursed for actual travel costs of travelers in the Cooperating Country, if not provided by the Cooperating Government or the Mission, including travel allowances at rates not in excess of those prescribed by the Standardized Regulations.

(d) *Travel for consultation.* The Contractor shall be reimbursed for the round trip of the Contractor's Chief of Party in the Cooperating Country or other designated Contractor employee or consultant in the Cooperating Country performing services required under this Contract, for travel from the Cooperating Country to the Contractor's office in the United States or to USAID/Washington for consultation and return on occasions deemed necessary by the Contractor and approved in advance, in writing, by the contracting officer or the Mission Director.

(e) *Special international travel and third country travel.* For special travel which advances the purpose of the contract, which is not otherwise provided by the Cooperating Government, and with the prior written approval of the contracting officer or the Mission Director, the Contractor shall be reimbursed for -

(i) The travel cost of travelers other than between the United States and the Cooperating Country and for local travel within other countries and

(ii) Travel allowance for travelers while in travel status and while performing services hereunder in such other countries at rates not in excess of those prescribed by the Standardized Regulations.

(f) *Indirect travel for personal convenience.* When travel is performed by an indirect route for the personal convenience of the traveler, the allowable costs of such travel will be computed on the basis of the cost of allowable air fare via the direct usually traveled route. If such costs include fares for air or ocean travel by foreign flag carriers, approval for indirect travel by such foreign flag carriers must be obtained from the contracting officer or the Mission Director before such travel is undertaken, otherwise only that portion of travel accomplished by United States-flag carriers will be reimbursable within the above limitation of allowable costs.

(g) *Limitation on travel by dependents.* Travel costs and allowances will be allowed only for dependents of regular employees and such costs shall be reimbursed for travel from place of abode to assigned station in the Cooperating Country and return, only if dependent remains in the country for at least 9 months or one-half of the required tour of duty of the regular employee responsible for such dependent, whichever is greater. If the dependent is eligible for educational travel pursuant to the "Differential and Allowances" clause of this contract, time spent away from post resulting from educational travel will be counted as time at post.

(h) *Delays en route.* The Contractor may grant to travelers under this contract reasonable delays en route while in travel status when such delays are caused by events beyond the control of such traveler or Contractor. It is understood that if delay is caused by physical incapacitation, personnel shall be eligible for such sick leave as provided under the "Leave and Holidays" clause of this contract.

(i) *Travel by privately owned automobile.* The Contractor shall be reimbursed for the cost of travel performed by a regular employee in his/her privately owned automobile at a rate not to exceed that authorized in the Federal Travel Regulations plus authorized per diem for the employee and for each of the authorized dependents traveling in the automobile, if the automobile is being driven to or from the Cooperating Country as authorized under the contract, provided that the total cost of the mileage and the per diem paid to all authorized travelers shall not exceed the total constructive cost of fare and normal per diem by all authorized travelers by surface common carrier or authorized air fare, whichever is less.

(j) *Emergency and irregular travel and transportation.* Emergency transportation costs and travel allowances while en route, as provided in this section will also be reimbursed not to exceed amounts authorized by the Foreign Service Travel Regulations for USAID-direct hire employees in like circumstances under the following conditions:

(1) The costs of going from post of duty in the Cooperating Country to the employee's permanent, legal place of residence at the time he or she was employed for work under this contract or other location for Contractor employees and dependents and returning to the post of duty, when the Contractor's Chief of Party, with the concurrence of the Contracting Officer or Mission Director makes a written determination that such travel is necessary for one of the reasons specified in subparagraphs (j)(1)

(i) and (ii) of this section. A copy of the written determination shall be furnished to the contracting officer.

(i) Need for medical care beyond that available within the area to which the employee is assigned, or serious effect on physical or mental health if residence is continued at assigned post of duty, subject in either case, to the limitations stated in the clause of this contract entitled "Personnel - Physical Fitness of Employee and Dependents." The Mission Director may

authorize a medical attendant to accompany the employee at contract expense if, based on medical opinion, such an attendant is necessary.

(ii) Death, or serious illness or injury of a member of the immediate family of the employee or the immediate family of the employee's spouse.

(2) When, for any reason, the Mission Director determines it is necessary to evacuate the Contractor's entire team (employees and dependents) or Contractor dependents only, the Contractor will be reimbursed for travel and transportation expenses and travel allowance while en route, for the cost of the individuals going from post of duty in the Cooperating Country to the employee's permanent, legal place of residence at the time he or she was employed for work under this contract or other approved location. The return of such employees and dependents may also be authorized by the Mission Director when, in his/her discretion, he/she determines it is prudent to do so.

(3) The Mission Director may also authorize emergency or irregular travel and transportation in other situations, when in his/her opinion, the circumstances warrant such action. The authorization shall include the kind of leave to be used and appropriate restrictions as to time away from post, transportation of personal and/or household effects, etc. Requests for such emergency travel shall be submitted through the Contractor's Chief of Party.

(k) *Home leave travel.* To the extent that home leave has been authorized as provided in the "Leave and Holidays" clause of this contract, the cost of travel for home leave is reimbursable for travel costs and travel allowances of travelers from the post of duty in the Cooperating Country to place of residence in the United States (or other location provided that the cost of such travel does not exceed the cost of travel to the employee's residence in the United States) and return to the post of duty in the Cooperating Country. Reimbursement for travel will be in accordance with the applicable cost principles and the provisions of this contract, and will be limited to the cost of travel by the most direct and expeditious route. When travel is by economy class accommodations, the Contractor will be reimbursed for the cost of transporting up to 10 kilograms/22 pounds of accompanied personal baggage per traveler in addition to that regularly allowed with the economy ticket provided that the total number of kilograms/pounds of baggage does not exceed that regularly allowed for first class travelers. Travel allowances for travelers shall not be in excess of the rates authorized in the Standardized Regulations as from time to time amended, for not more than the travel time required by scheduled commercial air carrier using the most expeditious route. One stopover en route for a period of not to exceed 24 hours is allowable when the traveler uses economy class accommodations for a trip of 14 hours or more of scheduled duration. Such stopover shall not be authorized when travel is by indirect route or is delayed for the convenience of the traveler. Per diem during such stopover shall be paid in accordance with the established practice of the Contractor but not to exceed the amounts stated in the Standardized Regulations.

(l) *Rest and recuperation travel.* The Contractor shall be reimbursed for the cost of travel performed by regular employees and dependents for purposes of rest and recuperation provided that such reimbursement does not exceed that authorized for USAID direct hire employees, and provided further that no reimbursement will be made unless approval is given by the Contractor's Chief of party.

(m) *Transportation of motor vehicles, personal effects and household goods.*

(1) Transportation, including packing and crating costs, will be paid for shipping from the point of origin in the United States (or other location as approved by the contracting officer) to post of duty in the Cooperating Country and return to point of origin in the United States (or other location as approved by the contracting officer) of one privately-owned vehicle for each regular employee, personal effects of travelers and household goods of each regular employee not to exceed the limitations in effect for such shipments for USAID direct hire employees in accordance with the Foreign Service Travel Regulations as in effect when shipment is made.

(2) If a regular employee does not complete one full year at post of duty (except for reasons beyond his/her control), the costs for transportation of vehicles, effects and goods to and from the post of duty are not reimbursable hereunder. If the employee serves more than one year but less than the required service in the Cooperating Country (except for reasons beyond his/her control) the costs for transportation of vehicles, effects and goods to the post of duty are reimbursable hereunder but the costs for transportation of vehicles, effects and goods from post of duty to the employee's permanent, legal place of residence at the time he or she was employed for work under this contract or other location as approved by the contracting officer are not reimbursable under this contract.

(3) The cost of transporting motor vehicles and household goods shall not exceed the cost of packing, crating and transportation by surface. In the event that the carrier does not require boxing or crating of motor vehicles for shipment to the Cooperating Country, the cost of boxing or crating is not reimbursable. The transportation of a privately-owned motor vehicle for a regular employee may be authorized by the Contractor as replacement of the last such motor vehicle shipped under this

contract for the employee when the Mission Director or his/her designee determines in advance and so notifies the Contractor in writing that the replacement is necessary for reasons not due to the negligence or malfeasance of the regular employee. The determination shall be made under the same rules and regulations that apply to Mission employees.

(n) *Unaccompanied baggage.* Unaccompanied baggage is considered to be those personal belongings needed by the traveler immediately upon arrival at destination. To permit the arrival of effects to coincide with the arrival of regular employees and dependents, consideration should be given to advance shipments of unaccompanied baggage. The Contractor will be reimbursed for costs of shipment of unaccompanied baggage (in addition to the weight allowance for household effects) not to exceed the limitations in effect for USAID direct hire employees in accordance with the Foreign Service Travel Regulations as in effect when shipment is made.

