

SUBCHAPTER H—CLAUSES AND FORMS

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

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

Subpart 752.2—Texts of Provisions and Clauses

752.200 Scope of subpart.

None of the clauses specified in this subpart are for use in USAID personal

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services contracts. For personal services contract clauses, see AIDAR Appendix D—Direct USAID Contracts with U.S. Citizens or U.S. Residents for Personal Services Abroad and AIDAR Appendix J—Direct USAID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad.

[49 FR 13259, Apr. 3, 1984, as amended at 51 FR 11450, Apr. 3, 1986; 51 FR 12706, Apr. 15, 1986; 57 FR 5236, Feb. 13, 1992; 62 FR 40469, July 29, 1997]

752.202-1 Definitions.

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

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

USAID DEFINITIONS CLAUSE—GENERAL SUPPLEMENT FOR USE IN ALL USAID CONTRACTS (JAN 1990)

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

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

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

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

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

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

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

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

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

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

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

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

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

USAID DEFINITIONS CLAUSE—SUPPLEMENT FOR CONTRACTS WITH AN EDUCATIONAL INSTITUTION FOR PARTICIPANT TRAINING (APR 1984)

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

(b) *Director* shall mean the individual who fills the USAID position of Director, Center for Human Capacity Development (G/HCD), or his/her authorized representative acting within the limits of his/her authority.

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

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

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

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

USAID DEFINITIONS CLAUSE—SUPPLEMENT FOR USAID CONTRACTS INVOLVING PERFORMANCE OVERSEAS (DEC 1986)

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

(b) *Cooperating Country National (CCN) employee* means an individual who meets the citizenship requirements of 48 CFR 702.170-5

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and is hired while residing outside the United States for work in a cooperating country.

(c) *Dependents* shall mean:

(1) Spouse;

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

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

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

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

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

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

(g) *Third Country National (TCN) employee* means an individual who meets the citizenship requirements of 48 CFR 702.170-15 and is hired while residing outside the United States for work in a Cooperating Country.

[49 FR 13259, Apr. 3, 1984, as amended at 52 FR 4145, Feb. 10, 1987; 52 FR 38098, Oct. 14, 1987; 55 FR 6802, Feb. 27, 1990; 64 FR 42042, Aug. 3, 1999]

752.204-2 Security requirements.

Pursuant to the Uniform State/USAID/USIA Regulations (Volume 12, Foreign Affairs Manual, Chapter 540), USAID applies the safeguards applicable to "Confidential" information to administratively controlled information designated as "Sensitive But Unclassified". Therefore, when the clause in FAR 52.204-2 is used in USAID contracts, pursuant to 704.404, 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.

[49 FR 13259, Apr. 3, 1984, as amended at 49 FR 33668, Aug. 24, 1984; 62 FR 40469, July 29, 1997; 64 FR 5008, Feb. 2, 1999]

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752.204-70 Partner vetting pre-award requirements.

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

PARTNER VETTING PRE-AWARD REQUIREMENTS (FEB 2012)

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

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

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

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

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

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

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

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the vetting official as the only individual authorized to clarify the offeror's and proposed subcontractor's vetting information.

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

- (i) Has passed vetting,
- (ii) Has not passed vetting, or
- (iii) Must provide additional information, and resubmit the USAID Partner Information Form with the additional information within the number of days the vetting official specified in the notification.

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

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

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

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

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

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

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

[77 FR 8171, Feb. 14, 2012]

752.204-71 Partner vetting.

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

PARTNER VETTING (FEB 2012)

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

(b) Definitions. As used in this provision—
Key individual means:

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

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

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

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

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

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

(d) The designated vetting official is:
Vetting official: _____

Address: _____

Email: _____ (for inquiries only)

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

- (i) Has passed vetting,
- (ii) Has not passed vetting, or
- (iii) Must provide additional information, and resubmit the USAID Partner Information Form with the additional information within the number of days the vetting official specifies.

(2) The vetting official will include in the notification any information that USAID's Office of Security (SEC) determines releasable. In its determination, SEC will take

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into consideration the classification or sensitivity of the information, the need to protect sources and methods, or status of ongoing law enforcement and intelligence community investigations or operations.

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

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

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

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

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

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

(End of clause)

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

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

(2) In addition, prospective subcontractors at any tier providing the following classes of items (supplies and services):

must pass vetting. Contractors must not place subcontracts for these classes of items

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until they receive confirmation from the vetting official that the prospective subcontractor has passed vetting.

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

[77 FR 8171, Feb. 14, 2012]

752.209-71 Organizational conflicts of interest discovered after award.

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

**ORGANIZATIONAL CONFLICTS OF INTEREST
DISCOVERED AFTER AWARD (JUN 1993)**

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

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

(End of clause)

[58 FR 42255, Aug. 9, 1993, as amended at 64 FR 5008, Feb. 2, 1999]

752.211-70 Language and measurement.

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

LANGUAGE AND MEASUREMENT (JUN 1992)

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

(b) Wherever measurements are required or authorized, they shall be made, computed, and recorded in metric system units of measurement, unless otherwise authorized by USAID in writing when it has found that such usage is impractical or is likely to cause U.S. firms to experience significant inefficiencies or the loss of markets. Where the

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metric system is not the predominant standard for a particular application, measurements may be expressed in both the metric and the traditional equivalent units, provided the metric units are listed first.

(End of clause)

[57 FR 23321, June 3, 1992. Redesignated at 61 FR 39095, July 26, 1996]

752.216-70 Award fee.

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

AWARD FEE (MAY 1997)

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

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

(c) Award fee determinations made by the Government under this contract are not subject to the Disputes clause.

(End of clause)

[64 FR 5008, Feb. 2, 1999]

752.216-71 Partner vetting in indefinite delivery contracts.

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

PARTNER VETTING IN INDEFINITE DELIVERY CONTRACTS (FEB 2012)

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

(b) Definitions. As used in this provision—
Key individual means:

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

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

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

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

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

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

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

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

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

Vetting official:

Address: _____

Email: _____ (for inquiries only)

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

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

- (i) Has passed vetting,
- (ii) Has not passed vetting, or
- (iii) Must provide additional information, and resubmit the USAID Partner Information Form with the additional information within the number of days the vetting official specifies.

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

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

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

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

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

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

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

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

(3) The fair opportunity process proceeds separately from vetting. Vetting is conducted independently from any discussions the contracting officer may have with an awardee. The awardee and any subcontractor

subject to vetting must not provide vetting information to other than the vetting official identified in the request for order proposal. The awardee and any subcontractor subject to vetting will communicate only with the vetting official regarding their vetting submission(s) and not with any other USAID or USG personnel, including the contracting officer or his/her representatives.

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

- (A) Has passed vetting,
- (B) Has not passed vetting, or
- (C) Must provide additional information, and resubmit the USAID Partner Information Form with the additional information within the number of days the vetting official specified in the notification.

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

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

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

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

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

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

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

(i) When the contractor anticipates awarding a subcontract for which consent is required under FAR clause 52.244-2, Subcontracts, the subcontract is subject to vetting. The prospective subcontractor must submit a USAID Partner Information Form, USAID Form 500-13, to the designated vetting official. The contracting officer must

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not consent to award of a subcontract to any organization that has not passed vetting when required.

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

(End of clause)

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

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

(2) In addition, prospective subcontractors at any tier providing the following classes of items (supplies and services):

must pass vetting. Contractors must not place subcontracts for these classes of items until they receive confirmation from the vetting official that the prospective subcontractor has passed vetting.

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

[77 FR 8172, Feb. 14, 2012]

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

The Foreign Assistance Act calls for USAID to give small businesses an opportunity to provide supplies and services for foreign assistance projects. To help USAID meet this obligation, the following paragraph is to be added to the clause prescribed in FAR 19.708(a):

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 shall, to the maximum extent possible, provide the following information to the Office of Small and Disadvantaged Business Utilization (OSDBU), USAID, Washington, DC 20523-1414, 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.

[49 FR 13259, Apr. 3, 1984, as amended at 52 FR 21059, June 4, 1987; 56 FR 2699, Jan. 24, 1991; 61 FR 39095, July 26, 1996; 62 FR 40469, July 29, 1997]

752.219-70 USAID Mentor-Protégé Program.

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

USAID MENTOR-PROTÉGÉ PROGRAM (JULY 13, 2007)

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

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

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

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

(End of provision)

[72 FR 32546, June 13, 2007]

752.219-71 Mentor requirements and evaluation.

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

MENTOR REQUIREMENTS AND EVALUATION
(JULY 13, 2007)

(a) Mentor and Protégé firms shall submit an evaluation of the overall experience in the Program to OSDBU at the conclusion of the mutually agreed upon Program period, the conclusion of the contract, or the voluntary withdrawal by either party from the Program, whichever occurs first. At the conclusion of each year in the Mentor-Protégé

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Program, the Mentor and Protégé will formally brief the USAID Mentor-Protégé Program Manager regarding Program accomplishments under their Mentor-Protégé Agreement.

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

(End of clause)

[72 FR 32546, June 13, 2007]

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

The clause prescribed by FAR 25.408(a)(2) is not generally included in USAID contracts when more stringent source requirements are stated in the contract or when inclusion is not appropriate under FAR 25.403, or 725.403 of this chapter. (See Executive Order 11223, dated May 12, 1965, 30 FR 6635.) The clause setting forth USAID's source restrictions is shown in section 752.225-70.

[49 FR 13259, Apr. 3, 1984, as amended at 54 FR 16122, Apr. 21, 1989; 59 FR 33447, June 29, 1994; 62 FR 40470, July 29, 1997]

752.225-70 Source, origin and nationality requirements.

The following clause is required as prescribed in 725.704.

SOURCE, ORIGIN AND NATIONALITY REQUIREMENTS (FEB 1997)

(a) Except as may be specifically approved by the Contracting Officer, all commodities (e.g., equipment, materials, vehicles, supplies) and services (including commodity transportation services) which will be financed under this contract with U.S. dollars shall be procured in accordance with the requirements in 22 CFR part 228, "Rules on Source, Origin and Nationality for Commodities and Services Financed by USAID." The authorized source for procurement is Geographic Code 000 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 shall 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,

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(5) Luxury goods and gambling equipment, or

(6) Weather modification equipment.

