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Part V

Agency for International Development

48 CFR Parts 701, 702, 703, et al.

Incorporate Various Administrative Changes and Internal Policies in to the USAID Acquisition Regulation (AIDAR); Final Rule

AGENCY FOR INTERNATIONAL DEVELOPMENT

48 CFR Parts 701, 702, 703, 704, 705, 706, 707, 709, 711, 713, 714, 715, 716, 717, 719, 722, 725, 726, 727, 728, 731, 732, 733, 736, 742, 745, 747, 750 and 752

RIN 0412-AA76

Incorporate Various Administrative Changes and Internal Policies in to the USAID Acquisition Regulation (AIDAR)

AGENCY: U.S. Agency for International Development.

ACTION: Direct final rule.

SUMMARY: The U.S. Agency for International Development (USAID) is amending its Agency for International Development Acquisition Regulation (AIDAR) to maintain consistency with the Federal Acquisition Regulation (FAR), incorporate long-standing USAID internal policy into the regulation, remove obsolete material and make editorial amendments to better clarify the regulation.

DATES: This rule is effective March 16, 2015 without further action, unless adverse comments are received by January 15, 2015. If adverse comments are received, USAID will publish a timely withdrawal of those portion(s) of the rule in the **Federal Register**. Submit comments on or before January 15, 2015.

ADDRESSES: Address all comments concerning this notice to Marcelle J. Wijesinghe, Bureau for Management, Office of Acquisition and Assistance, Policy Division (M/OAA/P), Room 867, SA-44, Washington, DC 20523-2052. Submit comments, identified by title of the action and Regulatory Information Number (RIN) by any of the following methods: Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. Email: Submit electronic comments to both mwijesinghe@usaid.gov and lbond@usaid.gov. See **SUPPLEMENTARY INFORMATION** for file formats and other information about electronic filing.

Mail: USAID, Bureau for Management, Office of Acquisition & Assistance, Policy Division, Room 867, SA-44, Washington, DC 20523-2052.

FOR FURTHER INFORMATION CONTACT: Lyudmila Bond, Telephone: 202-567-4753 or Email: lbond@usaid.gov.

SUPPLEMENTARY INFORMATION:

A. Instructions

All comments must be in writing and submitted through one of the methods specified in the **ADDRESSES** section

above. All submissions must include the title of the action and RIN for this rulemaking. Please include your name, title, organization, postal address, telephone number, and email address in the text of the message.

Comments submitted by email must be included in the text of the email or attached as a PDF file. Please avoid using special characters and any form of encryption. Please note, however, that because security screening precautions have slowed the delivery and dependability of surface mail to USAID/Washington, USAID recommends sending all comments to the Federal eRulemaking Portal.

All comments will be made available for public review without change, including any personal information provided, from three workdays after receipt to finalization of action at <http://www.regulations.gov>. Do not submit information that you consider to be Confidential Business Information (CBI) or any information that is otherwise protected from disclosure by statute.

USAID is publishing this revision as a direct final rule as the Agency views this as a conforming and administrative amendment and does not anticipate any adverse comments. This rule will be effective on the date specified in the **DATES** section above without further notice unless adverse comment(s) are received by the date specified in the **DATES** section above.

USAID will only address comments that explain why the rule would be inappropriate, ineffective or unacceptable without a change. Comments that are insubstantial or outside the scope of the rule will not be considered.

If adverse comments are received on the direct final rule, USAID will publish a timely partial withdrawal in the **Federal Register** informing the public what sections of the rule will not take effect. Any portions of the final rule for which no adverse or critical comment is received will become final after the designated period.

Additionally, USAID is publishing a separate document in the "Proposed Rules" section of this **Federal Register** that will serve as the proposal to approve these AIDAR revisions if adverse comments are received. USAID will address all public comments in a subsequent final rule based on the proposed rule. USAID will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

B. Background

This final rule is part of the AIDAR rewrite initiative, in which all parts of

the regulation are being reviewed and updated to: Align with the new statutes and legislation, include previously implemented policy, update titles and acronyms and delete outdated information and obsolete forms. This rule incorporates updates to the entire AIDAR.

The following changes are implemented by this final rule:

- Parenthetical reference (48 CFR) is added to (48 CFR) FAR and (48 CFR) AIDAR citations.

- The term "cognizant technical officer(s)" and acronym "CTO(s)" are replaced with "contracting officer's representative(s)" and "COR(s)" throughout AIDAR to align with the FAR definitions under FAR 2.101(b).

- The following nomenclature changes include office name and acronym changes throughout (48 CFR) AIDAR, reflecting Agency reorganizations over the recent years:
 - a. "Office of Administrative Services" is renamed to "The Bureau for Management, Office of Management Services (M/MS)";

- b. "Director, Office of Acquisition and Assistance (M/OAA Director)" is replaced with "Director, Bureau for Management, Office of Acquisition and Assistance (M/OAA Director);

- c. "Office of Acquisition and Assistance, Policy Division (M/OAA/POL)" or "Office of Acquisition and Assistance, Policy Division (M/OAA/P)" is replaced with "Bureau for Management, Office of Acquisition and Assistance, Policy Division (M/OAA/P);

- d. "Director, the Office of U.S. Foreign Disaster Assistance" is renamed to "Director, Bureau for Democracy, Conflict and Humanitarian Assistance, Office of U.S. Foreign Disaster Assistance (DCHA/OFDA)";

- e. Director, Center for Human Capacity Development (G/HCD) is renamed to "Director, Bureau for Economic Growth, Education and Environment, Office of Education (E3/ED)";

- f. The acronym "SDB" for the Office of Small and Disadvantaged Business Utilization is replaced with "OSDBU";

- g. "Overhead and Special Cost and Contract Close-Out Branch, Office of Acquisition and Assistance" is renamed to "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)";

- h. "Financial Management Office, Cash Management and Payment Division" and its acronym "FM/CMP" are replaced with "Bureau for Management, Office of the Chief Financial Officer, Cash Management

and Payment Division” and “M/CFO/ CMP”;

i. “Office of Acquisition and Assistance, Evaluation Division (M/OAA/E)” is renamed to “Bureau for Management, Office of Acquisition and Assistance, Evaluation Division (M/OAA/E)”;

j. “Office of Acquisition and Assistance, Transportation Division (M/OAA/T)” is renamed to “Bureau for Management, Office of Acquisition and Assistance, Transportation Division (M/OAA/T)”;

k. The Acronym “M/OP director” is replaced with “M/OAA Director”;

- The following sections are revised to correct reference to their legal citation or a FAR/AIDAR subpart: 701.601, 703.104–10.1, 706.302–70(a)(1), 706.302–70(c)(4), 714.406–3, 714.406–4, 715.370–1(d)(4), 722.805–70(a) and (b), 747.507, 750.7109–2, 750.7109–3, 752.242–70 and 752.245–71;

- The following sections are redesignated to maintain consistency with the FAR: 701.105, 703.104–5, 703.104–10.1, 713.101, 714.406–3, 714.406–4, 717.700, 733.270–1, 745.106.