This unaccompanied baggage may be shipped as air freight by the most direct route between authorized points of origin and destination regardless of the modes of travel used. This provision is applicable to home leave travel and to short-term employees when these are authorized by the terms of this contract.

(o) *Storage of household effects.* The cost of storage charges (including packing, crating, and drayage costs) in the U.S. of household goods of regular employees will be permitted in lieu of transportation of all or any part of such goods to the Cooperating Country under paragraph (m) above provided that the total amount of effects shipped to the Cooperating Country or stored in the U.S. shall not exceed the amount authorized for USAID direct hire employees under the Uniform Foreign Service Travel Regulations.

(p) *International ocean transportation.*

(1) Flag eligibility requirements for ocean carriage are covered by the "Source and Nationality Requirements" clause of this contract.

(i) Transportation of goods. Where U.S. flag vessels are not available, or their use would result in a significant delay, the Contractor must contact the U.S. Agency for International Development (USAID), Bureau for Management, Office of Acquisition and Assistance, Transportation Division (M/OAA/T) for required guidance and may obtain a release from this requirement from M/OAA/T. The contact email address for these matters is Oceantransportation@USAID.gov.

(ii) *Transportation of persons.* Where U.S. flag vessels are not available, or their use would result in a significant delay, the Contractor may obtain a release from this requirement from the contracting officer or the Mission Director, as appropriate.

(2) *Transportation of foreign-made vehicles.* Reimbursement of the costs of transporting a foreign-made motor vehicle will be made in accordance with the provisions of the Foreign Service Travel Regulations.

(3) *Reduced rates on U.S. flag carriers.* Reduced rates on United States flag carriers are in effect for shipments of household goods and personal effects of USAID contract personnel. These reduced rates are available provided the shipper states on the bill of lading that the cargo is "Personal property-not for resale-payment of freight charges is at U.S. Government (USAID) expense and any special or diplomatic discounts accorded this type cargo are applicable." The Contractor will not be reimbursed for shipments of household goods or personal effects in an amount in excess of the reduced rates available in accordance with the foregoing.

(End of clause)

752.7003 Documentation for payment.

The following clause is required in all USAID direct contracts, excluding fixed price contracts:

Documentation for Payment (NOV 1998)

(a) Claims for reimbursement or payment under this contract must be submitted to the Paying Office indicated in the schedule of this contract. The contracting officer's representative (CTO) is the authorized representative of the Government to approve vouchers under this contract. The Contractor must submit either paper or fax versions of the SF-1034 - Public Voucher for Purchases and Services Other Than Personal. Each voucher shall be identified by the appropriate USAID contract number, in the amount of dollar expenditures made during the period covered.

(1) The SF 1034 provides space to report by line item for products or services provided. The form provides for the information to be reported with the following elements:

Total Expenditures [Document Number: XXX-X-XX-XXXX-XX]

Line item No.	Description	Amt. vouchered to date	Amt. vouchered this period
001	Product/Service Desc. for Line Item 001	\$XXXX.XX	\$ XXXX.XX
002	Product/Service Desc. for Line Item 002	XXXX.XX	XXXX.XX
Total		XXXX.XX	XXXX.XX

(2) The fiscal report shall include the following certification signed by an authorized representative of the Contractor:

The undersigned hereby certifies to the best of my knowledge and belief that the fiscal report and any attachments have been prepared from the books and records of the Contractor in accordance with the terms of this contract and are correct: the sum claimed under this contract is proper and due, and all the costs of contract performance (except as herewith reported in writing) have been paid, or to the extent allowed under the applicable payment clause, will be paid currently by the Contractor when due in the ordinary course of business; the work reflected by these costs has been performed, and the quantities and amounts involved are consistent with the requirements of this Contract; all required contracting officer approvals have been obtained; and appropriate refund to USAID will be made promptly upon request in the event of disallowance of costs not reimbursable under the terms of this contract.

BY:

TITLE:

DATE:

(b) *Local currency payment.* The Contractor is fully responsible for the proper expenditure and control of local currency, if any, provided under this contract. Local currency will be provided to the Contractor in accordance with written instructions provided by the Mission Director. The written instructions will also include accounting, vouchering, and reporting procedures. A copy of the instructions shall be provided to the Contractor's Chief of Party and to the contracting officer. The costs of bonding personnel responsible for local currency are reimbursable under this contract.

(c) Upon compliance by the Contractor with all the provisions of this contract, acceptance by the Government of the work and final report, and a satisfactory accounting by the Contractor of all Government-owned property for which the Contractor had custodial responsibility, the Government shall promptly pay to the Contractor any moneys (dollars or local currency) due under the completion voucher. The Government will make suitable reduction for any disallowance or indebtedness by the Contractor by applying the proceeds of the voucher first to such deductions and next to any unliquidated balance of advance remaining under this contract.

(d) The Contractor agrees that all approvals of the Mission Director and the Contracting Officer which are required by the provisions of this contract shall be preserved and made available as part of the Contractor's records which are required to be presented and made available by the clause of this contract entitled "Audit and Records - Negotiation".

752.7004 Emergency locator information.

The following clause is to be inserted in all contracts requiring travel overseas.

Emergency Locator Information (JUL 1997)

The Contractor agrees to provide the following information to the Mission Administrative Officer on or before the arrival in the host country of every contract employee or dependent:

- (1) The individual's full name, home address, and telephone number.
- (2) The name and number of the contract, and whether the individual is an employee or dependent.
- (3) The contractor's name, home office address, and telephone number, including any after-hours emergency number(s), and the name of the contractor's home office staff member having administrative responsibility for the contract.
- (4) The name, address, and telephone number(s) of each individual's next of kin.
- (5) Any special instructions pertaining to emergency situations such as power of attorney designees or alternate contact persons.

752.7005 Submission requirements for development experience documents.

The following clause must be inserted in all USAID professional/technical contracts in which development experience documents are likely to be produced.

Submission Requirements for Development Experience Documents (SEP 2013)

(a) Contract Reports and Information/Intellectual Products.

(1) Within thirty (30) calendar days of obtaining the contracting officer representative's approval, the contractor must submit to USAID's Development Experience Clearinghouse (DEC) one copy each of reports and information products which describe, communicate or organize program/project development assistance activities, methods, technologies, management, research, results and experience. These reports include: Assessments, evaluations, studies, technical and periodic reports, annual and final reports, and development experience documents (defined as documents that:

(i) Describe the planning, design, implementation, evaluation, and results of development assistance; and

(ii) Are generated during the life cycle of development assistance programs or activities.) The contractor must also submit copies of information products including training materials, publications, videos and other intellectual deliverable materials required under the Contract Schedule. The following information is not to be submitted:

(A) Time-sensitive materials such as newsletters, brochures or bulletins.

(B) The contractor's information that is incidental to award administration, such as financial, administrative, cost or pricing, or management information.

(2) Within thirty (30) calendar days after completion of the contract, the contractor must submit to the DEC any reports that have not been previously submitted and an index of all reports and information/intellectual products referenced in paragraph (a)(1) of this clause.

(b) Submission requirements. The contractor must review the DEC Web site for the most up-to-date submission instructions, including the DEC address for paper submissions, the document formatting and the types of documents to be submitted. The submission instructions can be found at: <https://dec.usaid.gov>.

(1) *Standards.*

(i) Material must not include financially sensitive information or personally identifiable information (PII) such as social security numbers, home addresses and dates of birth. Such information must be removed prior to submission.

(ii) All submissions must conform to current USAID branding requirements.

(iii) Contract reports and information/intellectual products can be submitted in either electronic (preferred) or paper form. Electronic documentation must comply with Section 508 of the Rehabilitation Act of 1973.

(iv) The electronic submissions must consist of only one electronic file, which comprises the complete and final equivalent of the paper copy.

(v) Electronic documents must be in one of the National Archives and Records Administration (NARA)-approved formats as described in NARA guidelines related to the transfer of permanent E-records. (See <http://www.archives.gov/records-mgmt/initiatives/transfer-to-nara.html>).

(2) Essential bibliographic information. Descriptive information is required for all contractor products submitted. The title page of all reports and information products must include the contract number(s), contractor name(s), name of the USAID contracting officer's representative, the publication or issuance date of the document, document title, (if non-English, provide an English translation of the title), author name(s), and development objective or activity title (if non-English, provide a translation) and associated number, and language of the document (if non-English). In addition, all hard copy materials submitted in accordance with this clause must have, attached as a separate cover sheet, the name, organization, address, telephone number, fax number, and internet address of the submitting party.

752.7006 Notices.

The following clause shall be used in all USAID contracts.