(c) Restricted goods. The Contractor shall not procure any of the following goods or services without the prior written approval of the Contracting Officer:

(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, and has received payment for such purposes, the Contracting Officer may require the contractor to refund the entire amount of the purchase.

[62 FR 40470, July 29, 1997; 62 FR 45334, Aug. 27, 1997]

752.225-71 Local procurement.

For use in any USAID contract involving performance overseas.

LOCAL PROCUREMENT (FEB 1997)

(a) Local procurement involves the use of appropriated funds to finance the procurement of goods and services supplied by local businesses, dealers, or producers, with payment normally being in the currency of the cooperating country.

(b) All locally-financed procurements must be covered by source/origin and nationality waivers as set forth in subpart F of 22 CFR part 228 except as provided for in 22 CFR 228.40, Local procurement.

[62 FR 40470, July 29, 1997; 62 FR 45334, Aug. 27, 1997; 62 FR 47532, Sept. 9, 1997]

752.226-1 Determination of status as disadvantaged enterprise.

As prescribed in 726.7006(a), insert the following provision:

DISADVANTAGED ENTERPRISE REPRESENTATION (APR 1991)

The offeror/contractor shall submit a representation in the following form to the contracting officer:

(a) *Representation.* The offeror represents that:

(1) It is, is not a small disadvantaged business.

(2) It is, is not an historically black college or university, as designated by the Secretary of Education pursuant to 34 CFR 608.2.

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(3) It is, is not a college or university having a student body in which more than 40 percent of the students are Hispanic American.

(4) It is, is not a private voluntary organization which is controlled by individuals who are socially and economically disadvantaged.

(b) *Definitions.* (1) *Asian Pacific Americans*, as used in this provision means United States citizens whose origins are in Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territory of the Pacific Islands (Republic of Palau), the Northern Mariana Islands, Laos, Kampuchea (Cambodia), Taiwan, Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Republic of the Marshall Islands, or the Federated States of Micronesia.

(2) *Controlled by socially and economically disadvantaged individuals* means management and daily business are controlled by one or more such individuals.

(3) *Native Americans*, as used in this provision means American Indians, Eskimos, Aleuts, and native Hawaiians.

(4) *Owned by socially and economically disadvantaged individuals* means at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged, or a publicly owned business having at least 51 percent of its stock owned by one or more socially and economically disadvantaged individuals.

(5) *Small business concern*, as used in this provision, means a U.S. concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualifies as a small business under the criteria and size standards in 13 CFR part 121.

(6) *Small disadvantaged business*, as used in this provision, means a small business concern that:

(i) Is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged, or a publicly owned business having at least 51 percent of its stock owned by one or more socially and economically disadvantaged individuals; and

(ii) Has its management and daily business controlled by one or more such individuals.

(7) *Subcontinent Asian Americans*, as used in this provision, means United States citizens whose origins are in India, Pakistan, Bangladesh, Sri Lanka, Bhutan, or Nepal.

(c) *Qualified groups.* The offeror shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, and women.

(End of provision)

[56 FR 27209, June 13, 1991, as amended at 62 FR 40470, July 29, 1997]

752.226-2 Subcontracting with disadvantaged enterprises.

As prescribed in 726.7007, insert the following clause:

SUBCONTRACTING WITH DISADVANTAGED ENTERPRISES (APR 1997)

NOTE: This clause does not apply to prime contractors that qualify as disadvantaged enterprises as described below.

(a) Not less than ten (10) percent of the dollar value of this contract shall be subcontracted to disadvantaged enterprises as described in paragraph (b) of this clause.

(b) Disadvantaged enterprises are U.S. organizations or individuals that are:

(1) Business concerns (as defined in FAR 19.001) owned and controlled by socially and economically disadvantaged individuals;

(2) Institutions designated by the Secretary of Education, pursuant to 34 CFR 608.2, as historically black colleges and universities;

(3) Colleges and universities having a student body in which more than 40 percent of the students are Hispanic American; or

(4) Private voluntary organizations which are controlled by individuals who are socially and economically disadvantaged.

(c) *Definitions.* (1) *Controlled by socially and economically disadvantaged individuals* means management and daily business are controlled by one or more such individuals.

(2) *Owned by socially and economically disadvantaged individuals* means at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged, or a publicly owned business having at least 51 percent of its stock owned by one or more socially and economically disadvantaged individuals.

(3) *Socially and economically disadvantaged individuals* has the same meaning as in FAR 19.001, except that the term also includes women.

(d) Contractors should require representations from their subcontractors regarding their status as a disadvantaged enterprise. Contractors acting in good faith may rely on such representations by their subcontractors.

(End of clause)

[56 FR 27210, June 13, 1991, as amended at 62 FR 40470, July 29, 1997]

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752.226-3 Limitation on subcontracting.

As prescribed in 726.7008, insert the following clause:

LIMITATIONS ON SUBCONTRACTING (JUN 1993)

By submission of an offer and execution of a contract, the Offeror/Contractor agrees that in performance of the contract, at least 51 percent of the cost of contract performance incurred for personnel shall be expended for employees of the contractor or employees of other disadvantaged enterprises eligible under the terms of 706.302-71. For the purposes of this clause, independent contractors hired by the contractor shall be considered employees of the contractor.

(End of clause)

[58 FR 42255, Aug. 9, 1993, as amended at 62 FR 40470, July 29, 1997]

752.227-14 Rights in Data—general.

As prescribed in 727.409(b), insert the following clause:

RIGHTS IN DATA—GENERAL (OCT 2007)

The following paragraph (d) replaces paragraph (d) of (48 CFR) FAR 52.227-14 Rights in Data—General.

(d) *Release, publication and use of data.* (1) For all data first produced or specifically used by the Contractor in the performance of this contract in the United States, its territories, or Puerto Rico, the Contractor shall have the right to use, release to others, reproduce, distribute, or publish such data, except to the extent such data may be subject to the Federal export control or national security laws or regulations, or unless otherwise provided in this paragraph of this clause or expressly set forth in this contract [see paragraph (d)(3) for limitations on contracts performed outside of the US].

(2) The Contractor agrees that to the extent it receives or is given access to data necessary for the performance of this contract which contain restrictive markings, the Contractor shall treat the data in accordance with such markings unless otherwise specifically authorized in writing by the Contracting Officer.

(3) For all data first produced or specifically used by the Contractor in the overseas performance of this contract, the Contractor shall not release, reproduce, distribute, or publish such data without the written permission of the Contracting Officer. The government also may require the contractor to assign copyright to the government or another party as circumstances warrant or as specifically stated elsewhere in the contract.

[72 FR 53164, Sept. 18, 2007]

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752.228-3 Worker's compensation insurance (Defense Base Act).

As prescribed in 728.309, the following supplemental coverage is to be added to the clause specified in FAR 52.228-3 by the USAID contracting officer.

(a) The Contractor agrees to procure Defense Base Act (DBA) insurance pursuant to the terms of the contract between USAID and USAID's DBA insurance carrier unless the Contractor has a DBA self insurance program approved by the Department of Labor or has an approved retrospective rating agreement for DBA.

(b) If USAID or the contractor has secured a waiver of DBA coverage (see AIDAR 728.305-70(a)) for contractor's employees who are not citizens of, residents of, or hired in the United States, the contractor agrees to provide such employees with worker's compensation benefits as required by the laws of the country in which the employees are working, or by the laws of the employee's native country, whichever offers greater benefits.

(c) The Contractor further agrees to insert in all subcontracts hereunder to which the DBA is applicable, a clause similar to this clause, including this sentence, imposing on all subcontractors a like requirement to provide overseas workmen's compensation insurance coverage and obtain DBA coverage under the USAID requirements contract.

[53 FR 50631, Dec. 16, 1988, as amended at 54 FR 16122, Apr. 21, 1989; 56 FR 67226, Dec. 30, 1991]

752.228-7 Insurance—liability to third persons.

As prescribed in 728.307-2(c), the following paragraph is to be added to the clause specified in FAR 52.228-7 as either paragraph (h) (if FAR 52.228-7 *Alternate I* is not used) or (i) (if FAR 52.228-7 *Alternate I* is used):

() *Insurance on private automobiles.* If the Contractor or any of its employees or their dependents transport or cause to be transported (whether or not at contract expense) privately owned automobiles to the Cooperating Country, or they or any of them purchase an automobile within the Cooperating Country, the Contractor agrees to make certain that all such automobiles during such ownership within the Cooperating Country will be covered by a paid-up insurance policy issued by a reliable company providing the following minimum coverages or such other minimum coverages as may be set by the Mission Director, payable in United States dollars or its equivalent in the currency of the Cooperating Country: injury to persons, \$10,000/\$20,000; property damage, \$5,000. The

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premium costs for such insurance shall not be a reimbursable cost under this contract. Copies of such insurance policies shall be preserved and made available as part of the Contractor's records which are required to be preserved and made available by the "Audit and Records—Negotiation" clause of this contract.

[53 FR 50632, Dec. 16, 1988, as amended at 54 FR 16122, Apr. 21, 1989; 62 FR 40470, July 29, 1997]

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 FAR 52.228-9:

PREFACE: To the extent that marine insurance is necessary or appropriate under this contract, the contractor shall ensure that U.S. marine insurance companies are offered a fair opportunity to bid for such insurance. This requirement shall be included in all subcontracts under this contract.

[53 FR 50632, Dec. 16, 1988]

752.228-70 Medical Evacuation (MEDEVAC) Services.

As prescribed in 728.307-70, for use in all contracts requiring performance overseas:

MEDICAL EVACUATION (MEDEVAC) SERVICES (JUL 2007)

(a) Contractor must provide MEDEVAC service coverage to all U.S. citizen, U.S. resident alien, and Third Country National employees and their authorized dependents (hereinafter "individual") while overseas under a USAID-financed direct contract. USAID will reimburse reasonable, allowable, and allocable costs for MEDEVAC service coverage incurred under the contract. The Contracting Officer will determine the reasonableness, allowability, and allocability of the costs based on the applicable cost principles and in accordance with cost accounting standards.