- Numerous errors and omissions have been identified in chapter 7 as published and are corrected in this rule, specifically in sections 701.601, 704.7004–2, 715.370–2, 715.602, 719–271–3, 733.103–73, 752.7003;

- Several sections are revised for clarity: 701.470, 701.602–1, 706.302–70, 715.305, 752.219–8;

- Specific references to sections within ADS chapters are replaced with ADS chapter numbers to avoid a future need to revise the AIDAR when these ADS chapters are updated;

- Office of Management and Budget approval of the information collections in the AIDAR, under the Paperwork Reduction Act is published in 701.106. The information requested by USAID, as listed in this section, is necessary to allow USAID to prudently administer public funds.

- Section 701.601(c)(3) is revised to include an increase in the contracting authority delegated to Mission Directors to sign personal services contracts in an amount not to exceed \$1,000,000 and other contracts up to the simplified acquisition threshold, as defined in (48 CFR) FAR 2.101. This policy, first announced by an Agency General Policy Notice in 2005 and later implemented on an interim basis through the Acquisition and Assistance Policy Directive (AAPD) 11–02, is now incorporated into this rule without changes;

- For ease of use, all section numbers of the definitions in part 702 are deleted and the definitions are republished in

alphabetical order. The following definitions are updated: Automated Directives System (ADS), contracting activity, head of agency, head of contracting activity, Third Country National (TCN). The definition of procuring activity was moved from 706.003 to 702.170;

- The USAID Consultant Registry Information System (ACRIS) was superseded by the Central Contractor Registration (CCR), pursuant to FAC 2001–16, October 1, 2003. Multiple references to the former system are being removed;

- Statutory authorities specific to USAID for contracting with disadvantaged enterprises, as contained in numerous appropriation acts between 1984 and 1995, have expired; and the provisions for use of these authorities in sections 705.202, 705.207, 706.302–5, 706.302–71, 719.272, 752.226–1, 752.226–2, 752.226–3 and subpart 726.70 are being removed and reserved upon the expiration of the contracts funded by said authorities;

- Section 706.303–1 is removed pursuant to the removal of its counterpart (48 CFR) FAR 6.303–1 requirement by FAC 2001–27, December 28, 2004.

- Section 706.501 is revised to reflect changes in the designation of the competition advocate resulting from the Agency’s reorganization over the recent years.

- Information on USAID Automated Directive System Chapter 300, which covers Agency policies, required procedures, and internal guidance on planning of USAID direct acquisition awards is added to subpart 707.1;

- The authorities to suspend or debar a contractor, previously delegated to the Agency Procurement Executive have been re-delegated to the Senior Deputy Assistant Administrator, Bureau for Management.

- Outdated reference to NIH Contractor Performance System in sections 715.305 and 742.1502 is removed.

- Subpart 715.6 on unsolicited proposals is revised for clarity and conformity with the requirements in the FAR 15.406. The Agency point of contact information was also updated.

- With the addition of a new FAR subpart, 17.7 (77 FR 69722, Nov. 20, 2012), section 717.700 is redesignated.

- Section 52.219–8, Utilization of Small Business Concerns is provided with the necessary prescriptive language in the appropriate sections of the AIDAR and revised for clarity;

- Revisions to part 725, AIDAR clause at 752.225–70 and removal of clause at 752.225–71 reflect changes in 22 CFR

part 228, Rules for Procurement of Commodities and Services Financed by USAID dated January 10, 2012;

- The payment clause at 752.232–7, prescribed in paragraph (b) of 732.111, was removed by AIDAC 2007–02, but its prescription in subpart 732.1 was inadvertently overlooked and is now removed;

- Subpart 732.4 is revised to reflect procedural changes due to the transfer of the LOC process to DHHS;

- Designation of the Civilian Board of Contract Appeals (CBCA) to hear and determine appeals under USAID contracts in part 733, Protests, Disputes and Appeals was mandated by section 847 of the National Defense Authorization Act for Fiscal Year 2006, Pub. L. 109–163. Subpart 733.27 is revised to reflect this change;

- The term “strategic objective agreement” wherever found is replaced by “Development Objective Agreement (DOAG)”, pursuant to its revision in the Automated Directives System Chapter 200;

- Subpart 752.1 is added to allow contracting officers to incorporate (48 CFR) FAR and (48 CFR) AIDAR provisions and clauses by reference;

- The following Agency-specific clauses are re-organized to follow the clause format used throughout chapter 7 (clause #, title, prescription, clause title and date, clause text):

- 752.204–2 Security Requirements;

- 752.228–3 Worker’s Compensation Insurance (Defense Base Act);

- 752.228–7 Insurance—liability to Third Persons;

- 752.228–9 Cargo Insurance;

- 752.245–70 Government Property—USAID Reporting Requirements.