Notices (APR 1984)

Any notice given by any of the parties hereunder shall be sufficient only if in writing and delivered in person or sent by telegraph, cable, or registered or regular mail as follows:

To USAID: Administrator, U.S. Agency for International Development, Washington, DC 20523-0061. Attention: Contracting Officer (the name of the cognizant contracting officer with a copy to the appropriate Mission Director).

To Contractor: At Contractor's address shown on the cover page of this contract, or to such other address as either of such parties shall designate by notice given as herein required. Notices hereunder shall be effective when delivered in accordance with this clause or on the effective date of the notice, whichever is later.

752.7007 Personnel compensation.

The following clause shall be used in all USAID cost-reimbursement contracts.

Personnel Compensation (JUL 2007)

(a) Direct compensation of the Contractor's personnel will be in accordance with the Contractor's established policies, procedures, and practices, and the cost principles applicable to this contract.

(b) Reimbursement of the employee's base annual salary plus overseas recruitment incentive, if any, which exceed the USAID Contractor Salary Threshold (USAID CST) stated in USAID Automated Directives System (ADS) Chapter 302 USAID Direct Contracting, must be approved in writing by the contracting officer, as prescribed in 731.205-6(b) or 731.371(b), as applicable.

752.7008 Use of Government facilities or personnel.

The following clause is for use in all USAID non-commercial contracts.

Use of Government Facilities or Personnel (APR 1984)

(a) The Contractor and any employee or consultant of the Contractor is prohibited from using U.S. Government facilities (such as office space or equipment) or U.S. Government clerical or technical personnel in the performance of the services specified in the contract, unless the use of Government facilities or personnel is specifically authorized in the contract, or is authorized in advance, in writing, by the contracting officer.

(b) If at any time it is determined that the Contractor, or any of its employees or consultants have used U.S. Government facilities or personnel without authorization either in the contract itself, or in advance, in writing, by the contracting officer, then the amount payable under the contract shall be reduced by an amount equal to the value of the U.S. Government facilities or personnel used by the Contractor, as determined by the contracting officer.

(c) If the parties fail to agree on an adjustment made pursuant to this clause, it shall be considered a dispute, and shall be dealt with under the terms of the clause of this contract entitled "Disputes".

752.7009 Marking.

The following clause is for use in all USAID contracts performed in whole or in part overseas.

Marking (JAN 1993)

(a) It is USAID policy that USAID-financed commodities and shipping containers, and project construction sites and other project locations be suitably marked with the USAID emblem. Shipping containers are also to be marked with the last five digits of the USAID financing document number. As a general rule, marking is not required for raw materials shipped in bulk (such as coal, grain, etc.), or for semifinished products which are not packaged.

(b) Specific guidance on marking requirements should be obtained prior to procurement of commodities to be shipped, and as early as possible for project construction sites and other project locations. This guidance will be provided through the cognizant technical office indicated on the cover page of this contract, or by the Mission Director in the Cooperating Country to which commodities are being shipped, or in which the project site is located.

(c) Authority to waive marking requirements is vested with the Regional Assistant Administrators, and with Mission Directors.

(d) A copy of any specific marking instructions or waivers from marking requirements is to be sent to the contracting officer; the original should be retained by the Contractor.

752.7010 Conversion of U.S. dollars to local currency.

For use in all USAID non-commercial contracts involving performance overseas.

Conversion of U.S. Dollars to Local Currency (APR 1984)

Upon arrival in the Cooperation Country, and from time to time as appropriate, the Contractor's Chief of Party shall consult with the Mission Director who shall provide, in writing, the procedure the Contractor and its employees shall follow in the conversion of United States dollars to local currency. This may include, but is not limited to, the conversion of said currency through the cognizant U.S. Disbursing Officer or Mission Controller, as appropriate.

752.7011 Orientation and language training.

For use in all USAID cost-reimbursement contracts involving performance overseas.

Orientation and Language Training (APR 1984)

(a) Regular employees shall receive a maximum of 2 weeks USAID sponsored orientation before travel overseas. The dates of orientation shall be selected by the Contractor from the orientation schedule provided by USAID.

(b) Participation in USAID sponsored orientation in no way relieves the Contractor of its responsibility for assuring that all employees, regular and short-term, are properly oriented. As an addition to or substitution for USAID's sponsored orientation for regular employees, the following types of orientation may be authorized taking into consideration specific job requirements, the employee's prior overseas experience, or unusual circumstances.

(1) Modified orientation.

(2) Language training, particularly when significant for operating capabilities.

(3) Orientation and language training for regular employee's dependents.

(4) Contractor-sponsored orientation.

(5) Orientation in all matters related to the administrative, logistical, and technical aspects of the employee's movement to, and tour of duty in, the Cooperating Country.

(c) Authorization for an additional or alternate orientation program, if any, shall be either set forth in the schedule or provided in writing by the contracting officer.

(d) Travel expenses not to exceed one round trip from regular employee's residence to place of orientation and return will be reimbursed, pursuant to the cost principles applicable to this contract. Allowable salary costs during the period of orientation are also reimbursable.

752.7012 Protection of the individual as a research subject.

This clause is for use in any USAID contract which involves research using human subjects.

Protection of the Individual as a Research Subject (AUG 1995)

(a) Safeguarding the rights and welfare of human subjects in research conducted under a USAID contract is the responsibility of the contractor. USAID has adopted the Common Federal Policy for the Protection of Human Subjects. USAID's Policy is found in Part 225 of Title 22 of the Code of Federal Regulations (the "Policy"). Additional interpretation, procedures, and implementation guidance of the Policy are found in USAID General Notice entitled "Procedures for the Protection of Human Subjects in Research Supported by USAID", issued April 19, 1995, as from time to time amended (a copy of which is attached to this contract). USAID's Cognizant Human Subjects Officer (CHSO) and USAID/W has oversight, guidance, and interpretation responsibility for the Policy.

(b) Contractors must comply with the Policy when humans are the subject of research, as defined in 22 CFR 225.102(d), performed as part of the contract, and contractors must provide "assurance", as required by 22 CFR 225.103, that they follow and abide by the procedures in the Policy. See also Section 5 of the April 19, 1995, USAID General Notice which sets forth activities to which the Policy is applicable. The existence of a bona fide, applicable assurance approved by the Department of Health and Human Services (HHS) such as the "multiple project assurance" (MPA) will satisfy this requirement. Alternatively, contractors can provide an acceptable written assurance to USAID as described in 22 CFR 225.103. Such assurances must be determined by the CHSO to be acceptable prior to any applicable research being initiated or conducted under the contract. In some limited instances outside the U.S., alternative systems for the protection of human subjects may be used provided they are deemed "at least equivalent" to those outlined in part 225 (see 22 CFR 225.101(h)). Criteria and procedures for making this determination are described in the General Notice cited in the preceding paragraph.

(c) Since the welfare of the research subject is a matter of concern to USAID as well as to the contractor, USAID staff, consultants and advisory groups may independently review and inspect research, and research processes and procedures involving human subjects, and based on such findings, the CHSO may prohibit research which presents unacceptable hazards or otherwise fails to comply with USAID procedures. Informed consent documents must include the stipulation that the subject's records may be subject to such review.

752.7013 Contractor-mission relationships.

For use in all USAID contracts involving performance overseas. Note that paragraph (f) of this clause is applicable only in contracts with an educational institution.

Contractor-Mission Relationships (OCT 1989)

(a) The Contractor acknowledges that this contract is an important part of the United States Foreign Assistance Program and agrees that its operations and those of its employees in the Cooperating Country will be carried out in such a manner as to be fully commensurate with the responsibility which this entails.

(b) The Mission Director is the chief representative of USAID in the Cooperating Country. In this capacity, he/she is responsible for both the total USAID program in the cooperating country including certain administrative responsibilities set forth in this contract, and for advising USAID regarding the performance of the work under the contract and its effect on the United States Foreign Assistance Program. Although the Contractor will be responsible for all professional, technical, and administrative details of the work called for by the contract, it shall be under the guidance of the Mission Director in matters relating to foreign policy. The Chief of Party shall keep the Mission Director currently informed of the progress of the work under the contract.

(c) In the event the conduct of any Contractor employee is not in accordance with the preceding paragraphs, the Contractor's Chief of Party shall consult with the Mission Director and the employee involved and shall recommend to the Contractor a course of action with regard to such employee.

(d) The parties recognize the right of the U.S. Ambassador to direct the removal from a country of any U.S. citizen or the discharge from this contract of any third-country national or cooperating-country national when, at the discretion of the Ambassador, the interests of the United States so require. Under these circumstances termination of an employee and replacement by an acceptable substitute shall be at no cost to USAID.