(b) *Exceptions.* (i) The Contractor is not required to provide MEDEVAC insurance to eligible employees and their dependents with a health program that includes sufficient MEDEVAC coverage as approved by the Contracting Officer.

(ii) The Mission Director may make a written determination to waive the requirement for such coverage. The determination must be based on findings that the quality of local medical services or other circumstances obviate the need for such coverage for eligible employees and their dependents located at post.

(c) Contractor must insert a clause similar to this clause in all subcontracts that re-

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quire performance by contractor employees overseas.

[59 FR 33447, June 29, 1994, as amended at 72 FR 19669, Apr. 19, 2007]

752.229-70 Federal, state and local taxes.

For contracts involving performance overseas the clauses prescribed in FAR 29.401-3 or 29.401-4 may be modified to specify that the taxes referred to are United States taxes.

752.231-71 Salary supplements for HG employees.

As prescribed in 731.205-71, for use in all contracts with a possible need or services of a HG employee. The clause should also be inserted in all subsequent sub-contracts.

SALARY SUPPLEMENTS FOR HG EMPLOYEES (OCT 1998)

(a) Salary supplements are payments made that augment an employee's base salary or premiums, overtime, extra payments, incentive payment and allowances for which the HG employee would qualify under HG rules or practice for the performance of his/hers regular duties or work performed during his/hers regular office hours. Per diem, invitational travel, honoraria and payment for work carried out outside of normal working hours are not considered to be salary supplements.

(b) Salary supplements to HG Employees are not allowable without the written approval of the Contracting Officer.

[64 FR 16649, Apr. 6, 1999]

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 (OCT 1989)

(a) Payment under this contract shall 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 Office of Financial Management, Cash Management and Payment Division (FM/CMP).

(b) As long as the LOC is in effect, the terms and conditions of the LOC and any instructions issued by FM/CMP constitute the payment conditions of this contract, superseding and taking precedence over any other clause of this contract concerning payment.

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(c) 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.

(d) Revocation of the LOC is at the discretion of FM/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 (c) of this clause.

[49 FR 13259, Apr. 3, 1984, as amended at 49 FR 33668, Aug. 24, 1984; 54 FR 46391, Nov. 3, 1989; 56 FR 67226, Dec. 30, 1991; 59 FR 33447, June 29, 1994]

752.242-70 Periodic progress reports.

As prescribed in 742.1170-3(c), insert the following clause in contracts for which periodic progress reports are required from the contractor. The term "contract" shall be interpreted as "task order" or "delivery order" when this clause is used in an indefinite-delivery contract.

PERIODIC PROGRESS REPORTS (OCT 2007)

(a) The contractor shall prepare and submit progress reports as specified in the contract schedule. These reports are separate from the interim and final performance evaluation reports prepared by USAID in accordance with FAR 42.15 and internal Agency procedures, but they may be used by USAID personnel or their authorized representatives when evaluating the contractor's performance.

(b) During any delay in furnishing a progress report required under this contract, the contracting officer may withhold from payment an amount not to exceed US\$25,000 (or local currency equivalent) or 5 percent of the amount of this contract, whichever is less, until such time as the contractor submits the report or the contracting officer determines that the delay no longer has a detrimental effect on the Government's ability to monitor the contractor's progress.

[72 FR 53164, Sept. 18, 2007]

752.245-70 Government property—USAID reporting requirements.

In response to a GAO audit recommendation, USAID contracts, except for those for commercial items, must contain the following preface and reporting requirement as additions to the appropriate Government Property clause prescribed by FAR 45.106.

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Preface: to be inserted preceding the text of the FAR clause.

The term *Government furnished property* wherever it may appear in the following clause, shall mean (1) non-expendable personal property owned by or leased to the U.S. Government and furnished to the contractor and (2) personal property furnished either prior to or during the performance of this contract by any U.S. Government accountable officer to the contractor for use in connection with performance of this contract and identified by such officer as accountable. The term *government property*, wherever it may appear in the following clause, shall mean government-furnished property and non-expendable personal property title to which vests in the U.S. Government under this contract. Non-expendable property, for purposes of this contract, is defined as 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.

Reporting Requirement: to be inserted following the text of the FAR clause.

Reporting Requirements: The contractor will submit an annual report on all non-expendable property in a form and manner acceptable to USAID substantially as follows:

ANNUAL REPORT OF GOVERNMENT PROPERTY IN CONTRACTOR'S CUSTODY

[(Name of contractor) as of (end of contract year), 19xx]

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

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.

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² Government furnished property listed in this Contract as non-expendable.

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

PROPERTY INVENTORY VERIFICATIONS

I attest that (1) physical inventories of Government property are taken not less frequently than annually; (2) the accountability records maintained for Government property in our possession are in agreement with such inventories; and (3) the total of the detailed accountability records maintained agrees with the property value shown opposite line C above, and the estimated average age of each category of property is as cited opposite line D above.

Authorized Signature

[49 FR 13259, Apr. 3, 1984, as amended at 62 FR 40470, July 29, 1997]

752.245-71 Title to and care of property.

As prescribed in 745.106(a), the following clause shall be included in all contracts when the contractor will acquire property under the contract for use overseas and the contract funds were obligated under a Strategic Objective agreement (or similar agreement) with the cooperating country.

TITLE TO AND CARE OF PROPERTY (APR 1984)

(a) Title to all non-expendable property purchased with contract funds under this contract and used in the Cooperating Country, shall at all times be in the name of the Cooperating Government, or such public or private agency as the Cooperating Government may designate, unless title to specified types or classes of non-expendable property is reserved to USAID under provisions set forth in the schedule of this contract; but all such property shall be under the custody and control of Contractor until the owner of title directs otherwise, or completion of work under this contract or its termination, at which time custody and control shall be turned over to the owner of title or disposed of in accordance with its instructions. All performance guaranties and warranties obtained from suppliers shall be taken in the name of the title owner. (Non-expendable property is property which is complete in itself, does not lose its identity or become a component part of another article when put into use; is durable, with an expected service life of two years or more; and which has a unit cost of \$500 or more.)

(b) Contractor shall prepare and establish a program, to be approved by the Mission, for the receipt, use, maintenance, protection, custody, and care of non-expendable property

for which it has custodial responsibility, including the establishment of reasonable controls to enforce such program.

(c)(1) For non-expendable property to which title is reserved to the U.S. Government under provisions set forth in the schedule of this contract, Contractor shall submit an annual report on all non-expendable property under its custody as required in the clause of this contract entitled "Government Property".

(2) For non-expendable property titled to the Cooperating Government, the Contractor shall, within 90 days after completion of this contract, or at such other date as may be fixed by the Contracting Officer, submit an inventory schedule covering all items of non-expendable property under its custody, which have not been consumed in the performance of this contract. The Contractor shall also indicate what disposition has been made of such property.

[49 FR 13259, Apr. 3, 1984, as amended at 62 FR 40470, July 29, 1997; 64 FR 5009, Feb. 2, 1999]

752.247-70 Preference for privately owned U.S.-flag commercial vessels.

As prescribed in 747.507, insert the following clause:

PREFERENCE FOR PRIVATELY OWNED U.S.-FLAG COMMERCIAL VESSELS (OCT 1996)

(a) Under the provisions of the Cargo Preference Act of 1954 (46 U.S.C. 1241(b)) at least 50 percent of the gross tonnage of equipment, materials, or commodities financed by USAID, or furnished without provision for reimbursement, or at least 75 percent of the gross tonnage of cargo moving under P.L. 480 financed by the U.S. Department of Agriculture, that may be transported in ocean vessels (computed separately for dry bulk carriers, dry cargo liners, and tankers) shall be transported in privately owned U.S.-flag commercial vessels.

(b) In accordance with USAID regulations and consistent with the regulations of the Maritime Administration, USAID applies Cargo Preference requirements on the basis of programs or activities that generally include more than one contract. Thus, the amount of cargo fixed on privately owned U.S.-flag vessels under this contract may be more or less than the required 50 or 75 percent, depending on current compliance with Cargo Preference requirements. If freight under the contract is fixed on a U.S. flag vessel, Alternate I of this clause shall apply.

(c)(1) The contractor shall 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

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20590, and the Transportation Division, Office of Acquisition and Assistance, USAID, Washington, DC 20523-7900.

(2) The contractor shall furnish these bill of lading copies within 20 working days of the date of loading for shipments originating in the United States, or within 30 working days for shipments originating outside the United States. Each bill of lading copy shall contain the following information:

- (i) Sponsoring U.S. Government agency.
- (ii) Name of vessel.
- (iii) Vessel flag registry.
- (iv) Date of loading.
- (v) Port of loading.
- (vi) Port of final discharge.
- (vii) Description of commodity.
- (viii) Gross weight in pounds and cubic feet if available.
- (ix) Total ocean freight revenue in U.S. dollars.

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(d) If freight is fixed on a U.S. flag vessel, except as provided in paragraph (e) of this clause, the contractor shall use privately owned U.S. flag commercial vessels, and no others, in the ocean transportation of any supplies to be furnished under this contract.

(e) If such vessels are not available, or not available at rates that are fair and reasonable for privately owned U.S. flag commercial vessels, the Contractor shall notify the contracting officer and request either authorization to ship in foreign-flag vessels or designation of available U.S.-flag vessels. If the Contractor is authorized in writing by the Contracting Officer to ship the supplies in foreign-flag vessels, the contract price shall be equitably adjusted to reflect the difference in costs of shipping the supplies in privately owned U.S.-flag commercial vessels and foreign-flag vessels.