- New contract clause entitled “Access to USAID Facilities and USAID’s Information Systems”, previously called “Personal Identity Verification of Contractor Personnel” was implemented on an interim basis through ADS 302 Mandatory Reference, Special Provisions for Acquisition and is hereby formally implemented in the AIDAR without revision at 752.204–72. The clause supplements the FAR clause 52.204–9(a) and is mandatory for awards requiring contractor’s routine physical access to USAID-controlled facilities or logical access to USAID’s information systems. The clause describes policies and procedures for obtaining such access. The Agency believes that the transfer of the policy from the internal Agency policy into the AIDAR will have no impact on contractors;

- Contract clause 752.216–70, Award fee, is revised to remove reference to the disputes clause to conform to the

revision of (48 CFR) FAR 16.405–2(a), with respect to award fee determinations, as specified by FAC 97–15, December 27, 1999;

- Following the requirements in 731.205–71, contract clause 752.231–71 is revised to require contractors to include the substance of this clause in subcontracts that may entail salary supplement payments to host government employees;

- New contract clauses entitled “Patent Reporting Procedures” and “Standards for Accessibility for the Disabled in USAID Construction Contracts” were implemented on an interim basis through the Agency’s *Contract Information Bulletin (CIB) 99–19*, Patent Rights and Reporting and ADS 302 Mandatory Reference, Special Provisions for Acquisition. The “Patent Reporting Procedures” clause supplements the FAR clause at 52.227–11, Patent Rights—Ownership by the Contractor, and requires contractors to report all inventions to the National Institutes of Health (NIH) EDISON Patent Reporting and Tracking system. The clause entitled “Standards for Accessibility for the Disabled in USAID Construction Contracts” is required for all USAID-funded contracts for construction or renovation and mandates that any new or renovation construction project funded by USAID provide access to people with disabilities. Both clauses are hereby formally implemented in the AIDAR with minor editorial revisions at 752.227–70 and 752.236–70 respectively. The Agency believes that the transfer of the clauses from the internal agency policy into the AIDAR will have no impact on contractors;

- Contract clauses 752.247–70, 752.7002, and 752.7015 are revised to conform to section 5164 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 205), E.O. 12770, and ADS chapter 323, which implement the congressional designation of the metric system of measurement as the preferred system of weights and measures for United States trade and commerce;

- Pursuant to the revision of (48 CFR) FAR clause 52.047–64 (FAC 2001–13, dated March 18, 2003) Alternate 1 to the AIDAR clause 752.247–70 has been rendered redundant and is therefore removed;

- The contract clause 752.7005 is retitled “Submission Requirements to the Development Clearinghouse” and revised to bring it into conformity with the requirements of the Privacy Act of 1974 and Section 508 of the Rehabilitation Act of 1973. With the launch of the updated DEC Web site, contractors are directed to obtain

detailed submission instructions from the Web site;

- Revisions to the AIDAR sections 731.205–46 and 752.7032 have been implemented on an interim basis through the Acquisition and Assistance Policy Directive (AAPD) 14–01 in April 2014 and are now incorporated into the AIDAR. The changes will allow contracting officers to delegate to the contracting officer’s representative (COR) international travel approvals for all travel directly and identifiably funded by USAID under the contract;

- New contract clause entitled “USAID Disability Policy” was implemented on an interim basis through Acquisition and Assistance Policy Directive (AAPD) 04–17 and later incorporated into Agency policy at ADS 302 Mandatory Reference, Special Provisions for Acquisition. The clause requires that the contractors do not discriminate against people with disabilities and is hereby formally implemented in the AIDAR without revisions at 752.222–70. The Agency believes that the transfer of the clause from the internal policy into the AIDAR will have no impact on contractors.

C. Regulatory Planning and Review

This rule has been determined to be “nonsignificant” under the Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993 and, therefore, is not subject to review. This rule is not a major rule under 5 U.S.C. 804.

D. Regulatory Flexibility Act

The U.S. Agency for International Development certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the revisions of this rule will not impose any costs on either small or large businesses; therefore, an Initial Regulatory Flexibility Analysis has not been performed.

List of Subjects in 48 CFR Chapter 7, Parts 701, 702, 703, 704, 705, 706, 707, 709, 711, 713, 714, 715, 716, 717, 719, 722, 725, 726, 727, 728, 731, 732, 733, 736, 742, 745, 747, 750 and 752

Government procurement.

For the reasons discussed in the preamble, USAID amends 48 CFR chapter 7 as set forth below:

Parts 701, 702, 703, 704, 705, 706, 707, 709, 711, 713, 714, 715, 716, 717, 719, 722, 725, 726, 727, 728, 731, 732, 733, 736, 742, 745, 747, 750 and 752

- 1. The authority citation for 48 CFR chapter 7 parts 701, 702, 703, 704, 705,

706, 707, 709, 711, 713, 714, 715, 716, 717, 719, 722, 725, 726, 727, 728, 731, 732, 733, 736, 742, 745, 747, 750 and 752 continues to read as follows:

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.

CHAPTER 7—[AMENDED]

- 2. Amend (48 CFR) chapter 7 as follows:

- a. Remove the word “FAR” and add, in its place, the words “(48 CFR) FAR” each time it appears in the following sections:

- i. 701.704;
- ii. 704.7004–1;
- iii. 702.270–1;
- iv. 704.7004–3(a);
- v. 706.302–70(c)(2) and (3);
- vi. 709.503;
- vii. 711.002–70 (a);
- viii. 715.303–70(b)(3);
- ix. 715.370–1(d)(3);
- x. 715.370–2(d)(4);
- xi. 716.303(c);
- xii. 719.270(c)(2);
- xiii. 719.271–1;
- xiv. 719.273–3 (a), (b), and (c);
- xv. 722.103–4;
- xvi. 722.805–70(c)(1) and (3);
- xvii. 725.170;
- xviii. 725.403;
- xix. 728.105–1(a);
- xx. 728.307–2(c);
- xxi. 728.309(a);
- xxii. 728.313(a);
- xxiii. 731.773;
- xxiv. 733.101(a) and (b);
- xxv. 733.103–70;
- xxvi. 733.103–71(b);
- xxvii. 733.103–72(b);
- xxviii. 736.602–3(b)(9);
- xxix. 736.602–5;
- xxx. 750.7102;
- xxxi. 752.202–1;
- xxxii. 752.204–70(c);
- xxxiii. 752.204–71(h) and 752.204–71

Alt I (h)(1);

xxxiv. 752.216–71(i) and 752.216–71

Alt 1 (j)(1);

xxxv. 752.229–70;

xxxvi. 752.242–70(a);

xxxvii. 752.245–70;

xxxviii. 752.7000; and

xxxix. 752.7018

- b. Remove the word “AIDAR” and add, in its place, the words “(48 CFR) AIDAR” each time it appears in the following sections:

- i. 704.7004–1(c);
- ii. 706.302–70(b)(4) and (c)(3);
- iii. 709.503;
- iv. 715.370–1(a);
- v. 719.271–6(a)(3);
- vi. 719.273–11(a) and (b);
- vii. 728.307–2(c);
- viii. 728.309(a);

- ix. 728.313(a);
- x. 731.205–6(b) and (m);
- xi. 731.371(b)(1) and (3);
- xii. 731.372;
- xiii. 731.373;
- xiv. 731.772;
- xv. 731.774;
- xvi. 742.1502(b);
- xvii. 747.507;
- xviii. 752.200;
- xix. 752.204–70(a) and (b)(2);
- xx. 752.219–71 introductory text;
- xxi. 752.228–3(b); and
- xxii. 752.7000.