(e) If it is determined that the services of such employee shall be terminated, the Contractor shall use its best efforts to cause the return of such employee to the United States or point of origin as appropriate.

[The following paragraph (f) is applicable if the contract is with an educational institution:]

(f) It is understood by the parties that the Contractor's responsibilities shall not be restrictive of academic freedom. Notwithstanding these academic freedoms, the Contractor's employees, while in the Cooperating Country, are expected to show respect for its conventions, customs, and institutions, to abide by applicable laws and regulations, and not to interfere in its internal political affairs.

(End of clause)

752.7014 Notice of changes in travel regulations.

The following clause is for use in cost-reimbursement contracts involving work overseas.

Notice of Changes in Travel Regulations (JAN 1990)

(a) Changes in travel, differential, and allowance regulations shall be effective on the beginning of the Contractor's next pay period following the effective date of the change as published in the applicable travel regulations (the Department of State Standardized Regulations, Foreign Service Travel Regulations).

(b)

(1) Department of State Standardized Regulations are available at: http://aoprals.state.gov/content.asp?content_id=231&menu_id=92.

(2) Foreign Service Travel Regulations are available at: 14 FAM 500: <http://www.state.gov/m/a/dir/regs/fam/14fam/500/index.htm>.

(3) Federal Travel Regulations are available at: http://www.gsa.gov/portal/content/104790?utm_source=OGP&utm_medium=print-radio&utm_term=ftr&utm_campaign=shortcut.

(c) Information regarding these regulations as referenced in the "Travel and Transportation" clause of this contract may be obtained from the contracting officer.

(End of clause)

752.7015 Use of pouch facilities.

For use in all USAID non-commercial contracts exceeding the simplified acquisition threshold and involving performance overseas.

Use of Pouch Facilities (JUL 1997)

(a) Use of diplomatic pouch is controlled by the Department of State. The Department of State has authorized the use of pouch facilities for USAID contractors and their employees as a general policy, as detailed in paragraphs (a)

(1) through (a)(7) of this clause; however, the final decision regarding use of pouch facilities rests with the Embassy or USAID Mission. In consideration of the use of pouch facilities as hereinafter stated, the Contractor and its employees agree to indemnify and hold harmless the Department of State and USAID against loss or damage occurring in pouch transmission.

(1) Contractors and their employees are authorized use of the pouch for transmission and receipt of up to a maximum of 0.9 kilogram/2 pounds per shipment of correspondence and documents needed in the administration of foreign assistance programs.

(2) U.S. citizen employees of U.S. contractors are authorized use of the pouch for personal mail up to a maximum of 0.5 kilogram/one pound per shipment (but see paragraph (a)(3) of this section).

(3) Merchandise, parcels, magazines, or newspapers are not considered to be personal mail for purposes of this clause, and are not authorized to be sent or received by pouch.

(4) Official mail as authorized by paragraph (a)(1) of this clause should be addressed as follows: Individual or Organization name, followed by the symbol "C", city Name of Post, U.S. Agency for International Development, Washington, DC 20523-0001.

(5) Personal mail pursuant to paragraph (a)(2) of this clause should be sent to the address specified in paragraph (a)(4) of this clause, but without the name of the organization.

(6) Mail sent via the diplomatic pouch may not be in violation of U.S. Postal laws and may not contain material ineligible for pouch transmission.

(7) USAID contractor personnel are not authorized use of military postal facilities (APO/FPO). This is an Adjutant General's decision based on existing laws and regulations governing military postal facilities and is being enforced worldwide. Posts having access to APO/FPO facilities and using such for diplomatic pouch dispatch, may, however, accept official mail from Contractors and letter mail from their employees for the pouch, provided of course, adequate postage is affixed.

(b) The Contractor shall be responsible for advising its employees of this authorization and these guidelines and limitations on use of pouch facilities.

(c) Specific additional guidance on use of pouch facilities in accordance with this clause is available from the Post Communication Center at the Embassy or USAID Mission.

752.7016-752.7017 [Reserved]

752.7018 Health and accident coverage for USAID participant trainees.

For use in any USAID contract under which USAID participants are trained.

Health and Accident Coverage for USAID Participant Trainees (JAN 1999)

(a) In accordance with the requirements of USAID Automated Directive System (ADS) 253, the Contractor shall enroll all non-U.S. trainees (hereinafter referred to as "participants"), whose training in the U.S. is financed by USAID under this contract, in USAID's Health and Accident Coverage (HAC) program. Sponsored trainees enrolled in third-country or in-country training events are not eligible for USAID's HAC program, but the Contractor may obtain alternative local medical and accident insurance at contract expense, provided the cost is consistent with the cost principles in (48 CFR) FAR 31.2.

(b) When enrollment in the HAC program is required per paragraph (a) of this clause, the Contractor must enroll each participant in the HAC program through one of two designated contractors prior to the initiation of travel by the participant. USAID has developed an Agency-wide database training management system, the Training Results and Information Network ("TraiNet"), which is the preferred system for managing USAID's participant training program, including enrollment in the HAC program. However, until such time as the USAID sponsoring unit (as defined in ADS 253) has given the Contractor access to USAID's "TraiNet" software for trainee tracking and HAC enrollment, the Contractor must fill out and mail the Participant Data Form (PDF) (Form USAID 1381-4) to USAID. The Contractor can obtain information regarding each HAC program contractor, including contact information, and a supply of the PDF forms and instructions for completing and submitting them, by contacting the data base contractor serving the Director, Bureau for Economic Growth, Education and Environment, Office of Education (E3/ED).

(c) The Contractor must ensure that HAC enrollment begins immediately upon the participant's departure for the United States for the purpose of participating in a training program financed by USAID, and that enrollment continues in full force and effect until the participant returns to his/her country of origin, or is released from USAID's responsibility, whichever is the sooner.

(1) The HAC insurance provider, not the Contractor, shall be responsible for paying all reasonable and necessary medical reimbursement charges not otherwise covered by student health service or other insurance programs, subject to the availability of funds for such purposes, in accordance with the standards of coverage established by USAID under its HAC program and by the HAC providers' contracts.

(2) After HAC enrollment, upon receipt of HAC services invoice from the selected HAC provider, the Contractor shall submit payment directly to the HAC provider.

(3) The Contractor is responsible for ensuring that participants and any stakeholders (as defined in ADS 253) are advised that USAID is not responsible for any medical claims in excess of the coverages provided by the HAC program, or for medical claims not eligible for coverage under the HAC program, or not otherwise covered in this section.

(d) The Contractor, to the extent that it is an educational institution with a mandatory student health service program, shall also enroll participants in that institution's student health service program. Medical costs which are covered under the institution's student health service shall not be eligible for payment under USAID's HAC program.

(e) If the Contractor has a mandatory, non-waivable health and accident insurance program for students, the costs of such insurance will be allowable under this contract. Any claims eligible under such insurance will not be payable under USAID's HAC plan or under this contract. Even though the participant is covered by the Contractor's mandatory, non-waivable health and accident insurance program, the participant MUST be enrolled in USAID's more comprehensive HAC program.

(f) Medical conditions pre-existing to the participant's sponsorship for training by USAID, discovered during the required pre-departure medical examination, are grounds for ineligibility for sponsorship unless specifically waived by the sponsoring unit, and covered through a separate insurance policy maintained by the participant or his employer, or a letter of guarantee from the participant or the employer (which thereby assumes liability for any related charges that might materialize. See ADS 253).

752.7019 Participant training.

For use in any USAID direct contract involving training of USAID participants.

Participant Training (JAN 1999)

(a) *Definitions.*

(1) Participant training is the training of any foreign national outside of his or her home country, using USAID funds.

(2) A Participant is any foreign national being trained under this contract outside of his or her country.

(b) *Applicable regulations.* Participant training conducted under this contract shall comply with the policies and essential procedures pertaining to training-related services contained in USAID Automated Directive System (ADS) Ch. 253 "Training for Development Impact". Any exceptions to ADS 253 requirements are specified as such within this contract. The entire ADS is accessible to the general public at the following USAID Internet address: <http://www.usaid.gov/policy/ads/>.

(c) The contractor shall be reimbursed for the reasonable and allocable costs incurred in providing training to participants in the United States or other approved location provided such costs do not exceed the limitations in, or have been waived in accordance with, ADS 253.

Note:

Academic rates are available through a special website monitored by the United States Information Agency. The website for academic programs is: <http://www.iie.org/fulbright/posts/restrict>. U.S.-based participants receive the standardized U.S. travel per diem rates maintained by GSA for short-term training (website: <http://policyworks.gov>).

752.7020 [Reserved]

752.7021 Changes in tuition and fees.

For use in contracts for participant training with an educational institution.