[64 FR 5009, Feb. 2, 1999, as amended at 72 FR 19670, Apr. 19, 2007]

Subpart 752.70—Texts of USAID Contract Clauses

752.7000 Scope of subpart.

Subpart 752.70 contains the text of USAID-specific contract clauses for which there is no FAR equivalent. The clauses in this subpart do not apply to contracts for personal services. For personal service contract clauses see AIDAR Appendix D—Direct USAID Contracts with U.S. Citizens or U.S. Residents for Personal Services Abroad and AIDAR Appendix J—Direct USAID Contracts with Cooperating Country

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Nationals and with Third Country Nationals for Personal Services Abroad.

[49 FR 13259, Apr. 3, 1984, as amended at 57 FR 5237, Feb. 13, 1992]

752.7001 Biographical data.

The following clause is to be included in all USAID cost reimbursement contracts.

BIOGRAPHICAL DATA (JUL 1997)

The Contractor agrees to furnish to the Contracting Officer on USAID Form 1420-17, "Contractor Employee Biographical Data Sheet", biographical information on the following individuals to be employed in the performance of the contract: (1) All individuals to be sent outside the United States, or (2) any employees designated as "key personnel". Biographical data in the form usually maintained by the Contractor on the other individuals employed under the contract shall be available for review by USAID at the Contractor's headquarters. A supply of USAID Form 1420-17 will be provided with this contract. The Contractor may reproduce additional copies as necessary.

[62 FR 40470, July 29, 1997; 62 FR 45334, Aug. 27, 1997; 62 FR 47532, Sept. 9, 1997]

752.7002 Travel and transportation.

For use in cost reimbursement contracts performed in whole or in part overseas.

TRAVEL AND TRANSPORTATION (JAN 1990)

(a) *General.* The Contractor will be reimbursed for reasonable, allocable and allowable travel and transportation expenses incurred under and for the performance of this contract. Determination of reasonableness, allocability and allowability will be made by the Contracting Officer based on the applicable cost principles, the Contractor's established policies and procedures, USAID's established policies and procedures for USAID direct-hire employees, and the particular needs of the project being implemented by this contract. The following paragraphs provide specific guidance and limitations on particular items of cost.

(b) *International travel.* For travel to and from post of assignment the Contractor shall be reimbursed for travel costs and travel allowances of travelers from place of residence in the United States (or other location provided that the cost of such travel does not exceed the cost of the travel from the employee's residence in the United States) to the post of duty in the Cooperating Country and return to place of residence in the United States (or other location provided that the cost of such travel does not exceed

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the cost of travel from the post of duty in the Cooperating Country to the employee's residence) upon completion of services by the individual. Reimbursement for travel will be in accordance with the applicable cost principles and the provisions of this contract, and will be limited to the cost of travel by the most direct and expeditious route. If a regular employee does not complete one full year at post of duty (except for reasons beyond his/her control), the costs of going to and from the post of duty for that employee and his/her dependents are not reimbursable hereunder. If the employee serves more than one year but less than the required service in the Cooperating Country (except for reasons beyond his/her control) the costs of going to the post of duty are reimbursable hereunder but the costs of going from post of duty to the employee's permanent, legal place of residence at the time he or she was employed for work under this contract or other location as approved by the Contracting Officer are not reimbursable under this contract for the employee and his/her dependents. When travel is by economy class accommodations, the Contractor will be reimbursed for the cost of transporting up to 22 pounds of accompanied personal baggage per traveler in addition to that regularly allowed with the economy ticket provided that the total number of pounds of baggage does not exceed that regularly allowed for first class travelers. Travel allowances for travelers shall not be in excess of the rates authorized in the Standardized Regulations (Government Civilians, Foreign Areas)—hereinafter referred to as the Standardized Regulations—as from time to time amended, for not more than the travel time required by scheduled commercial air carrier using the most expeditious route. One stopover en route for a period of not to exceed 24 hours is allowable when the traveler uses economy class accommodations for a trip of 14 hours or more of scheduled duration. Such stopover shall not be authorized when travel is by indirect route or is delayed for the convenience of the traveler. Per diem during such stopover shall be paid in accordance with the established practice of the Contractor but not to exceed the amounts stated in the Standardized Regulations.

(c) *Local travel.* Reimbursement for local travel in connection with duties directly referable to the contract shall not be in excess of the rates established by the Mission Director for the travel costs of travelers in the Cooperating Country. In the absence of such established rates the Contractor shall be reimbursed for actual travel costs of travelers in the Cooperating Country, if not provided by the Cooperating Government or the Mission, including travel allowances at rates not in excess of those prescribed by the Standardized Regulations.

(d) *Travel for consultation.* The Contractor shall be reimbursed for the round trip of the Contractor's Chief of Party in the Cooperating Country or other designated Contractor employee or consultant in the Cooperating Country performing services required under this Contract, for travel from the Cooperating Country to the Contractor's office in the United States or to USAID/Washington for consultation and return on occasions deemed necessary by the Contractor and approved in advance, in writing, by the Contracting Officer or the Mission Director.

(e) *Special international travel and third country travel.* For special travel which advances the purpose of the contract, which is not otherwise provided by the Cooperating Government, and with the prior written approval of the Contracting Officer or the Mission Director, the Contractor shall be reimbursed for—

(i) The travel cost of travelers other than between the United States and the Cooperating Country and for local travel within other countries and

(ii) Travel allowance for travelers while in travel status and while performing services hereunder in such other countries at rates not in excess of those prescribed by the Standardized Regulations.

(f) *Indirect travel for personal convenience.* When travel is performed by an indirect route for the personal convenience of the traveler, the allowable costs of such travel will be computed on the basis of the cost of allowable air fare via the direct usually traveled route. If such costs include fares for air or ocean travel by foreign flag carriers, approval for indirect travel by such foreign flag carriers must be obtained from the Contracting Officer or the Mission Director before such travel is undertaken, otherwise only that portion of travel accomplished by United States-flag carriers will be reimbursable within the above limitation of allowable costs.

(g) *Limitation on travel by dependents.* Travel costs and allowances will be allowed only for dependents of regular employees and such costs shall be reimbursed for travel from place of abode to assigned station in the Cooperating Country and return, only if dependent remains in the country for at least 9 months or one-half of the required tour of duty of the regular employee responsible for such dependent, whichever is greater. If the dependent is eligible for educational travel pursuant to the "Differential and Allowances" clause of this contract, time spent away from post resulting from educational travel will be counted as time at post.

(h) *Delays en route.* The Contractor may grant to travelers under this contract reasonable delays en route while in travel status when such delays are caused by events

beyond the control of such traveler or Contractor. It is understood that if delay is caused by physical incapacitation, personnel shall be eligible for such sick leave as provided under the "Leave and Holidays" clause of this contract.

(i) *Travel by privately owned automobile.* The Contractor shall be reimbursed for the cost of travel performed by a regular employee in his/her privately owned automobile at a rate not to exceed that authorized in the Federal Travel Regulations plus authorized per diem for the employee and for each of the authorized dependents traveling in the automobile, if the automobile is being driven to or from the Cooperating Country as authorized under the contract, provided that the total cost of the mileage and the per diem paid to all authorized travelers shall not exceed the total constructive cost of fare and normal per diem by all authorized travelers by surface common carrier or authorized air fare, whichever is less.

(j) *Emergency and irregular travel and transportation.* Emergency transportation costs and travel allowances while en route, as provided in this section will also be reimbursed not to exceed amounts authorized by the Foreign Service Travel Regulations for USAID-direct hire employees in like circumstances under the following conditions:

(1) The costs of going from post of duty in the Cooperating Country to the employee's permanent, legal place of residence at the time he or she was employed for work under this contract or other location for Contractor employees and dependents and returning to the post of duty, when the Contractor's Chief of Party, with the concurrence of the Contracting Officer or Mission Director makes a written determination that such travel is necessary for one of the reasons specified in subparagraphs (j)(1) (i) and (ii) of this section. A copy of the written determination shall be furnished to the Contracting Officer.

(i) Need for medical care beyond that available within the area to which the employee is assigned, or serious effect on physical or mental health if residence is continued at assigned post of duty, subject in either case, to the limitations stated in the clause of this contract entitled "Personnel—Physical Fitness of Employee and Dependents." The Mission Director may authorize a medical attendant to accompany the employee at contract expense if, based on medical opinion, such an attendant is necessary.

(ii) Death, or serious illness or injury of a member of the immediate family of the employee or the immediate family of the employee's spouse.

(2) When, for any reason, the Mission Director determines it is necessary to evacuate the Contractor's entire team (employees and dependents) or Contractor dependents only, the Contractor will be reimbursed for travel

and transportation expenses and travel allowance while en route, for the cost of the individuals going from post of duty in the Cooperating Country to the employee's permanent, legal place of residence at the time he or she was employed for work under this contract or other approved location. The return of such employees and dependents may also be authorized by the Mission Director when, in his/her discretion, he/she determines it is prudent to do so.

(3) The Mission Director may also authorize emergency or irregular travel and transportation in other situations, when in his/her opinion, the circumstances warrant such action. The authorization shall include the kind of leave to be used and appropriate restrictions as to time away from post, transportation of personal and/or household effects, etc. Requests for such emergency travel shall be submitted through the Contractor's Chief of Party.

(k) *Home leave travel.* To the extent that home leave has been authorized as provided in the "Leave and Holidays" clause of this contract, the cost of travel for home leave is reimbursable for travel costs and travel allowances of travelers from the post of duty in the Cooperating Country to place of residence in the United States (or other location provided that the cost of such travel does not exceed the cost of travel to the employee's residence in the United States) and return to the post of duty in the Cooperating Country. Reimbursement for travel will be in accordance with the applicable cost principles and the provisions of this contract, and will be limited to the cost of travel by the most direct and expeditious route. When travel is by economy class accommodations, the Contractor will be reimbursed for the cost of transporting up to 22 pounds of accompanied personal baggage per traveler in addition to that regularly allowed with the economy ticket provided that the total number of pounds of baggage does not exceed that regularly allowed for first class travelers. Travel allowances for travelers shall not be in excess of the rates authorized in the Standardized Regulations as from time to time amended, for not more than the travel time required by scheduled commercial air carrier using the most expeditious route. One stopover en route for a period of not to exceed 24 hours is allowable when the traveler uses economy class accommodations for a trip of 14 hours or more of scheduled duration. Such stopover shall not be authorized when travel is by indirect route or is delayed for the convenience of the traveler. Per diem during such stopover shall be paid in accordance with the established practice of the Contractor but not to exceed the amounts stated in the Standardized Regulations.