■ c. Remove the words “Cognizant technical officer” and add, in their place, the words “contracting officer’s representative” each time they appear in the following sections:

- i. 719.271–5;
- ii. 722.805–70(f);
- iii. 742.1170–1;
- iv. 742.1170–3(b) and (c);
- v. 742.1170–4(b);
- vi. 752.7003(a); and
- vii. 752.7035.

■ d. Remove the words “Cognizant technical officers” and add, in their place, the words “Contracting officer’s representatives” each time they appear in the following sections:

- i. 719.270(c)(1);
- ii. 719.271–4; and
- iii. 719.271–5 section heading.

■ e. Remove the words “Contracting Officer” and add, in their place, the words “contracting officer” each time they appear in the following sections:

- i. 701.707;
- ii. 715.303–70(b)(3);
- iii. 719.273–11(a) and (b);
- iv. 722.805–70(c)(1);
- v. 731.205–71(c);
- vi. 733.103–71(a);
- vii. 733.103–72(b);
- viii. 733.103–73(c);
- ix. 736.602–2(c);
- x. 752.204–70(b)(2);
- xi. 752.209.71(a) and (b);
- xii. 752.216–70(b);
- xiii. 752.227–14(d)(2) and (3);
- xiv. 752.228–70(a) and (b);
- xv. 752.231–71(b);
- xvi. 752.245–71(c)(2);
- xvii. 752.7001;
- xviii. 752.7002;
- xix. 752.7003;
- xx. 752.7007(b);
- xxi. 752.7008(a) and (b);
- xxii. 752.7009(d);
- xxiii. 752.7011(c);
- xxiv. 752.7025;
- xxv. 752.7027(a)(1), (a)(2), and (f)(1)(iv);
- xxvi. 752.7031(a)(3), (c), and (e);
- xxvii. 752.7033 (b)(1) and (b)(2)(iii); and
- xxviii. 752.7035.

■ f. Remove the word “government” and add, in its place, the word

“Government” each time it appears in the following sections:

- i. 701.106(b);
- ii. 706.302–70(b)(5);
- iii. 715.370–1(d)(2) and (3);
- iv. 719.273–4(b)(3);
- v. 727.404(g);
- vi. 733.103–71(c); and
- vii. 752.227–14(d)(3).

SUBCHAPTER A—GENERAL

PART 701—FEDERAL ACQUISITION REGULATION SYSTEM

Subpart 701.1—Purpose, Authority, Issuance

■ 3. Redesignate 701.105 as 701.106 and amend newly redesignated 701.106 by:

- a. Revising paragraph (a); and
- b. Removing the last sentence of paragraph (c).

The revisions read as follows:

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

* * * * *

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

701.301 [Amended]

■ 4. Amend 701.301 by:

- a. In the introductory sentence of paragraph (a), removing the words “Director, Office of Acquisition and Assistance (“M/OAA Director”)” and adding, in their place, the words “Director, Bureau for Management, Office of Acquisition and Assistance (“M/OAA Director”)”;
- b. In paragraph (a)(4), removing the words “General counsel” and adding, in their place, the words “Office of the General Counsel”; and
- c. In the second sentence of paragraph (b)(2), removing the words “The Office of Administrative Services” and adding, in their place, the words “The Bureau for Management, Office of Management Services (M/MS)”.

■ 5. Amend 701.303 by:

- a. In paragraph (b), removing the words “FAR 1.1” and add, in their place, the words “FAR subpart 1.1”; and
- b. Revising paragraph (c).

The revisions read as follows:

701.303 Publication and codification.

* * * * *

(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

■ 6. Revise 701.402 to read as follows:

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.

■ 7. Amend 701.470 by:

- a. In paragraph (a)(3), removing the words “Office of General Counsel” and adding, in their place, the words “Office of the General Counsel”; and
- b. Revising paragraphs (a)(2), (b)(2), (b)(3)(i), (d), and (f)(1).

The revisions read as follows:

701.470 Procedures.

(a) * * *

(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.

* * * * *

(b) * * *

(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) * * *

(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.

* * * * *

(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.

* * * * *

(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.

* * * * *

Subpart 701.6—Career Development, Contracting Authority and Responsibilities

- 8. Amend 701.601 by:
 - a. Revising the section heading;
 - b. In paragraph (b), removing the word “government-wide” and adding, in its place, the word “Government-wide”;
 - c. In the last sentence of paragraph (b), removing the reference “701-376-4” and adding, in its place, the reference “(48 CFR) AIDAR 701.601”; and
 - d. Revising paragraph (a)(1), the introductory text of paragraph (a)(2), the heading of paragraph (c)(1), and paragraphs (c)(2) and (3)

The revisions read as follows:

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:

* * * * *

(c) * * *

(1) *Director, the Bureau of Democracy, Conflict and Humanitarian Assistance, the Office of U.S. Foreign Disaster Assistance (DCHA/OFDA).* * * *

(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.

■ 9. Revise 701.602-1 to read as follows:

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.

■ 10. Revise the section heading for 701.603 to read as follows:

701.603 Selection, appointment, and termination of appointment of contracting officers.

* * * * *

■ 11. Revise the last sentence in 701.603-70 to read as follows:

701.603-70 Designation of contracting officers.

* * * In order 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.

PART 702—DEFINITIONS OF WORDS AND TERMS

■ 12. Subpart 702.170 is revised to read as follows:

Subpart 702.170—Definitions

Sec.
702.170–1 Definitions.

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.

PART 703—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 703.1—Safeguards

■ 13. Redesignate 703.104–5 as 703.104–4 and revise newly redesignated 703.104–4 to read as follows:

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).

■ 14. Redesignate 703.104–10.1 as 703.104–7 and revise newly redesignated 703.104–7 to read as follows:

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.

PART 704—ADMINISTRATIVE MATTERS

Subpart 704.4—Safeguarding Classified Information Within Industry

■ 15. Revise 704.404 to read as follows:

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.