Changes in Tuition and Fees (APR 1984)

While educational programs for participants will be established utilizing the Contractor's currently applicable tuition and fee schedule, the parties understand that such standard tuition and fees may be subject to change during the course of the program. If such event results in an increase in the cost of the program, USAID agrees to pay such increased standard tuition and fees in the next applicable academic term as a condition for the continuation of the program. If such change results in a decrease in the cost of the program, the Contractor agrees to charge to USAID only the amount of such revised standard tuition and fees in the next applicable academic term. The Contractor shall undertake to keep USAID currently advised as

to changes in its standard tuition and fees. At such time as increases in the amounts of tuition and fees results in there being inadequate funds remaining in this contract to meet the costs of the next academic term, the Contractor will so advise USAID. USAID may then provide such additional funds as required to complete the program.

752.7022 Conflicts between contract and catalog.

For use in contracts for participant training with an educational institution.

Conflicts Between Contract and Catalog (APR 1984)

In the event of any inconsistency between the provisions of this contract and any catalog, or other document incorporated in this contract by reference or otherwise or any of the Contractor's rules and regulations, the provisions of this contract shall govern.

752.7023 Required visa form for USAID participants.

For use in any USAID direct contract which involves training of USAID participants.

Required Visa Form for USAID Participants (APR 1984)

The Contractor shall insure that any foreign student brought to the United States for training under this contract uses visa form IAP 66A "Certificate for Exchange Visitor (J-1) Status".

752.7024 Withdrawal of students.

For use in contracts for participant training with an educational institution.

Withdrawal of Students (APR 1984)

- (a) The Government may, at its option and at any time, withdraw any student.
- (b) The Contractor may request withdrawal by the Government of any student for academic or disciplinary reasons.
- (c) If such withdrawal occurs prior to the end of a term, the Government shall pay any tuition and fees due for the current term in which the student may be enrolled, and the Contractor shall credit the Government with any charges eligible for refund under the Contractor's standard procedures for civilian students in effect on the effective date of such withdrawal.
- (d) Withdrawal of students by the Government shall not be the basis for any special charge or claim by the Contractor other than as provided by the Contractor's standard procedures.

752.7025 Approvals.

For use in all USAID contracts.

Approvals (APR 1984)

All approvals required to be given under the contract by the contracting officer or the Mission Director shall be in writing and, except when extraordinary circumstances make it impracticable, shall be requested by the Contractor sufficiently in advance of the contemplated action to permit approval, disapproval or other disposition prior to that action. If, because of existing conditions, it is impossible to obtain prior written approval, the approving official may, at his discretion, ratify the action after the fact.

752.7026 [Reserved]

752.7027 Personnel.

For use in all USAID services contracts involving performance overseas. Note that paragraphs (f) and (g) of this clause are for use only in cost reimbursement contracts.

Personnel (DEC 1990)

(a) *Clearance.*

(1) *Individuals engaged or assigned within the United States.* The contractor will obtain written notification from the contracting officer of Cooperating Country clearance of any employee sent outside the United States to perform duties under this contract.

(2) *Individuals engaged or assigned when outside the United States.* No individual shall be engaged or assigned when outside the United States to perform work outside the United States under this contract unless authorized in the schedule or otherwise approved by the contracting officer or Mission Director. However, when services are performed in the Cooperating

Country on a casual or irregular basis or in an emergency, exception to this provision can be made in accordance with instructions or regulations established by the Mission Director.

(b) *Physical fitness of employees and dependents.* See the clause of this contract entitled Physical Fitness.

(c) *Conformity to laws and regulations of Cooperating Country.* Contractor agrees to use its best efforts to assure that its employees and their dependents, while in the Cooperating Country, abide by all applicable laws and regulations of the Cooperating Country and political subdivisions thereof.

(d) *Importation or sale of personal property or automobiles.* To the extent permitted by Cooperating Country laws, the importation and sale of personal property or automobiles by contractor employees and their dependents in the Cooperating Country shall be subject to the same limitations and prohibitions which apply to U.S. nationals employed by the Mission. This provision does not apply to employees or consultants who are citizens or legal residents of the Cooperating Country.

(e) *Economic and financial activities.* Other than work to be performed under this contract for which an employee or consultant is assigned by the contractor, no such employee or consultant of the contractor shall engage, directly or indirectly, either in his/her own name or in the name or through the agency of another person, in any business, profession or occupation in the Cooperating Country or other foreign countries to which he/she is assigned, nor shall he make loans or investments to or in any business, profession or occupation in the Cooperating Country or other foreign countries in which he/she is assigned. This provision does not apply to employees or consultants who are citizens or legal residents of the Cooperating Country.

[The following paragraphs (f) and (g) are applicable only to cost reimbursement contracts.]

(f) *Duration of appointments.*

(1) Regular employees will normally be appointed for a minimum of 2 years which period includes orientation (less language training) in the United States and authorized international travel under the contract except:

(i) An appointment may be made for less than 2 years if the contract has less than 2 years but more than 1 year to run provided that if the contract is extended the appointment shall also be extended to the full 2 years. This provision shall be reflected in the employment agreement prior to employment under this contract.

(ii) When a 2-year appointment is not required, appointment may be made for less than 2 years but in no event less than 1 year.

(iii) When the normal tour of duty established for USAID personnel at a particular post is less than 2 years, then a normal appointment under this contract may be of the same duration.

(iv) When the contractor is unable to make appointments of regular employees for a full 2 years, the contractor may make appointments of less than 2 but not less than 1 year, provided that such appointment is approved by the contracting officer.

(2) Services required for less than 1 year will be considered short-term appointments and the employee will be considered a short-term employee.

(g) *Employment of dependents.* If any person who is employed for services in the Cooperating Country under this contract is either

(1) a dependent of an employee of the U.S. Government working in the Cooperating Country, or (2) a dependent of a contractor employee working under a contract with the U.S. Government in the Cooperating Country, such person shall continue to hold the status of a dependent. He or she shall be entitled to salary for the time services are actually performed in the Cooperating Country, and differential and allowances as established by the Standardized Regulations (Government Civilians, Foreign Areas).

(End of clause)

752.7028 Differential and allowances.

The following clause is for use in all USAID cost reimbursement contracts performed in whole or in part overseas.

Differentials and Allowances (JUL 1996)

(This clause does not apply to TCN or CCN employees. TCN and CCN employees are not eligible for differentials and allowances, unless specifically authorized by the cognizant Assistant Administrator or Mission Director. A copy of such authorization shall be retained and made available as part of the contractor's records which are required to be preserved and made available by the "Examination of Records by the Comptroller General" and "Audit" clauses of this contract).

(a) *Post differential.* Post differential is an additional compensation for service at places in foreign areas where conditions of environment differ substantially from conditions of environment in the continental United States and warrant additional

compensation as a recruitment and retention incentive. In areas where post differential is paid to USAID direct-hire employees, post differential not to exceed the percentage of salary as is provided such USAID employees in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 500 (except the limitation contained in Section 552, "Ceiling on Payment") Tables-Chapter 900, as from time to time amended, will be reimbursable hereunder for employees in respect to amounts earned during the time such employees actually spend overseas on work under this contract. When such post differential is provided to regular employees of the Contractor, it shall be payable beginning on the date of arrival at the post of assignment and continue, including periods away from post on official business, until the close of business on the day of departure from post of assignment en route to the United States. Sick or vacation leave taken at or away from the post of assignment will not interrupt the continuity of the assignment or require a discontinuance of such post differential payments, provided such leave is not taken within the United States or the territories of the United States. Post differential will not be payable while the employee is away from his/her post of assignment for purposes of home leave. Short-term employees shall be entitled to post differential beginning with the forty-third (43rd) day at post.

(b) *Living quarters allowance.* Living quarters allowance is an allowance granted to reimburse an employee for substantially all of his/her cost for either temporary or residence quarters whenever Government-owned or Government-rented quarters are not provided to him/her at his/her post without charge. Such costs are those incurred for temporary lodging (temporary lodging allowance) or one unit of residence quarters (living quarters allowance) and include rent, plus any costs not included therein for heat, light, fuel, gas, electricity and water. The temporary lodging allowance and the living quarters allowance are never both payable to an employee for the same period of time. The Contractor will be reimbursed for payments made to employees for a living quarters allowance for rent and utilities if such facilities are not supplied. Such allowance shall not exceed the amount paid USAID employees of equivalent rank in the Cooperating Country, in accordance with either the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 130, as from time to time amended, or other rates approved by the Mission Director. Subject to the written approval of the Mission Director, short-term employees may be paid per diem (in lieu of living quarters allowance) at rates prescribed by the Federal Travel Regulations, as from time to time amended, during the time such short-term employees spend at posts of duty in the Cooperating Country under this contract. In authorizing such per diem rates, the Mission Director shall consider the particular circumstances involved with respect to each such short-term employee including the extent to which meals and/or lodging may be made available without charge or at nominal cost by an agency of the United States Government or of the Cooperating Government, and similar factors.