(l) *Rest and recuperation travel.* The Contractor shall be reimbursed for the cost of travel performed by regular employees and

dependents for purposes of rest and recuperation provided that such reimbursement does not exceed that authorized for USAID direct hire employees, and provided further that no reimbursement will be made unless approval is given by the Contractor's Chief of party.

(m) *Transportation of motor vehicles, personal effects and household goods.* (1) Transportation, including packing and crating costs, will be paid for shipping from the point of origin in the United States (or other location as approved by the Contracting Officer) to post of duty in the Cooperating Country and return to point of origin in the United States (or other location as approved by the Contracting Officer) of one privately-owned vehicle for each regular employee, personal effects of travelers and household goods of each regular employee not to exceed the limitations in effect for such shipments for USAID direct hire employees in accordance with the Foreign Service Travel Regulations as in effect when shipment is made.

(2) If a regular employee does not complete one full year at post of duty (except for reasons beyond his/her control), the costs for transportation of vehicles, effects and goods to and from the post of duty are not reimbursable hereunder. If the employee serves more than one year but less than the required service in the Cooperating Country (except for reasons beyond his/her control) the costs for transportation of vehicles, effects and goods to the post of duty are reimbursable hereunder but the costs for transportation of vehicles, effects and goods from post of duty to the employee's permanent, legal place of residence at the time he or she was employed for work under this contract or other location as approved by the Contracting Officer are not reimbursable under this contract.

(3) The cost of transporting motor vehicles and household goods shall not exceed the cost of packing, crating and transportation by surface. In the event that the carrier does not require boxing or crating of motor vehicles for shipment to the Cooperating Country, the cost of boxing or crating is not reimbursable. The transportation of a privately-owned motor vehicle for a regular employee may be authorized by the Contractor as replacement of the last such motor vehicle shipped under this contract for the employee when the Mission Director or his/her designee determines in advance and so notifies the Contractor in writing that the replacement is necessary for reasons not due to the negligence or malfeasance of the regular employee. The determination shall be made under the same rules and regulations that apply to Mission employees.

(n) *Unaccompanied baggage.* Unaccompanied baggage is considered to be those personal belongings needed by the traveler immediately upon arrival at destination. To permit the arrival of effects to coincide with the

arrival of regular employees and dependents, consideration should be given to advance shipments of unaccompanied baggage. The Contractor will be reimbursed for costs of shipment of unaccompanied baggage (in addition to the weight allowance for household effects) not to exceed the limitations in effect for USAID direct hire employees in accordance with the Foreign Service Travel Regulations as in effect when shipment is made.

This unaccompanied baggage may be shipped as air freight by the most direct route between authorized points of origin and destination regardless of the modes of travel used. This provision is applicable to home leave travel and to short-term employees when these are authorized by the terms of this contract.

(o) *Storage of household effects.* The cost of storage charges (including packing, crating, and drayage costs) in the U.S. of household goods of regular employees will be permitted in lieu of transportation of all or any part of such goods to the Cooperating Country under paragraph (m) above provided that the total amount of effects shipped to the Cooperating Country or stored in the U.S. shall not exceed the amount authorized for USAID direct hire employees under the Uniform Foreign Service Travel Regulations.

(p) *International ocean transportation.* (1) Flag eligibility requirements for ocean carriage are covered by the "Source and Nationality Requirements" clause of this contract.

(i) Transportation of things. Where U.S. flag vessels are not available, or their use would result in a significant delay, the Contractor may obtain a release from this requirement from the Transportation Division, Office of Acquisition and Assistance, U.S. Agency for International Development, Washington, DC. 20523-1419, or the Mission Director, as appropriate, giving the basis for the request.

(ii) Transportation of persons. Where U.S. flag vessels are not available, or their use would result in a significant delay, the Contractor may obtain a release from this requirement from the Contracting Officer or the Mission Director, as appropriate.

(2) Transportation of foreign-made vehicles. Reimbursement of the costs of transporting a foreign-made motor vehicle will be made in accordance with the provisions of the Foreign Service Travel Regulations.

(3) Reduced rates on U.S. flag carriers. Reduced rates on United States flag carriers are in effect for shipments of household goods and personal effects of USAID contract personnel. These reduced rates are available provided the shipper states on the bill of lading that the cargo is "Personal property-not for resale-payment of freight charges is at U.S. Government (USAID) expense and any special or diplomatic discounts accorded this type cargo are applicable." The Contractor

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will not be reimbursed for shipments of household goods or personal effects in an amount in excess of the reduced rates available in accordance with the foregoing.

(End of clause)

[55 FR 6803, Feb. 27, 1990, as amended at 56 FR 2699, Jan. 24, 1991; 72 FR 19670, Apr. 19, 2007]

752.7003 Documentation for payment.

The following clause is required in all USAID direct contracts, excluding fixed price contracts:

DOCUMENTATION FOR PAYMENT (NOV 1998)

(a) Claims for reimbursement or payment under this contract must be submitted to the Paying Office indicated in the schedule of this contract. The cognizant technical officer (CTO) is the authorized representative of the Government to approve vouchers under this contract. The Contractor must submit either paper or fax versions of the SF-1034—Public Voucher for Purchases and Services Other Than Personal. Each voucher shall be identified by the appropriate USAID contract number, in the amount of dollar expenditures made during the period covered.

(1) The SF 1034 provides space to report by line item for products or services provided. The form provides for the information to be reported with the following elements:

TOTAL EXPENDITURES

[Document Number: XXX-X-XX-XXXX-XX]

Line item No.	Description	Amt. vouchered to date	Amt. vouchered this period
001	Product/Service Desc. for Line Item 001	\$XXXX.XX	\$ XXXX.XX
002	Product/Service Desc. for Line Item 002	XXXX.XX	XXXX.XX
Total .....	.....	XXXX.XX	XXXX.XX

(2) The fiscal report shall include the following certification signed by an authorized representative of the Contractor:

The undersigned hereby certifies to the best of my knowledge and belief that the fiscal report and any attachments have been prepared from the books and records of the Contractor in accordance with the terms of this contract and are correct: the sum claimed under this contract is proper and due, and all the costs of contract performance (except as herewith reported in writing) have been paid, or to the extent allowed under the applicable payment clause, will be paid currently by the Contractor when due in the ordinary course of business; the work reflected by these costs has been performed, and the quantities and amounts involved are consistent with the requirements of this Contract; all required Contracting Officer approvals have been obtained; and appropriate refund to USAID will be made promptly upon request in the event of disallowance of costs not reimbursable under the terms of this contract.

BY: _____
 TITLE: _____
 DATE: _____

(b) *Local currency payment.* The Contractor is fully responsible for the proper expenditure and control of local currency, if any, provided under this contract. Local currency will be provided to the Contractor in accordance with written instructions provided by the Mission Director. The written instructions

will also include accounting, vouchering, and reporting procedures. A copy of the instructions shall be provided to the Contractor's Chief of Party and to the Contracting Officer. The costs of bonding personnel responsible for local currency are reimbursable under this contract.

(c) Upon compliance by the Contractor with all the provisions of this contract, acceptance by the Government of the work and final report, and a satisfactory accounting by the Contractor of all Government-owned property for which the Contractor had custodial responsibility, the Government shall promptly pay to the Contractor any moneys (dollars or local currency) due under the completion voucher. The Government will make suitable reduction for any disallowance or indebtedness by the Contractor by applying the proceeds of the voucher first to such deductions and next to any unliquidated balance of advance remaining under this contract.

(d) The Contractor agrees that all approvals of the Mission Director and the Contracting Officer which are required by the provisions of this contract shall be preserved and made available as part of the Contractor's records which are required to be presented and made available by the clause of this contract entitled "Audit and Records—Negotiation".

[53 FR 6829, Mar. 3, 1988, as amended at 64 FR 5009, Feb. 2, 1999]

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752.7004 Emergency locator information.

The following clause is to be included in all contracts requiring travel overseas.

EMERGENCY LOCATOR INFORMATION (JUL 1997)

The Contractor agrees to provide the following information to the Mission Administrative Officer on or before the arrival in the host country of every contract employee or dependent:

(1) The individual's full name, home address, and telephone number.

(2) The name and number of the contract, and whether the individual is an employee or dependent.

(3) The contractor's name, home office address, and telephone number, including any after-hours emergency number(s), and the name of the contractor's home office staff member having administrative responsibility for the contract.

(4) The name, address, and telephone number(s) of each individual's next of kin.

(5) Any special instructions pertaining to emergency situations such as power of attorney designees or alternate contact persons.

[62 FR 40470, July 29, 1997; 62 FR 45334, Aug. 27, 1997]

752.7005 Submission requirements for development experience documents.

The following clause shall be included in all USAID professional/technical contracts in which development experience documents are likely to be produced.

SUBMISSION REQUIREMENTS FOR DEVELOPMENT EXPERIENCE DOCUMENTS (OCT 1997)

(a) *Contract reports and information/intellectual products.* (1) The Contractor shall submit to the Development Experience Information Division of the Center for Development Information and Evaluation (PPC/DCIE/DI) in the Bureau for Policy and Program Coordination, copies of reports and information products which describe, communicate or organize program/project development assistance activities, methods, technologies, management, research, results and experience as outlined in the Agency's ADS Chapter 540, section E540.5.2b(3). Information may be obtained from the Cognizant Technical Officer (CTO). These reports include: assessments, evaluations, studies, development experience documents, technical reports and annual reports. The Contractor shall also submit to PPC/CDIE/DI copies of information products including training materials, publications, databases, computer software programs, videos and other intellectual deliverable mate-

rials required under the Contract Schedule. Time-sensitive materials such as newsletters, brochures, bulletins or periodic reports covering periods of less than a year are not to be submitted.