704.7004–2 [Amended]

■ 16. Amend 704.7004–2(a) by removing the word “agency” and adding, in its place, the word “Agency”.

704.7005 [Amended]

■ 17. Amend 704.7005(c) by removing the words “(48 CFR) subpart 716.5” and add, in their place, the words “(48 CFR) AIDAR subpart 716.5”.

SUBCHAPTER B—ACQUISITION PLANNING

PART 705—PUBLICIZING CONTRACT ACTIONS

705.002 [Removed and Reserved]

■ 18. Remove and reserve 705.002.

Subpart 705.2—Synopsis of Proposed Contract Actions

705.202 [Amended]

■ 19. Amend 705.202 by:

■ a. In paragraph (b), removing the words “Administrator for Federal Procurement Policy” and adding, in their place, the words “Administrator of the Office of Management and Budget's Office of Federal Procurement Policy”; and

■ b. Remove and reserve paragraph (c).

705.207 [Removed and Reserved]

■ 20. Remove and reserve 705.207.

■ 21. Add subpart heading 705.5 before 705.502 to read as follows:

Subpart 705.5—Paid Advertisement

* * * * *

PART 706—COMPETITION REQUIREMENTS

706.003 [Removed]

■ 22. Remove 706.003.

Subpart 706.3—Other than Full and Open Competition

706.302–5 [Removed and Reserved]

■ 23. Remove and reserve 706.302–5.

■ 24. Amend 706.302–70 by:

- a. Removing the reference “40 U.S.C. 474” in paragraph (a)(1) and adding, in its place, the reference “40 U.S.C. 113”;
- b. Revising paragraph (c)(1); and
- c. Removing the reference “FAR 6.303–2(a)(12)” in paragraph (c)(4) and adding, in its place, the reference “(48 CFR) FAR 6.303–2 (b)(12)”.

The revision reads as follows:

706.302–70 Impairment of foreign aid programs.

* * * * *

(c) * * *

(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.

* * * * *

706.302–71 [Removed and Reserved]

■ 25. Remove and reserve 706.302–71.

706.303–1 [Removed]

■ 26. Remove 706.303–1.

Subpart 706.5—Competition Advocates

■ 27. Revise 706.501 to read as follows:

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 PLANING

■ 28. Add subpart 707.1 to read as follows:

Subpart 707.1—Acquisition Plans

Sec.

707.104 General procedures.

Subpart 707.1—Acquisition Plans

707.104 General procedures.

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

PART 709—CONTRACTOR QUALIFICATIONS

Subpart 709.4—Debarment, Suspension, and Ineligibility

■ 29. Revise 709.403 to read as follows:

709.403 Definitions.

Debarring official in USAID is the Senior Deputy Assistant Administrator, Bureau for Management.

Suspending official in USAID is the Senior Deputy Assistant Administrator, Bureau for Management.

Subpart 709.5—Organizational Conflicts of Interest

709.503 [Amended]

■ 30. In 709.503:

■ a. Remove the reference “702.170–10” and add, in its place, the reference “702–170”; and

■ b. Remove the words “Agency head” and add, in their place, the words “agency head”.

PART 711—DESCRIBING AGENCY NEEDS

711.002–70 [Amended]

■ 31. Amend 711.002–70 by:

■ a. In paragraph (b)(1), removing the words “ADS chapter 323” and adding, in their place, the words “ADS Chapter 323”; and

■ b. In paragraph (b)(3), removing the acronym “SDB” and adding, in its place, the acronym “OSDBU”;

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

PART 713—SIMPLIFIED ACQUISITION PROCEDURES

■ 32. Revise the heading for subpart 713.1 to read as follows:

Subpart 713.1—Procedures.

* * * * *

713.101 [Redesignated as 713.001]

- 33. Redesignate 713.101 as 713.001.

PART 714—SEALED BIDDING

Subpart 714.4—Opening of Bids and Award of Contract

714.406–3 [Redesignated as 714.407–3 and Amended]

- 34. Redesignate 714.406–3 as 714.407–3 and amend newly redesignated 714.407–3 by removing the reference “FAR 14.406–3” and adding, in its place, the reference “(48 CFR) FAR 14.407–3”.

- 35. Redesignate 714.406–4 as 714.407–4 and amend newly redesignated 714.407–4 by:

- a. Revising the section heading; and
- b. Removing the reference “FAR 14.406–4” and adding, in its place, the reference “(48 CFR) FAR 14.407–4”.

The revision reads as follows:

714.407–4 Mistakes after award.

* * * * *

PART 715—CONTRACTING BY NEGOTIATION

Subpart 715.3—Source Selection

- 36. Amend 715.305 by removing and reserving paragraph (a) and revising paragraphs (b) and (c) to read as follows:

715.305 Proposal evaluation.

* * * * *

(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).

715.370–1 [Amended]

- 37. Amend 715.370–1 by:
 - a. In paragraph (d)(2)(iv), removing the abbreviation “PIO/T” and adding, in its place, the word “requisition”.
 - b. In paragraph (d)(4), remove the phrase “715.608 of this subpart” and adding, in its place, the reference “715.303–70”.

715.370–2 [Amended]

- 38. In paragraphs (b) and (d)(4) of 715.370–2, remove the references “AIDR appendix F” and “AIDAR appendix F” and add, in their place, the reference “(48 CFR) AIDAR appendix F”.

Subpart 715.6—Unsolicited Proposals

- 39. Amend 715.602 by:
 - a. In paragraph (a), removing the word “Futher” and add, in its place, the word “Further”; and
 - b. Revising paragraph (c).
The revision reads as follows:

715.602 Policy.

* * * * *

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

- 40. Revise 715.604 to read as follows:

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

Subpart 716.3—Cost Reimbursement Contracts

716.406 [Amended]

- 41. In 716.406, remove the words “Contracting Officer shall include” and add, in their place, the words “contracting officer must insert”.
- 42. Revise the section heading for 716.505–70 to read as follows:

716.505–70 Partner vetting—orders under indefinite delivery contracts.

* * * * *

PART 717—SPECIAL CONTRACTING METHODS

717.700 [Redesignated as 717.770]

- 43. Redesignate 717.700 as 717.770.