(c) *Temporary quarters subsistence allowance.* Temporary quarters subsistence allowance is a quarters allowance granted to an employee for the reasonable cost of temporary quarters incurred by the employee and his family for a period not in excess of (i) 90 days after first arrival at a new post in a foreign area or a period ending with the occupation of residence (permanent) quarters, if earlier, and (ii) 30 days immediately preceding final departure from the post subsequent to the necessary vacating of residence quarters, unless an extension is authorized in writing by the Mission Director. The Contractor will be reimbursed for payments made to employees and authorized dependents for temporary quarters subsistence allowance, in lieu of living quarters allowance, not to exceed the amount set forth in the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 120, as from time to time amended.

(d) *Post allowance.* Post allowance is a cost-of-living allowance granted to an employee officially stationed at a post where the cost of living, exclusive of quarters cost, is substantially higher than in Washington, DC. The Contractor will be reimbursed for payments made to employees for post allowance not to exceed those paid USAID employees in the Cooperating Country, in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 220, as from time to time amended.

(e) *Supplemental post allowance.* Supplemental post allowance is a form of post allowance granted to an employee at his/her post when it is determined that assistance is necessary to defray extraordinary subsistence costs. The Contractor will be reimbursed for payments made to employees for supplemental post allowance not to exceed the amount set forth in the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 230, as from time to time amended.

(f) *Educational allowance.* Educational allowance is an allowance to assist an employee in meeting the extraordinary and necessary expenses, not otherwise compensated for, incurred by reason of his/her service in a foreign area in providing adequate elementary and secondary education for his/her children. The Contractor will be reimbursed for payments made to regular employees for educational allowances for their dependent children in amounts not to exceed those set forth in the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 270, as from time to time amended.

(g) *Educational travel.* Educational travel is travel to and from a school in the United States for secondary education (in lieu of an educational allowance) and for college education. The Contractor will be reimbursed for payments made to regular employees for educational travel for their dependent children provided such payment does not exceed that which would be payable in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 280, as from time to time amended. Educational travel shall not be authorized for regular employees whose assignment is less than two years.

(h) *Separate maintenance allowance.* Separate maintenance allowance is an allowance to assist an employee who is compelled, by reason of dangerous, notably unhealthful, or excessively adverse living conditions at his/her post of assignment in a foreign area, or for the convenience of the Government, to meet the additional expense of maintaining his/her dependents elsewhere than at such post. The Contractor will be reimbursed for payments made to regular employees for a separate maintenance allowance not to exceed that made to Aid employees in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 260, as from time to time amended.

(i) *Payments during evacuation.* The Standardized Regulations (Government Civilians, Foreign Areas) provide the authority for efficient, orderly, and equitable procedure for the payment of compensation, post differential and allowances in the event of an emergency evacuation of employees or their dependents, or both, from duty stations for military or other reasons or because of imminent danger to their lives. If evacuation has been authorized by the Mission Director the Contractor will be reimbursed for payments made to employees and authorized dependents evacuated from their post of assignment in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 600, and the Federal Travel Regulations, as from time to time amended.

(j) *Danger pay allowance.*

(1) The contractor will be reimbursed for payments made to its employees for danger pay not to exceed that paid USAID employees in the cooperating country, in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 650, as from time to time amended.

(2) Danger pay is an allowance that provides additional compensation above basic compensation to an employee in a foreign area where civil insurrection, civil war, terrorism or wartime conditions threaten physical harm or imminent danger to the health or well-being of the employee. The danger pay allowance is in lieu of that part of the post differential which is attributable to political violence. Consequently, the post differential may be reduced while danger pay is in effect to avoid dual crediting for political violence.

752.7029 Post privileges.

For use in all USAID non-commercial contracts involving performance overseas.

Post Privileges (JUL 1993)

(a) Routine health room services may be available, subject to post policy, to U.S. citizen contractors and their authorized dependents (regardless of citizenship) at the post of duty. These services do not include hospitalization, or predeparture or end of tour medical examinations. The services normally include such medications as may be available, immunizations and preventive health measures, diagnostic examinations and advice, and home visits as medically indicated. Emergency medical treatment is provided to U.S. citizen employees and dependents, whether or not they may have been granted access to routine health room services, on the same basis as it would be to any U.S. citizen in an emergency medical situation in the country.

(b) Privileges such as the use of APO, PX's, commissaries, and officer's clubs are established at posts abroad pursuant to agreements between the U.S. and Cooperating Governments. These facilities are intended for and usually limited to members of the official U.S. establishment including the Embassy, USAID Mission, U.S. Information Service, and the Military. Normally, the agreements do not permit these facilities to be made available to nonofficial Americans.

752.7030 Inspection trips by contractor's officers and executives.

For use in cost reimbursement contracts with an educational institution involving performance overseas.

Inspection Trips by Contractor's Officers and Executives (APR 1984)

Provided it is approved by the Mission Director, the Contractor may send the Campus Coordinator, a professional member of its staff as an alternate to the Campus Coordinator, or such of its senior officials (e.g., president, vice presidents, deans, or department heads) to the Cooperating Country as may be required to review the progress of the work under this contract. Except for the Campus Coordinator or his/her alternate, no direct salary charges will be paid hereunder with respect to any such officials.

752.7031 Leave and holidays.

For use in all USAID cost-reimbursement contracts for technical or professional services.

Leave and Holidays (OCT 1989)

(a) *Vacation leave.*

(1) The Contractor may grant to its employees working under this contract vacations of reasonable duration in accordance with the Contractor's practice for its employees, but in no event shall such vacation leave be earned at a rate exceeding 26 work days per annum. Reimbursement for vacation leave is limited to the amount earned by employees while serving under this contract.

For regular employees during their tour of duty in the Cooperating Country, vacation leave is provided under this contract primarily for purposes of affording necessary rest and recreation. The Contractor's Chief of Party, the employee and the Cooperating Country institution associated with this project shall develop vacation leave schedules early in the employee's tour of duty taking into consideration project requirements, employee preference and other factors.

(2) Leave taken during the concluding weeks of an employee's tour shall be included in the established leave schedule and be limited to that amount of leave which can be earned during a twelve-month period unless approved in accordance with paragraph (a)(3) of this clause.

(3) Vacation leave earned but not taken by the end of the employee's tour pursuant to paragraphs (a) (1) and (2) of this clause will be forfeited unless the requirements of the project precluded the employee from taking such leave, and the contracting officer (with the endorsement of the Mission) approves one of the following as an alternative:

(i) Taking, during the concluding weeks of the employee's tour, leave not permitted under (a)(2) of this section, or

(ii) Lump-sum payment for leave not taken provided such leave does not exceed the number of days which can be earned by the employee during a twelve-month period.

(b) *Sick Leave.* Sick leave is earned by employees in accordance with the Contractor's usual practice but not to exceed 13 work days per annum or 4 hours every 2 weeks. Additional sick leave after use of accrued vacation leave may be advanced in accordance with Contractor's usual practice, if in the judgment of the Contractor's Chief of Party it is determined that such additional leave is in the best interest of the project. In no event shall such additional leave exceed 30 days. The Contractor agrees to reimburse USAID for leave used in excess of the amount earned during the employee's assignment under this contract. Sick leave earned and unused at the end of a regular tour of duty may be carried over to an immediately-succeeding tour of duty under this contract. The use of home leave authorized under this clause shall not constitute a break in service for the purpose of sick leave carry-over. Contractor employees will not be compensated for unused sick leave at the completion of their duties under this contract.

(c) *Home leave.*

(1) Home leave is leave earned for service abroad for use only in the United States, in the Commonwealth of Puerto Rico, or in the possessions of the United States.

(2) A regular employee who is a U.S. citizen or resident and has served at least 2 years overseas, as defined in paragraph (c)(4) of this clause, under this contract and has not taken more than 30 workdays leave (vacation, sick, or leave without pay) in the United States, may be granted home leave of not more than 15 workdays for each such year of service overseas, provided that such regular employee agrees to return overseas upon completion of home leave under an additional 2 year appointment, or for a shorter period of not less than 1 year of overseas service under the contract if the Mission Director has approved in advance. Home leave must be taken in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States; any days spent elsewhere will be charged to vacation leave or leave without pay.