(2) Upon contract completion, the contractor shall submit to PPC/CDIE/DI an index of all reports and information/intellectual products referenced in paragraph (a)(1) of this clause.

(b) *Submission requirements—(1) Distribution.*

(i) The contractor shall submit contract reports and information/intellectual products (referenced in paragraph (a)(1) of this clause) in electronic format and hard copy (one copy) to U.S. Agency for International Development PPC/CDIE/DI, Attn: ACQUISITIONS, Washington D.C. 20523 at the same time submission is made to the CTO.

(ii) The contractor shall submit the reports index referenced in paragraph (a)(2) of this clause and any reports referenced in paragraph (a)(1) of this clause that have not been previously submitted to PPC/CDIE/DI, within 30 days after completion of the contract to the address cited in paragraph (b)(1)(i) of this clause.

(2) *Format.* (i) Descriptive information is required for all Contractor products submitted. The title page of all reports and information products shall include the contract number(s), contractor name(s), name of the USAID cognizant technical office, the publication or issuance date of the document, document title, author name(s), and strategic objective or activity title and associated number. In addition, all materials submitted in accordance with this clause shall have attached on a separate cover sheet the name, organization, address, telephone number, fax number, and Internet address of the submitting party.

(ii) The hard copy report shall be prepared using non-glossy paper (preferably recycled and white or off-white) using black ink. Elaborate art work, multicolor printing and expensive bindings are not to be used. Whenever possible, pages shall be printed on both sides.

(iii) The electronic document submitted shall consist of only one electronic file which comprises the complete and final equivalent of the hard copy submitted.

(iv) Acceptable software formats for electronic documents include WordPerfect, Microsoft Word, ASCII, and Portable Document Format (PDF). Submission in Portable Document format is encouraged.

(v) The electronic document submission shall include the following descriptive information:

(A) Name and version of the application software used to create the file, e.g., WordPerfect Version 6.1 or ASCII or PDF.

(B) The format for any graphic and/or image file submitted, e.g., TIFF-compatible.

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(C) Any other necessary information, e.g. special backup or data compression routines, software used for storing/retrieving submitted data, or program installation instructions.

[64 FR 5010, Feb. 2, 1999]

752.7006 Notices.

The following clause shall be used in all USAID contracts.

NOTICES (APR 1984)

Any notice given by any of the parties hereunder shall be sufficient only if in writing and delivered in person or sent by telegraph, cable, or registered or regular mail as follows:

To USAID: Administrator, U.S. Agency for International Development, Washington, DC 20523-0061. Attention: Contracting Officer (the name of the cognizant Contracting Officer with a copy to the appropriate Mission Director).

To Contractor: At Contractor's address shown on the cover page of this contract, or to such other address as either of such parties shall designate by notice given as herein required. Notices hereunder shall be effective when delivered in accordance with this clause or on the effective date of the notice, whichever is later.

[49 FR 13259, Apr. 3, 1984, as amended at 56 FR 2699, Jan. 24, 1991; 61 FR 39095, July 26, 1996]

752.7007 Personnel compensation.

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

PERSONNEL COMPENSATION (JUL 2007)

(a) Direct compensation of the Contractor's personnel will be in accordance with the Contractor's established policies, procedures, and practices, and the cost principles applicable to this contract.

(b) Reimbursement of the employee's base annual salary plus overseas recruitment incentive, if any, which exceed the USAID Contractor Salary Threshold (USAID CST) stated in USAID Automated Directives System (ADS) Chapter 302 USAID Direct Contracting, must be approved in writing by the Contracting Officer, as prescribed in 731.205-6(b) or 731.371(b), as applicable.

[49 FR 13259, Apr. 3, 1984, as amended at 49 FR 33669, Aug. 24, 1984; 61 FR 39095, July 26, 1996; 62 FR 40470, July 29, 1997; 72 FR 19669, Apr. 19, 2007]

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752.7008 Use of Government facilities or personnel.

The following clause is for use in all USAID non-commercial contracts.

USE OF GOVERNMENT FACILITIES OR PERSONNEL (APR 1984)

(a) The Contractor and any employee or consultant of the Contractor is prohibited from using U.S. Government facilities (such as office space or equipment) or U.S. Government clerical or technical personnel in the performance of the services specified in the contract, unless the use of Government facilities or personnel is specifically authorized in the contract, or is authorized in advance, in writing, by the Contracting Officer.

(b) If at any time it is determined that the Contractor, or any of its employees or consultants have used U.S. Government facilities or personnel without authorization either in the contract itself, or in advance, in writing, by the Contracting Officer, then the amount payable under the contract shall be reduced by an amount equal to the value of the U.S. Government facilities or personnel used by the Contractor, as determined by the Contracting Officer.

(c) If the parties fail to agree on an adjustment pursuant to this clause, it shall be considered a dispute, and shall be dealt with under the terms of the clause of this contract entitled "Disputes".

[49 FR 13259, Apr. 3, 1984, as amended at 62 FR 40470, July 29, 1997]

752.7009 Marking.

The following clause is for use in all USAID contracts performed in whole or in part overseas.

MARKING (JAN 1993)

(a) It is USAID policy that USAID-financed commodities and shipping containers, and project construction sites and other project locations be suitably marked with the USAID emblem. Shipping containers are also to be marked with the last five digits of the USAID financing document number. As a general rule, marking is not required for raw materials shipped in bulk (such as coal, grain, etc.), or for semifinished products which are not packaged.

(b) Specific guidance on marking requirements should be obtained prior to procurement of commodities to be shipped, and as early as possible for project construction sites and other project locations. This guidance will be provided through the cognizant technical office indicated on the cover page of this contract, or by the Mission Director in the Cooperating Country to which commodities are being shipped, or in which the project site is located.

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(c) Authority to waive marking requirements is vested with the Regional Assistant Administrators, and with Mission Directors.

(d) A copy of any specific marking instructions or waivers from marking requirements is to be sent to the Contracting Officer; the original should be retained by the Contractor.

[49 FR 13259, Apr. 3, 1984, as amended at 58 FR 8703, Feb. 17, 1993]

752.7010 Conversion of U.S. dollars to local currency.

For use in all USAID non-commercial contracts involving performance overseas.

CONVERSION OF U.S. DOLLARS TO LOCAL CURRENCY (APR 1984)

Upon arrival in the Cooperation Country, and from time to time as appropriate, the Contractor's Chief of Party shall consult with the Mission Director who shall provide, in writing, the procedure the Contractor and its employees shall follow in the conversion of United States dollars to local currency. This may include, but is not limited to, the conversion of said currency through the cognizant U.S. Disbursing Officer or Mission Controller, as appropriate.

[49 FR 13259, Apr. 3, 1984, as amended at 62 FR 40470, July 29, 1997]

752.7011 Orientation and language training.

For use in all USAID cost-reimbursement contracts involving performance overseas.

ORIENTATION AND LANGUAGE TRAINING (APR 1984)

(a) Regular employees shall receive a maximum of 2 weeks USAID sponsored orientation before travel overseas. The dates of orientation shall be selected by the Contractor from the orientation schedule provided by USAID.

(b) Participation in USAID sponsored orientation in no way relieves the Contractor of its responsibility for assuring that all employees, regular and short-term, are properly oriented. As an addition to or substitution for USAID's sponsored orientation for regular employees, the following types of orientation may be authorized taking into consideration specific job requirements, the employee's prior overseas experience, or unusual circumstances.

(1) Modified orientation.

(2) Language training, particularly when significant for operating capabilities.

(3) Orientation and language training for regular employee's dependents.

(4) Contractor-sponsored orientation.

(5) Orientation in all matters related to the administrative, logistical, and technical aspects of the employee's movement to, and tour of duty in, the Cooperating Country.

(c) Authorization for an additional or alternate orientation program, if any, shall be either set forth in the schedule or provided in writing by the Contracting Officer.

(d) Travel expenses not to exceed one round trip from regular employee's residence to place of orientation and return will be reimbursed, pursuant to the cost principles applicable to this contract. Allowable salary costs during the period of orientation are also reimbursable.

752.7012 Protection of the individual as a research subject.

This clause is for use in any USAID contract which involves research using human subjects.

PROTECTION OF THE INDIVIDUAL AS A RESEARCH SUBJECT (AUG 1995)

(a) Safeguarding the rights and welfare of human subjects in research conducted under a USAID contract is the responsibility of the contractor. USAID has adopted the Common Federal Policy for the Protection of Human Subjects. USAID's Policy is found in Part 225 of Title 22 of the Code of Federal Regulations (the "Policy"). Additional interpretation, procedures, and implementation guidance of the Policy are found in USAID General Notice entitled "Procedures for the Protection of Human Subjects in Research Supported by USAID", issued April 19, 1995, as from time to time amended (a copy of which is attached to this contract). USAID's Cognizant Human Subjects Officer (CHSO) and USAID/W has oversight, guidance, and interpretation responsibility for the Policy.

(b) Contractors must comply with the Policy when humans are the subject of research, as defined in 22 CFR 225.102(d), performed as part of the contract, and contractors must provide "assurance", as required by 22 CFR 225.103, that they follow and abide by the procedures in the Policy. See also Section 5 of the April 19, 1995, USAID General Notice which sets forth activities to which the Policy is applicable. The existence of a bona fide, applicable assurance approved by the Department of Health and Human Services (HHS) such as the "multiple project assurance" (MPA) will satisfy this requirement. Alternatively, contractors can provide an acceptable written assurance to USAID as described in 22 CFR 225.103. Such assurances must be determined by the CHSO to be acceptable prior to any applicable research being initiated or conducted under the contract. In some limited instances outside the U.S., alternative systems for the protection of human subjects may be used provided they are deemed "at least equivalent" to those

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outlined in part 225 (see 22 CFR 225.101(h)). Criteria and procedures for making this determination are described in the General Notice cited in the preceding paragraph.