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

PART 719—SMALL BUSINESS PROGRAMS

719.270, 719.271–2, 719.271–3, 719.271–4, 719.271–5, 719.271–6, and 719.271–7 [Amended]

- 44. In 719.270, 719.271–2, 719.271–3, 719.271–4, 719.271–5, 719.271–6, and 719.271–7, remove the acronym “SDB” and add, in its place, the acronym “OSDBU” each time it appears.

Subpart 719.2—Policies

719.270 [Amended]

- 45. Amend 719.270 by:
 - a. In paragraph (a), removing the words “United States small business” and adding, in their place, the words “U.S. small businesses”; and
 - b. In paragraph (e), removing the phrase “subsection 702.170–10” and adding, in its place, the reference “702–170”.

719.271–1 [Amended]

- 46. Amend 719.271–1 by removing the words “Small Business concerns” each time they appear and add, in their place, the words “Small business concerns”.

719.271–2 [Amended]

- 47. Amend 719.271–2 by:
 - a. In paragraph (b), removing the words “Director SDB” and adding, in their place, the words “Director, OSDBU”; and
 - b. Removing and reserving paragraph (b)(4).

719.271–3 [Amended]

- 48. Amend 719.271–3 by:

- a. In the introductory text, removing the word “jurisdiction” and adding, in its place, the word “jurisdiction”; and
- b. In paragraphs (a) and (n), removing the words “part 19 of the FAR” and adding, in their place, the words “part 19 of the (48 CFR) FAR”.

719.271–4 [Amended]

- 49. Amend 719.271–4 by:
 - a. In the introductory text, removing the word “agency” and adding, in its place, the word “Agency”; and
 - b. In paragraph (c), removing the words “cognizant technical officers” and adding, in their place, the words “contracting officer’s representatives”.

719.272 [Removed and Reserved]

- 50. Remove and reserve 719.272
- 51. Add subpart 719–7 after subpart 719.273 to read as follows:

Subpart 719–7—The Small Business Subcontracting Program

Sec.
719.708 Contract clause.

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

Subpart 722.1—Basic Labor Policies

- 52. In 722.170, revise the first sentence of paragraph (a) to read as follows:

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

(a) * * * 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. * * *

* * * * *

Subpart 722.8—Equal Employment Opportunity

- 53. Amend 722.805–70 by:
 - a. In the first sentence of paragraph (a), removing the reference “(48 CFR) FAR 22.804–2” and adding, in its place, the reference “(48 CFR) FAR 22.804–1”; and
 - b. Revising paragraph (b).
The revision reads as follows:

722.805–70 Procedures.

* * * * *

(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.

* * * * *

- 54. Add 722.810 to read as follows:

722.810 Solicitation provisions and contract clauses.

The contracting officer must insert the clause at 752.222–70, USAID Disability Policy, in section H of all solicitations and resulting contracts.

PART 725—FOREIGN ACQUISITIONS

- 55. Revise subpart 725.70 to read as follows:

Subpart 725.70—Source and Nationality

Sec.
725.701 General.
725.702 Designation of authorized geographic code.
725.703 Source and Nationality requirements—Contract clause.
725.704 Geographic Code waivers.

Subpart 725.70—Source and Nationality

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.

PART 726—OTHER SOCIOECONOMIC PROGRAMS

Subpart 726.70—[Removed and Reserved]

- 56. Remove and reserve subpart 726.70.

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

PART 727—PATENTS, DATA, AND COPYRIGHTS

- 57. Add subpart 727.3 to read as follows:

Subpart 727.3—Patent Rights under Government Contracts

Sec.
727.303 Contract clause.

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 [Amended]

- 58. In paragraph (g) of 727.404, remove the words “shall incorporate”

and add in their place, the words “must insert”.

727.409 [Amended]

■ 59. Amend 727.409(a) by:

■ a. Removing the word “incorporates” and adding, in its place, the word “inserts”; and

■ b. Removing the words “(48 CFR) 752.227–14” and adding, in their place, the words “(48 CFR) AIDAR 752.227–14”.

PART 728—BONDS AND INSURANCE

Subpart 728.1—Bonds

■ 60. Revise 728.105–1(b) to read as follows:

728.105–1 Advance payment bonds.

* * * * *

(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).

* * * * *

Subpart 728.3—Insurance

728.307–70 [Amended]

■ 61. In 728.307–70, remove the words “Contracting Officer shall insert” and add, in their place, the words “contracting officer must insert”.

PART 731—CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 731.1—Applicability

731.109 [Amended]

■ 62. In 731.109, remove the words “Overhead and Special Cost and Contract Close-Out Branch, Office of Acquisition and Assistance” and add, in their place, the words “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)”.

■ 63. Revise 731.205–46 to read as follows:

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.

731.205–71 [Amended]

■ 64. Revise 731.205–71 by:

■ a. In paragraph (c), removing “(on ADS–CD under USAID Handbooks, Handbook 1)” and adding, in their place, “in ADS Chapter 302”;

■ b. In paragraph (d), removing the words “Contracting Officer” and adding, in their place, the words “Contracting officer”.

Subpart 731.7—Contracts with Nonprofit Organizations

731.770 [Amended]

■ 65. Revise 731.770(a) by:

■ a. Removing the words “Director, Office of Acquisition and Assistance” and adding, in their place, the words “Director, Bureau for Management, Office of Acquisition and Assistance”;

■ b. Removing the words “Overhead and Special Cost and Contract Close-Out Branch, Office of Acquisition and Assistance (OCC)” and adding, in their place, the words “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)”;

■ c. Removing the abbreviation “OCC” and adding, in its place, the abbreviation “M/OAA/CAS/OCC”.

PART 732—CONTRACT FINANCING

Subpart 732.1 [Removed]

■ 66. Remove subpart 732.1.

■ 67. Revise the heading for subpart 732.4 to read as follows:

Subpart 732.4—Advance Payments for Non-Commercial Items

* * * * *

■ 68. Revise 732.402 to read as follows:

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.

■ 69. Revise 732.406–71, 732.406–72, 732.406–73, and 732.406–74 to read as follows:

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

Subpart 733.1—Protests

733.103–72 [Amended]

■ 70. Amend 733.103–72(a) by removing the words “Assistant General Counsel for Litigations and Enforcement (GC/LE)” and adding, in their place, the words “Office of the General Counsel’s Division for Litigation and Enforcement (GC/LE)”.

■ 71. Amend 733.103–73 by:

- a. Revising the section heading; and
- b. In paragraph (d), removing the words “General Accounting Office (GAO)” and adding, in their place, the words “Government Accountability Office (GAO)”.