(3) Notwithstanding the requirement in paragraph (c)(2), of this clause, that the Contractor's regular employee must have served 2 years overseas under this contract to be eligible for home leave, Contractor may grant advance home leave to such regular employee subject to all of the following conditions:

(i) Granting of advance home leave would in each case serve to advance the attainment of the objectives of this contract;

(ii) The regular employee shall have served a minimum of 18 months in the Cooperating Country on his/her current tour of duty under this contract; and

(iii) The regular employee shall have agreed to return to the Cooperating Country to serve out the remainder of his/her current tour of duty and an additional 2 year appointment under this contract, or such other additional appointment of not less than 1 year of overseas service as the Mission Director may approve.

(4) The period of service overseas required under paragraph (c)(2) or paragraph (c)(3) of this clause shall include the actual days spent in orientation in the United States (less language training) and the actual days overseas beginning on the date of departure from the United States port of embarkation on international travel and continuing, inclusive of authorized delays en route, to the date of arrival at the United States port of debarkation from international travel. Allowable vacation and sick leave taken while overseas, but not leave without pay, shall be included in the required period of service overseas. An amount equal to the number of days vacation and sick leave taken in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States will be added to the required period of service overseas.

(5) Salary during travel to and from the United States for home leave will be limited to the time required for travel by the most expeditious air route. The Contractor will be responsible for reimbursing USAID for salary payments made during home leave if in spite of the undertaking of the new appointment the regular employee, except for reasons beyond his/her control as determined by the contracting officer, does not return overseas and complete the additional required service. Unused home leave is not reimbursable under this contract.

(6) To the extent deemed necessary by the Contractor, regular employees in the United States on home leave may be authorized to spend not more than 5 days in work status for consultation at home office/campus or at USAID/Washington before returning to their post of duty. Consultation at locations other than USAID/Washington or home office/campus, as well as any time in excess of 5 days spent for consultation, must be approved by the Mission Director or the contracting officer.

(7) Except as provided in the schedule or approved by the Mission Director or the contracting officer, home leave is not authorized for TCN or CCN employees.

(d) *Holidays.* Holidays for Contractor employees serving in the United States shall be in accordance with the Contractor's established policy and practice. Holidays for Contractor employees serving overseas should take into consideration local practices and shall be established in collaboration with the Mission Director.

(e) *Military leave.* Military leave of not more than 15 calendar days in any calendar year may be granted in accordance with the Contractor's usual practice to each regular employee whose appointment is not limited to 1 year or less and who is a reservist of the United States Armed Forces, provided that such military leave has been approved in advance by the cognizant Mission Director or Assistant Administrator. A copy of any such approval shall be provided to the contracting officer.

(f) *Leave Records.* The Contractor's leave records shall be preserved and made available as part of the contractor's records which are required to be preserved and made available by the Examination of Records by the Comptroller General and Audit clauses of this contract.

(End of clause)

752.7032 International travel approval and notification requirements (APR 2014).

For use in any USAID contract requiring international travel.

International Travel Approval and Notification Requirements (APR 2014)

Prior written approval by the contracting officer, or the contracting officer's representative (COR) if delegated in the Contracting Officer's Representative Designation Letter, is required for all international travel directly and identifiably funded by USAID under this contract. The Contractor must therefore present to the contracting officer or the contracting officer's representative, an itinerary for each planned international trip, showing the name of the traveler, purpose of the trip, origin/destination (and intervening stops), and dates of travel, as far in advanced of the proposed travel as possible, but in no event less than three weeks before travel is planned to commence. The contracting officer's or contracting officer's representative's (if delegated by the contracting officer) prior written approval may be in the form of a letter or telegram or similar device or may be specifically incorporated into the schedule of the contract. At least one week prior to commencement of approved international travel, the Contractor must notify the cognizant Mission, with a copy to the contracting officer or contracting officer's representative, of planned travel, identifying the travelers and the dates and times of arrival.

752.7033 Physical fitness.

For use in all USAID contracts involving performance overseas.

Physical Fitness (JUL 1997)

(The requirements of this provision do not apply to employees hired in the Cooperating Country or to authorized dependents who were already in the Cooperating Country when their sponsoring employee was hired.)

(a) *Assignments of less than 60 days in the Cooperating Country.* The contractor shall require employees being assigned to the Cooperating Country for less than 60 days to be examined by a licensed doctor of medicine. The contractor shall require

the doctor to provide to the contractor a written statement that in his/her medical opinion the employee is physically qualified to engage in the type of activity for which he/she is employed and the employee is physically able to reside in the country to which he/she is assigned. Under a cost reimbursement contract, if the contractor has no written statement of medical opinion on file prior to the departure for the Cooperating Country of any employee and such employee is unable to perform the type of activity for which he/she is employed or cannot complete his/her tour of duty because of any physical disability (other than physical disability arising from an accident while employed under this contract), the contractor shall be responsible for returning the disabled employee to his/her point of hire and providing a replacement at no additional cost to the Government. In addition, in the case of a cost reimbursement contract, the contractor shall not be entitled to reimbursement for any additional costs attributable to delays or other circumstances caused by the employee's inability to complete his/her tour of duty.

(b) Assignments of 60 days or more in the Cooperating Country.

(1) The contracting officer shall provide the contractor with a reproducible copy of the "USAID Contractor Employee Physical Examination Form". Information required by the Paperwork Reduction Act for reporting the burden estimate, the points of contact regarding burden estimate, and the OMB approval expiration date, are printed on the form. The contractor shall reproduce the form as required, and provide a copy to each employee and authorized dependent proposed for assignments of 60 days or more in the Cooperating Country. The contractor shall have the employee and all authorized dependents obtain a physical examination from a licensed physician, who will complete the form for each individual. The employee will deliver the physical examination form(s) to the embassy health unit in the Cooperating Country.

(2) (The following information is provided for two purposes: To assist fixed price offerors to develop their price proposal, and to provide cost reimbursement contractors with guidance in determining reasonable and allowable costs.) As a contribution to the cost of medical examinations, USAID shall reimburse the contractor for the physical examination authorized in paragraph (a) of this section in an amount not to exceed \$100 for the physical examination, plus reimbursement of charges for immunizations to the extent not covered by the contractor's health insurance policy. For physical examinations authorized in paragraph (b)(1) above, the USAID contribution to the cost of the examination shall be as follows:

(i) For the employee and authorized dependents 12 years of age and over, one half of the cost of each examination up to a maximum USAID share of \$300 per individual, plus reimbursement of charges for immunizations to the extent not covered by the contractor's health insurance policy.

(ii) For authorized dependents under 12 years of age, one half of the cost of each examination up to a maximum USAID share of \$120 per individual, plus reimbursement of charges for immunizations to the extent not covered by the contractor's health insurance policy.

(iii) The contractor must obtain the prior written approval of the contracting officer to receive any USAID contributions higher than these limits.

(End of clause)

752.7034 Acknowledgement and disclaimer.

For use in any USAID contract which funds or partially funds publications, videos, or other information/media products.

Acknowledgement and Disclaimer (DEC 1991)

(a) USAID shall be prominently acknowledged in all publications, videos or other information/media products funded or partially funded through this contract, and the product shall state that the views expressed by the author(s) do not necessarily reflect those of USAID. Acknowledgements should identify the sponsoring USAID Office and Bureau or Mission as well as the U.S. Agency for International Development substantially as follows:

"This (publication, video or other information/media product (specify)) was made possible through support provided by the Office of _____, Bureau for _____, U.S. Agency for International Development, under the terms of Contract No. _____. The opinions expressed herein are those of the author(s) and do not necessarily reflect the views of the U.S. Agency for International Development."

(b) Unless the contractor is instructed otherwise by the cognizant technical office, publications, videos or other information/media products funded under this contract and intended for general readership or other general use will be marked with the USAID logo and/or U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT appearing either at the top or at the bottom of the front cover or, if more suitable, on the first inside title page for printed products, and in equivalent/appropriate location in videos or other information/media products. Logos and markings of co-sponsors or authorizing institutions should be similarly located and of similar size and appearance.

(End of clause)

752.7035 Public notices.

The following clause is for use when the contracting officer's representative determines that the contract is of public interest, and that both the public and the Government would benefit from public notices concerning the contract, and requests that the contracting officer include the clause in the contract.

Public Notices (DEC 1991)

It is USAID's policy to inform the public as fully as possible of its programs and activities. The contractor is encouraged to give public notice of the receipt of this contract and, from time to time, to announce progress and accomplishments. Press releases or other public notices should include a statement substantially as follows: "The U.S. Agency for International Development administers the U.S. foreign assistance program providing economic and humanitarian assistance in more than 80 countries worldwide." The contractor may call on USAID's Legislative and Public Affairs (LPA) for advice regarding public Notices. The contractor is requested to provide copies of notices or announcements to the contracting officer's representative and to USAID's Legislative and Public Affairs (LPA) as far in advance of release as possible.