(c) Since the welfare of the research subject is a matter of concern to USAID as well as to the contractor, USAID staff, consultants and advisory groups may independently review and inspect research, and research processes and procedures involving human subjects, and based on such findings, the CHSO may prohibit research which presents unacceptable hazards or otherwise fails to comply with USAID procedures. Informed consent documents must include the stipulation that the subject's records may be subject to such review.

[61 FR 39095, July 26, 1996]

752.7013 Contractor-mission relationships.

For use in all USAID contracts involving performance overseas. Note that paragraph (f) of this clause is applicable only in contracts with an educational institution.

CONTRACTOR-MISSION RELATIONSHIPS (OCT 1989)

(a) The Contractor acknowledges that this contract is an important part of the United States Foreign Assistance Program and agrees that its operations and those of its employees in the Cooperating Country will be carried out in such a manner as to be fully commensurate with the responsibility which this entails.

(b) The Mission Director is the chief representative of USAID in the Cooperating Country. In this capacity, he/she is responsible for both the total USAID program in the cooperating country including certain administrative responsibilities set forth in this contract, and for advising USAID regarding the performance of the work under the contract and its effect on the United States Foreign Assistance Program. Although the Contractor will be responsible for all professional, technical, and administrative details of the work called for by the contract, it shall be under the guidance of the Mission Director in matters relating to foreign policy. The Chief of Party shall keep the Mission Director currently informed of the progress of the work under the contract.

(c) In the event the conduct of any Contractor employee is not in accordance with the preceding paragraphs, the Contractor's Chief of Party shall consult with the Mission Director and the employee involved and shall recommend to the Contractor a course of action with regard to such employee.

(d) The parties recognize the right of the U.S. Ambassador to direct the removal from a country of any U.S. citizen or the dis-

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charge from this contract of any third-country national or cooperating-country national when, at the discretion of the Ambassador, the interests of the United States so require. Under these circumstances termination of an employee and replacement by an acceptable substitute shall be at no cost to USAID.

(e) If it is determined that the services of such employee shall be terminated, the Contractor shall use its best efforts to cause the return of such employee to the United States or point of origin as appropriate.

[The following paragraph (f) is applicable if the contract is with an educational institution:]

(f) It is understood by the parties that the Contractor's responsibilities shall not be restrictive of academic freedom. Notwithstanding these academic freedoms, the Contractor's employees, while in the Cooperating Country, are expected to show respect for its conventions, customs, and institutions, to abide by applicable laws and regulations, and not to interfere in its internal political affairs.

(End of clause)

[54 FR 46391, Nov. 3, 1989]

752.7014 Notice of changes in travel regulations.

The following clause is for use in cost-reimbursement contracts involving work overseas.

NOTICE OF CHANGES IN TRAVEL REGULATIONS (JAN 1990)

(a) Changes in travel, differential, and allowance regulations shall be effective on the beginning of the Contractor's next pay period following the effective date of the change as published in the applicable travel regulations (the Standardized Regulations (Government Civilians, Foreign Areas), the Uniform State/USAID/USIA Foreign Service Travel Regulations, and the Federal Travel Regulations).

(b) The Standardized Regulations (Government Civilians Foreign Areas), and the Federal Travel Regulations are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(c) Information regarding the Uniform State/USAID/USIA Foreign Service Travel Regulations as referenced in the "Travel and Transportation" clause of this contract may be obtained from the Contracting Officer.

(End of clause)

[55 FR 6805, Feb. 27, 1990]

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752.7015 Use of pouch facilities.

For use in all USAID non-commercial contracts exceeding the simplified acquisition threshold and involving performance overseas.

USE OF POUCH FACILITIES (JUL 1997)

(a) Use of diplomatic pouch is controlled by the Department of State. The Department of State has authorized the use of pouch facilities for USAID contractors and their employees as a general policy, as detailed in paragraphs (a)(1) through (a)(7) of this clause; however, the final decision regarding use of pouch facilities rests with the Embassy or USAID Mission. In consideration of the use of pouch facilities as hereinafter stated, the Contractor and its employees agree to indemnify and hold harmless the Department of State and USAID against loss or damage occurring in pouch transmission.

(1) Contractors and their employees are authorized use of the pouch for transmission and receipt of up to a maximum of 2 pounds per shipment of correspondence and documents needed in the administration of foreign assistance programs.

(2) U.S. citizen employee of U.S. contractors are authorized use of the pouch for personal mail up to a maximum of one pound per shipment (but see paragraph (a)(3) of this clause).

(3) Merchandise, parcels, magazines, or newspapers are not considered to be personal mail for purposes of this clause, and are not authorized to be sent or received by pouch.

(4) Official mail as authorized by paragraph (a)(1) of this clause should be addressed as follows: Individual or Organization name, followed by the symbol "C", city Name of Post, U.S. Agency for International Development, Washington, DC 20523-0001.

(5) Personal mail pursuant to paragraph (a)(2) of this clause should be sent to the address specified in paragraph (a)(4) of this clause, but without the name of the organization.

(6) Mail sent via the diplomatic pouch may not be in violation of U.S. Postal laws and may not contain material ineligible for pouch transmission.

(7) USAID contractor personnel are not authorized use of military postal facilities (APO/FPO). This is an Adjutant General's decision based on existing laws and regulations governing military postal facilities and is being enforced worldwide. Posts having access to APO/FPO facilities and using such for diplomatic pouch dispatch, may, however, accept official mail from Contractors and letter mail from their employees for the pouch, provided of course, adequate postage is affixed.

(b) The Contractor shall be responsible for advising its employees of this authorization

and these guidelines and limitations on use of pouch facilities.

(c) Specific additional guidance on use of pouch facilities in accordance with this clause is available from the Post Communication Center at the Embassy or USAID Mission.

[49 FR 13259, Apr. 3, 1984, as amended at 56 FR 2699, Jan. 24, 1991; 57 FR 5237, Feb. 13, 1992; 62 FR 40471, July 29, 1997; 62 FR 45334, Aug. 27, 1997]

752.7016-752.7017 [Reserved]

752.7018 Health and accident coverage for USAID participant trainees.

For use in any USAID contract under which USAID participants are trained.

HEALTH AND ACCIDENT COVERAGE FOR USAID PARTICIPANT TRAINEES (JAN 1999)

(a) In accordance with the requirements of USAID Automated Directive System (ADS) 253.5.6b, the Contractor shall enroll all non-U.S. trainees (hereinafter referred to as "participants"), whose training in the U.S. is financed by USAID under this contract, in USAID's Health and Accident Coverage (HAC) program. Sponsored trainees enrolled in third-country or in-country training events are not eligible for USAID's HAC program, but the Contractor may obtain alternative local medical and accident insurance at contract expense, provided the cost is consistent with the cost principles in FAR 31.2.

(b) When enrollment in the HAC program is required per paragraph (a) of this clause, the Contractor must enroll each participant in the HAC program through one of two designated contractors prior to the initiation of travel by the participant. USAID has developed an Agency-wide database training management system, the Training Results and Information Network ("TraiNet"), which is the preferred system for managing USAID's participant training program, including enrollment in the HAC program. However, until such time as the USAID sponsoring unit (as defined in ADS 253) has given the Contractor access to USAID's "TraiNet" software for trainee tracking and HAC enrollment, the Contractor must fill out and mail the Participant Data Form (PDF) (Form USAID 1381-4) to USAID. The Contractor can obtain information regarding each HAC program contractor, including contact information, and a supply of the PDF forms and instructions for completing and submitting them, by contacting the database contractor serving the Global Center for Human Capacity Development (G/HCD).

(c) The Contractor must ensure that HAC enrollment begins immediately upon the participant's departure for the United States for the purpose of participating in a training

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program financed by USAID, and that enrollment continues in full force and effect until the participant returns to his/her country of origin, or is released from USAID's responsibility, whichever is the sooner.

(1) The HAC insurance provider, not the Contractor, shall be responsible for paying all reasonable and necessary medical reimbursement charges not otherwise covered by student health service or other insurance programs, subject to the availability of funds for such purposes, in accordance with the standards of coverage established by USAID under its HAC program and by the HAC providers' contracts.

(2) After HAC enrollment, upon receipt of HAC services invoice from the selected HAC provider, the Contractor shall submit payment directly to the HAC provider.

(3) The Contractor is responsible for ensuring that participants and any stakeholders (as defined in ADS 253) are advised that USAID is not responsible for any medical claims in excess of the coverages provided by the HAC program, or for medical claims not eligible for coverage under the HAC program, or not otherwise covered in this section.

(d) The Contractor, to the extent that it is an educational institution with a mandatory student health service program, shall also enroll participants in that institution's student health service program. Medical costs which are covered under the institution's student health service shall not be eligible for payment under USAID's HAC program.

(e) If the Contractor has a mandatory, non-waivable health and accident insurance program for students, the costs of such insurance will be allowable under this contract. Any claims eligible under such insurance will not be payable under USAID's HAC plan or under this contract. Even though the participant is covered by the Contractor's mandatory, non-waivable health and accident insurance program, the participant MUST be enrolled in USAID's more comprehensive HAC program.

(f) Medical conditions pre-existing to the participant's sponsorship for training by USAID, discovered during the required pre-departure medical examination, are grounds for ineligibility for sponsorship unless specifically waived by the sponsoring unit, and covered through a separate insurance policy maintained by the participant or his employer, or a letter of guarantee from the participant or the employer (which thereby assumes liability for any related charges that might materialize. See ADS 253).

[64 FR 5010, Feb. 2, 1999]

752.7019 Participant training.

For use in any USAID direct contract involving training of USAID participants.

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PARTICIPANT TRAINING (JAN 1999)

(a) *Definitions.* (1) Participant training is the training of any foreign national outside of his or her home country, using USAID funds.

(2) A Participant is any foreign national being trained under this contract outside of his or her country.

(b) *Applicable regulations.* Participant training conducted under this contract shall comply with the policies and essential procedures pertaining to training-related services contained in USAID Automated Directive System (ADS) Ch. 253 "Training for Development Impact". Any exceptions to ADS 253 requirements are specified as such within this contract. The current version of Chapter 253 may be obtained directly from the USAID website at <http://www.info.usaid.gov/pubs/ads/200>.