The revision reads as follows:

733.103–73 Protests excluded from Agency consideration.

* * * * *

Subpart 733.27—USAID Procedures for Disputes and Appeals

■ 72. Redesignate 733.270–1 as 733.270 and revise newly redesignated 733.270 to read as follows:

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.

733.270–2 [Removed]

■ 73. Remove 733.270–2.

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

PART 736—CONSTRUCTION AND ARCHITECT—ENGINEER CONTRACTS

■ 74. Add subpart 736.5 to read as follows:

Subpart 736.5—Contract Clauses

Sec.

736.570 Disability Standards in Construction 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

736.603 [Removed and Reserved]

■ 75. Remove and reserve 736.603.

SUBCHAPTER G—CONTRACT MANAGEMENT

PART 742—CONTRACT ADMINISTRATION

Subpart 742.11—Production, Surveillance, and Reporting

742.1170–2 [Amended]

■ 76. Revise 742.1170–2 by:

■ a. In paragraph (b), removing the words “FAR 48 CFR” each time they appear and adding, in their place, the words “(48 CFR) FAR”.

■ b. In paragraph (c), removing the words “FAR 48 CFR” and adding, in their place, the words “(48 CFR) FAR”.

Subpart 742.15—Contractor Performance Information

742.1502 [Amended]

■ 77. Amend 742.1502 by:

■ a. Removing and reserving paragraph (a); and

■ b. In paragraph (b), removing the words “FAR subpart 42.15” and adding, in their place, the words “(48 CFR) FAR subpart 42.15”.

742.1503 [Amended]

■ 78. Amend 742.1503(b) by removing the words “FAR 42.1503(b)” and adding, in their place, the words “(48 CFR) FAR 42.1503”.

PART 745—GOVERNMENT PROPERTY

Subpart 745.1—General

■ 79. Redesignate 745.106 as 745.107 and revise newly redesignated 745.107 to read as follows:

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.

PART 747—TRANSPORTATION

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

747.507 [Amended]

■ 80. Amend 747.507 by:

■ a. Removing the reference “FAR 27.507(a)” and adding, in its place, the reference “FAR 47.507(a)”;

■ b. Removing the words “Contracting Officer shall” and “Contracting officer shall” and adding, in their place, the words “Contracting officer must”.

PART 750—Extraordinary Contractual Actions

Subpart 750.71—Extraordinary Contractual Actions to Protect Foreign Policy Interests of the United States

750.7109–1 [Amended]

■ 81. In 750.7109–1, remove the words “Office of Acquisition and Assistance, Evaluation Division (M/OAA/E)” and add, in their place, the words “Bureau for Management, Office of Acquisition and Assistance, Evaluation Division (M/OAA/E)”.

750.7109–2 [Amended]

■ 82. In 750.1109–2, remove the reference “FAR 50.303” add, in its place, the reference “(48 CFR) FAR 50.103–3”.

750.7109–3 [Amended]

■ 83. In 750.1109–3, remove the references “FAR 50.304” and add, in its place, the reference “(48 CFR) FAR 50.103–4”.

750.7110-1 [Amended]

■ 84. In 750.7110-1, remove the words “Evaluation Division of the Office of Acquisition and Assistance (M/OAA/E)” and add, in their place, the words “Bureau for Management, Office of Acquisition and Assistance, Evaluation Division (M/OAA/E)”.

750.7110-3 [Amended]

■ 85. Amend the section heading for 750.1110-3 by removing the acronym “M/OP Director” and adding, in its place, the acronym “M/OAA Director”.

SUBCHAPTER H—CLAUSES AND FORMS

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 86. Add subpart 752.1 to read as follows:

Subpart 752.1—Instructions for Using Provisions and Clauses

Sec.

752.102 Incorporating provisions and clauses.

752.107 AIDAR provisions and clauses prescribed in this subpart.

Subpart 752.1—Instructions for Using Provisions and Clauses

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 to 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

■ 87. Amend 752.202-1 by:

■ a. In paragraph (c), revising the clause heading and paragraph (b) of the clause; and

■ b. In paragraph (d), revising the clause heading and paragraphs (b) and (g) of the clause.

The revisions read as follows:

752.202-1 Definitions.

* * * * *

(c) *Alternate 71.* * * *

USAID DEFINITIONS CLAUSE— SUPPLEMENT FOR CONTRACTS WITH AN EDUCATIONAL INSTITUTION FOR PARTICIPANT TRAINING (MAY 2011)

* * * * *

(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.

* * * * *

(d) *Alternate 72.* * * *

USAID Definitions Clause—Supplement for USAID Contracts Involving Performance Overseas (JUNE 2009)

* * * * *

(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.

* * * * *

(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.

■ 88. Revise 752.204-2 to read as follows:

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.

■ 89. Add 752.204–72 to read as follows:

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 [Amended]

■ 90. In the introductory text of 752.209–71, remove the word “include” and add, in its place, the word “insert”.

752.216–70 [Amended]

■ 91. Amend 752.216–70 by removing paragraph (c) of the contract clause.

■ 92. Revise 752.219–8 to read as follows:

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 [Amended]

■ 93. In 752.219–70, remove the words “USAID Mentor-Protégé Program (July 13, 2007)” and add, in their place, the words “USAID Mentor-Protégé Program (July 2007)”.

752.219–71 [Amended]

■ 94. In 752.219–71, remove the words “Mentor Requirements and Evaluation (July 13, 2007)” and add, in their place, the words “Mentor Requirements and Evaluation (July 2007)”.

■ 95. Add 752.222–70 to read as follows:

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.

■ 96. Revise 752.225–70 to read as follows:

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.

752.225-71 [Removed]

- 97. Remove 752.225-71.

752.226-1, 752.226-2, 752.226-3 [Removed and Reserved]

- 98. Remove and reserve 752.226-1, 752.226-2, and 752.226-3.
- 99. Add 752.227-70 to read as follows:

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.

- 100. In 752.228-3, revise the introductory text and add a clause heading and introductory text before paragraph (a) of the clause to read as follows:

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:

* * * * *

- 101. Amend 752.228-7 by:
 - a. Revising the introductory text;
 - b. Adding a clause heading and introductory text before the clause; and
 - c. In the text of the clause, removing the words "minimum coverages or such other minimum coverages" and adding, in their place, the words "minimum coverage or such other minimum coverage".