(End of clause)

752.7036 USAID Implementing Partner Notices (IPN) portal for acquisition.

Insert the following clause in section I of all solicitations and resulting contracts, except for orders under indefinite delivery contracts issued pursuant to (48 CFR) FAR subpart 16.5; orders under Federal Supply (GSA) Schedules issued pursuant to (48 CFR) FAR subpart 8.4; and contracts and purchase orders awarded under the simplified acquisitions procedures of (48 CFR) FAR part 13.

USAID Implementing Partner Notices (IPN) Portal FOR Acquisition (July 2014)

(a) *Definitions.* As used in this clause -

"Universal" *bilateral modification* means a bilateral modification, as defined in FAR subpart 43.1, that updates or incorporates new FAR or AIDAR clauses, other terms and conditions, or special requirements, affecting all USAID awards or a class of awards, as specified in the Agency notification of such modification.

USAID Implementing Partner Notices (IPN) Portal for Acquisition (IPN Portal) means the single point where USAID uploads universal bilateral modifications, which can be accessed electronically by registered USAID contractors. The IPN Portal is located at <https://sites.google.com/site/ipnforacquisitions/>.

IPN Portal Administrator means the USAID official designated by the M/OAA Director, who has overall responsibility for managing the USAID Implementing Partner Notices Portal for Acquisition.

(b) By submission of an offer and execution of a contract, the Offeror/Contractor acknowledges the requirement to:

- (1) Register with the IPN Portal if awarded a contract resulting from this solicitation; and
- (2) Receive universal bilateral modifications of this contract and general notices through the IPN Portal.

(c) *Procedure to register for notifications.* Go to: <https://sites.google.com/site/usaidipnforacquisitions/> and click the "Register" button at the top of the page. Contractor representatives must use their official organization email address when subscribing, not personal email addresses.

(d) *Processing of IPN portal modifications.*

(1) The contractor may access the IPN Portal at any time to review all IPN Portal modifications; however, the system will also notify the contractor by email when the USAID IPN Portal Administrator uploads a universal bilateral modification for contractor review and signature. Proposed IPN Portal modifications distributed through the IPN Portal are applicable to all awards, unless otherwise noted in the proposed modification.

(2) Within 15 calendar days from receipt of the notification email from the IPN Portal, the contractor must do one of the following:

(i)

(A) Verify applicability of the proposed modification to their award(s) per the instructions provided with each modification;

(B) Download the modification and incorporate the following information on the SF30 form: contract number, organization name, and organization mailing address as it appears in the basic award;

(C) Sign the hardcopy version; and

(D) Send the signed modification (by email or hardcopy) to the contracting officer for signature;

Note to paragraph (d)(2)(i): The contractor must not incorporate any other changes to the IPN Portal modification.

(ii) Notify the Contracting Officer in writing if the modification requires negotiation of the additional changes to terms and conditions of the contract; or

(iii) Notify the contracting officer that the contractor declines to sign the modification.

(3) Within 30 calendar days of receipt of a signed modification from the contractor, the contracting officer must provide the fully executed modification to the contractor or initiate discussions with the contractor. Bilateral modifications provided through the IPN Portal are not effective until both the contractor and the contracting officer sign the modification.

(End of clause)

752.7037 Child safeguarding standards.

Insert the following clause in section I of all solicitations and contracts other than those for commercial items.

Child Safeguarding Standards (AUG. 2016)

(a) Implementation of activities under this award may involve children, or personnel engaged in the implementation of the award may come into contact with children, which could raise the risk of child abuse, exploitation, or neglect within this award. The contractor agrees to abide by the following child safeguarding core principles:

(1) Ensure compliance with host country and local child welfare and protection legislation or international standards, whichever gives greater protection, and with U.S. law where applicable;

(2) Prohibit all personnel from engaging in child abuse, exploitation, or neglect;

(3) Consider child safeguarding in project planning and implementation to determine potential risks to children that are associated with project activities and operations;

(4) Apply measures to reduce the risk of child abuse, exploitation, or neglect, including, but not limited to, limiting unsupervised interactions with children; prohibiting exposure to pornography; and complying with applicable laws, regulations, or customs regarding the photographing, filming, or other image-generating activities of children;

(5) Promote child-safe screening procedures for personnel, particularly personnel whose work brings them in direct contact with children; and

(6) Have a procedure for ensuring that personnel and others recognize child abuse, exploitation, or neglect; mandating that personnel and others report allegations; investigating and managing allegations; and taking appropriate action in response to such allegations, including, but not limited to, dismissal of personnel.

(b) The contractor must also include in the code of conduct for all personnel implementing USAID-funded activities, the child safeguarding principles in paragraphs (a)

(1) through (6) of this clause.

(c) The following definitions apply for purposes of this clause:

(1) *Child*. A child or children are defined as persons who have not attained 18 years of age.

(2) *Child abuse, exploitation, or neglect*. Constitutes any form of physical abuse; emotional ill-treatment; sexual abuse; neglect or insufficient supervision; trafficking; or commercial, transactional, labor, or other exploitation resulting in actual or potential harm to the child's health, well-being, survival, development, or dignity. It includes, but is not limited to: Any act or failure to act which results in death, serious physical or emotional harm to a child, or an act or failure to act which presents an imminent risk of serious harm to a child.

(3) *Emotional abuse or ill treatment*. Constitutes injury to the psychological capacity or emotional stability of the child caused by acts, threats of acts, or coercive tactics. Emotional abuse may include, but is not limited to: Humiliation, control, isolation, withholding of information, or any other deliberate activity that makes the child feel diminished or embarrassed.

(4) *Exploitation*. Constitutes the abuse of a child where some form of remuneration is involved or whereby the perpetrators benefit in some manner. Exploitation represents a form of coercion and violence that is detrimental to the child's physical or mental health, development, education, or well-being.

(5) *Neglect*. Constitutes failure to provide for a child's basic needs within USAID-funded activities that are responsible for the care of a child in the absence of the child's parent or guardian.

(6) *Physical abuse*. Constitutes acts or failures to act resulting in injury (not necessarily visible), unnecessary or unjustified pain or suffering without causing injury, harm or risk of harm to a child's health or welfare, or death. Such acts may include, but are not limited to: Punching, beating, kicking, biting, shaking, throwing, stabbing, choking, or hitting (regardless of object used), or burning. These acts are considered abuse regardless of whether they were intended to hurt the child.

(7) *Sexual abuse*. Constitutes fondling a child's genitals, penetration, incest, rape, sodomy, indecent exposure, and exploitation through prostitution or the production of pornographic materials.

(d) The contractor must insert this clause in all subcontracts under this award.

(End of clause)

752.7038 Nondiscrimination against End-Users of Supplies or Services.

The following clause must be inserted in section I of all solicitations and resulting contracts.

Nondiscrimination Against End-Users of Supplies or Services (OCT 2016)

(a) USAID policy requires that the contractor not discriminate against any end-user of the contract supplies or services (*i.e.*, the beneficiaries of the supplies or services) in implementation of this award, such as, but not limited to, by withholding, adversely impacting, or denying equitable access to the supplies or services (benefits) provided through this contract on the basis of any factor not expressly stated in the award. This includes, for example, race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, disability, age, genetic information, marital status, parental status, political affiliation, or veteran's status. Nothing in this clause is intended to limit the ability of the contractor to target activities toward the assistance needs of certain populations as defined in the contract.

(b) The Contractor must insert this clause, including this paragraph, in all subcontracts under this contract.

(End of clause)

Subpart 752.3-70 - USAID Clause Matrices [Reserved]

PART 753 - FORMS

Sec.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979 44 FR 56673, 3 CFR, 1979 Comp., p. 435.

Source: 53 FR 50632, Dec. 16, 1988, unless otherwise noted.

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PART 753 - FORMS

Subpart 753.1 - General

753.107 Obtaining forms.

Copies of any USAID Form referenced in the AIDAIR may be obtained from the U.S. Agency for International Development, Washington, DC 20523-0001, Attention: M/AS/ISS, Distribution, Room B-929 N.S., or from the cognizant contracting officer.

Subpart 753.2 - Prescription of Forms

753.270 Prescription of USAID forms.

The requirements for use of USAID forms are contained in parts 701 through 752 where the subject matter applicable to the form is addressed.

Subpart 753.3 - Illustration of Forms

753.300 Scope of subpart.

USAID forms are not illustrated in the AIDAR. Copies of any USAID form prescribed in the AIDAR may be obtained as provided in 753.107.

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PARTS 754-799 [RESERVED]

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