The addition reads as follows:

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 (JULY 1997)

The following paragraph is added to the clause specified in (48 CFR) FAR 52.228-7:

* * * * *

- 102. In 752.228-9, revise the introductory text and add a clause heading immediately following the introductory text to read as follows:

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)

* * * * *

752.228-70 [Amended]

- 103. In the first sentence of 752.228-70(a), remove the word "Contractor"

and add, in its place, the words "The contractor".

- 104. In 752.231-71, revise the date in the clause heading and add paragraph (c) to read as follows:

752.231-71 Salary supplements for Host Government 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 Host Government Employees (MAR 2015)

* * * * *

(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.

- 105. Revise 752.232-70 to read as follows:

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.

■ 106. Add 752.236–70 to read as follows:

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 (July 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 [Amended]

■ 107. In 752.242–70, remove the reference "742.1170–3(c)" in the introductory text, and add, in its place, the reference "(48 CFR) AIDAR 742.1170–4(c)".

■ 108. Amend 752.245–70 by:

■ a. Removing the reference "FAR 45.106" in the introductory text, and adding, in its place, the reference "(48 CFR) FAR 45.107";

■ b. Adding a clause heading immediately following the Preface sentence;

■ c. Removing the words "government property" and add, in their place, the words "Government property";

■ d. Removing the words "government-furnished" and "Government furnished" and adding, in their place, the words "Government-furnished"; and

■ e. Revising the annual report.

The addition and revision read as follows:

752.245–70 Government Property—USAID Reporting Requirements.

* * * * *

Preface: * * *

Government Property—USAID Reporting Requirements (July 1997)

* * * * *

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 nonexpendable property
		Office	Living quarters	
A. Value of property as of last report.				
B. Transactions during this reporting period.				
1. Acquisitions (add):				
a. Purchased by contractor ¹ .				
b. Transferred from USAID 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	Years

¹ 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 more than \$500.

² Government furnished property listed in this Contract as nonexpendable.

³ Explain if transactions were not processed through or otherwise authorized by USAID.

* * * * *

■ 109. Amend 752.245–71 by revising the introductory text to read as follows:

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.

* * * * *

■ 110. Amend 752.247–70 by:

- a. In paragraph (b), removing the last sentence;
- b. Revising paragraphs (c)(1) and (c)(2)(viii); and
- c. Removing Alternate 1, consisting of paragraphs (d) and (e).

752.247–70 Preference for Privately Owned U.S.-Flag Commercial Vessels.

* * * * *

(c)(1) The contractor must submit one legible copy of a rated on-board ocean bill of lading for each shipment to both the Division of National Cargo, Office of Cargo Preference, Maritime Administration, U.S. Department of Transportation, 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*.
- (2) * * * * *
- (viii) Gross weight in kilograms/pounds and volume in liters/cubic feet, if available.

* * * * *

■ 111. Add 752.252–1 to read as follows:

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.

■ 112. Add 752.252–2 to read as follows:

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.

■ 113. Add 752.252–70 to read as follows:

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

752.7001 [Amended]

■ 114. In the clause prescription of 752.7001, remove the word “included” and add, in its place, the word “inserted”.

■ 115. Amend 752.7002 by revising the fifth and sixth sentences of paragraph (b), the third sentence of paragraph (k), and paragraph (p)(1)(i) to read as follows:

752.7002 Travel and transportation.

* * * * *

(b) *International travel.* * * * 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. * * *

* * * * *

(k) *Home leave travel.* * * * 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. * * *

* * * * *

(p) * * *
(1) * * *

(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*.

* * * * *

752.7003 [Amended]

■ 116. In 752.7003, remove the word “responsibility” and add, in its place, the word “responsibility”;

752.7004 [Amended]

■ 117. In the clause prescription of 752.7004, remove the word “included” and add, in its place, the word “inserted”.

■ 118. Revise 752.7005 to read as follows:

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 (Sept 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. In the case of databases and computer software the submissions must also include necessary descriptive information, e.g., special backup or data compression routines, software used for storing/retrieving submitted data, or program installation instructions.

(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 [Amended]

■ 119. Amend 752.7006 by removing the words "cognizant Contracting Officer" and adding, in their place, the words "cognizant contracting officer".

■ 120. Amend 752.7014 by:

- a. In paragraph (a), removing the words "the Standardized Regulations (Government Civilians, Foreign Areas), the Uniform State/USAID/USIA Foreign Service Travel Regulations" and adding, in their place, the words "the Department of State Standardized Regulations, Foreign Service Travel Regulations"; and
- b. Revising paragraphs (b) and (c). The revisions read as follows:

752.7014 Notice of Changes in 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=fr&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.

■ 121. Amend 752.7015 by revising paragraphs (a)(1) and (2) to read as follows:

752.7015 Use of Pouch Facilities.

* * * * *

(a) * * *

(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).

* * * * *

752.7018 [Amended]

■ 122. Amend 752.7018 by:

- a. In paragraph (a), removing the words "Automated Directive System (ADS) 253.5.6b" and adding, in their place, the words "Automated Directive System (ADS) 253"; and
- b. In paragraph (b), removing the words "Global Center for Human Capacity Development (G/HCD)" and adding, in their place, the words "Director, Bureau for Economic Growth, Education and Environment, Office of Education (E3/ED)".

752.7019 [Amended]

■ 123. Amend 752.7019 by:

- a. In paragraph (b), removing the words "The current version of Chapter 253 may be obtained directly from the USAID Web site at <http://www.info.usaid.gov/pubs/ads/200>" and adding, in their place, the words "The entire ADS is accessible to the general public at the following USAID Internet address: <http://www.usaid.gov/policy/ads/>"; and
- b. In paragraph (c), removing the words "ADS 253.5.5" and adding, in their place, the words "ADS 253".

752.7028 [Amended]

- 124. Amend 752.7028(e) by removing the word "allownce" and adding, in its place, the word "allowance";
- 125. Revise 752.7032 to read as follows:

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 [Amended]

■ 126. In 752.7033(b)(1) remove the second sentence.

753.107 [Amended]

■ 127. In 753.107, remove the words "cognizant Contracting Officer" and

add, in their place, the words "cognizant contracting officer".

Dated: October 7, 2014.

Aman S. Djahanbani,

Chief Acquisition Officer.

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