(c) The contractor shall be reimbursed for the reasonable and allocable costs incurred in providing training to participants in the United States or other approved location provided such costs do not exceed the limitations in, or have been waived in accordance with, ADS 253.5.5.

NOTE: Academic rates are available through a special website monitored by the United States Information Agency. The website for academic programs is: <http://www.iie.org/fulbright/posts/restrict>. U.S.-based participants receive the standardized U.S. travel per diem rates maintained by GSA for short-term training (website: <http://policyworks.gov>).

[64 FR 5011, Feb. 2, 1999]

752.7020 [Reserved]

752.7021 Changes in tuition and fees.

For use in contracts for participant training with an educational institution.

CHANGES IN TUITION AND FEES (APR 1984)

While educational programs for participants will be established utilizing the Contractor's currently applicable tuition and fee schedule, the parties understand that such standard tuition and fees may be subject to change during the course of the program. If such event results in an increase in the cost of the program, USAID agrees to pay such increased standard tuition and fees in the next applicable academic term as a condition for the continuation of the program. If such change results in a decrease in the cost of the program, the Contractor agrees to charge to USAID only the amount of such revised standard tuition and fees in the next applicable academic term. The Contractor shall undertake to keep USAID currently advised as to changes in its standard tuition and fees. At such time as increases in the

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amounts of tuition and fees results in there being inadequate funds remaining in this contract to meet the costs of the next academic term, the Contractor will so advise USAID. USAID may then provide such additional funds as required to complete the program.

752.7022 Conflicts between contract and catalog.

For use in contracts for participant training with an educational institution.

CONFLICTS BETWEEN CONTRACT AND CATALOG
(APR 1984)

In the event of any inconsistency between the provisions of this contract and any catalog, or other document incorporated in this contract by reference or otherwise or any of the Contractor's rules and regulations, the provisions of this contract shall govern.

752.7023 Required visa form for USAID participants.

For use in any USAID direct contract which involves training of USAID participants.

REQUIRED VISA FORM FOR USAID
PARTICIPANTS (APR 1984)

The Contractor shall insure that any foreign student brought to the United States for training under this contract uses visa form IAP 66A "Certificate for Exchange Visitor (J-1) Status".

752.7024 Withdrawal of students.

For use in contracts for participant training with an educational institution.

WITHDRAWAL OF STUDENTS (APR 1984)

(a) The Government may, at its option and at any time, withdraw any student.

(b) The Contractor may request withdrawal by the Government of any student for academic or disciplinary reasons.

(c) If such withdrawal occurs prior to the end of a term, the Government shall pay any tuition and fees due for the current term in which the student may be enrolled, and the Contractor shall credit the Government with any charges eligible for refund under the Contractor's standard procedures for civilian students in effect on the effective date of such withdrawal.

(d) Withdrawal of students by the Government shall not be the basis for any special charge or claim by the Contractor other than as provided by the Contractor's standard procedures.

752.7025 Approvals.

For use in all USAID contracts.

APPROVALS (APR 1984)

All approvals required to be given under the contract by the Contracting Officer or the Mission Director shall be in writing and, except when extraordinary circumstances make it impracticable, shall be requested by the Contractor sufficiently in advance of the contemplated action to permit approval, disapproval or other disposition prior to that action. If, because of existing conditions, it is impossible to obtain prior written approval, the approving official may, at his discretion, ratify the action after the fact.

752.7026 [Reserved]

752.7027 Personnel.

For use in all USAID services contracts involving performance overseas. Note that paragraphs (f) and (g) of this clause are for use only in cost reimbursement contracts.

PERSONNEL (DEC 1990)

(a) *Clearance.* (1) *Individuals engaged or assigned within the United States.* The contractor will obtain written notification from the Contracting Officer of Cooperating Country clearance of any employee sent outside the United States to perform duties under this contract.

(2) *Individuals engaged or assigned when outside the United States.* No individual shall be engaged or assigned when outside the United States to perform work outside the United States under this contract unless authorized in the schedule or otherwise approved by the Contracting Officer or Mission Director. However, when services are performed in the Cooperating Country on a casual or irregular basis or in an emergency, exception to this provision can be made in accordance with instructions or regulations established by the Mission Director.

(b) *Physical fitness of employees and dependents.* See the clause of this contract entitled Physical Fitness.

(c) *Conformity to laws and regulations of Cooperating Country.* Contractor agrees to use its best efforts to assure that its employees and their dependents, while in the Cooperating Country, abide by all applicable laws and regulations of the Cooperating Country and political subdivisions thereof.

(d) *Importation or sale of personal property or automobiles.* To the extent permitted by Cooperating Country laws, the importation and sale of personal property or automobiles by contractor employees and their dependents in the Cooperating Country shall be subject to the same limitations and prohibitions which apply to U.S. nationals employed by

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the Mission. This provision does not apply to employees or consultants who are citizens or legal residents of the Cooperating Country.

(e) *Economic and financial activities.* Other than work to be performed under this contract for which an employee or consultant is assigned by the contractor, no such employee or consultant of the contractor shall engage, directly or indirectly, either in his/her own name or in the name or through the agency of another person, in any business, profession or occupation in the Cooperating Country or other foreign countries to which he/she is assigned, nor shall he make loans or investments to or in any business, profession or occupation in the Cooperating Country or other foreign countries in which he/she is assigned. This provision does not apply to employees or consultants who are citizens or legal residents of the Cooperating Country.

[The following paragraphs (f) and (g) are applicable only to cost reimbursement contracts.]

(f) *Duration of appointments.* (1) Regular employees will normally be appointed for a minimum of 2 years which period includes orientation (less language training) in the United States and authorized international travel under the contract except:

(i) An appointment may be made for less than 2 years if the contract has less than 2 years but more than 1 year to run provided that if the contract is extended the appointment shall also be extended to the full 2 years. This provision shall be reflected in the employment agreement prior to employment under this contract.

(ii) When a 2-year appointment is not required, appointment may be made for less than 2 years but in no event less than 1 year.

(iii) When the normal tour of duty established for USAID personnel at a particular post is less than 2 years, then a normal appointment under this contract may be of the same duration.

(iv) When the contractor is unable to make appointments of regular employees for a full 2 years, the contractor may make appointments of less than 2 but not less than 1 year, provided that such appointment is approved by the Contracting Officer.

(2) Services required for less than 1 year will be considered short-term appointments and the employee will be considered a short-term employee.

(g) *Employment of dependents.* If any person who is employed for services in the Cooperating Country under this contract is either (1) a dependent of an employee of the U.S. Government working in the Cooperating Country, or (2) a dependent of a contractor employee working under a contract with the U.S. Government in the Cooperating Country, such person shall continue to hold the status of a dependent. He or she shall be entitled to salary for the time services are ac-

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tually performed in the Cooperating Country, and differential and allowances as established by the Standardized Regulations (Government Civilians, Foreign Areas).

(End of clause)

[56 FR 7587, Feb. 25, 1991, as amended at 62 FR 40471, July 29, 1997]

752.7028 Differential and allowances.

The following clause is for use in all USAID cost reimbursement contracts performed in whole or in part overseas.

DIFFERENTIALS AND ALLOWANCES (JUL 1996)

(This clause does not apply to TCN or CCN employees. TCN and CCN employees are not eligible for differentials and allowances, unless specifically authorized by the cognizant Assistant Administrator or Mission Director. A copy of such authorization shall be retained and made available as part of the contractor's records which are required to be preserved and made available by the "Examination of Records by the Comptroller General" and "Audit" clauses of this contract).

(a) *Post differential.* Post differential is an additional compensation for service at places in foreign areas where conditions of environment differ substantially from conditions of environment in the continental United States and warrant additional compensation as a recruitment and retention incentive. In areas where post differential is paid to USAID direct-hire employees, post differential not to exceed the percentage of salary as is provided such USAID employees in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 500 (except the limitation contained in Section 552, "Ceiling on Payment") Tables-Chapter 900, as from time to time amended, will be reimbursable hereunder for employees in respect to amounts earned during the time such employees actually spend overseas on work under this contract. When such post differential is provided to regular employees of the Contractor, it shall be payable beginning on the date of arrival at the post of assignment and continue, including periods away from post on official business, until the close of business on the day of departure from post of assignment en route to the United States. Sick or vacation leave taken at or away from the post of assignment will not interrupt the continuity of the assignment or require a discontinuance of such post differential payments, provided such leave is not taken within the United States or the territories of the United States. Post differential will not be payable while the employee is away from his/her post of assignment for purposes of home leave. Short-term employees shall be entitled to

post differential beginning with the forty-third (43rd) day at post.

(b) *Living quarters allowance.* Living quarters allowance is an allowance granted to reimburse an employee for substantially all of his/her cost for either temporary or residence quarters whenever Government-owned or Government-rented quarters are not provided to him/her at his/her post without charge. Such costs are those incurred for temporary lodging (temporary lodging allowance) or one unit of residence quarters (living quarters allowance) and include rent, plus any costs not included therein for heat, light, fuel, gas, electricity and water. The temporary lodging allowance and the living quarters allowance are never both payable to an employee for the same period of time. The Contractor will be reimbursed for payments made to employees for a living quarters allowance for rent and utilities if such facilities are not supplied. Such allowance shall not exceed the amount paid USAID employees of equivalent rank in the Cooperating Country, in accordance with either the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 130, as from time to time amended, or other rates approved by the Mission Director. Subject to the written approval of the Mission Director, short-term employees may be paid per diem (in lieu of living quarters allowance) at rates prescribed by the Federal Travel Regulations, as from time to time amended, during the time such short-term employees spend at posts of duty in the Cooperating Country under this contract. In authorizing such per diem rates, the Mission Director shall consider the particular circumstances involved with respect to each such short-term employee including the extent to which meals and/or lodging may be made available without charge or at nominal cost by an agency of the United States Government or of the Cooperating Government, and similar factors.

(c) *Temporary quarters subsistence allowance.* Temporary quarters subsistence allowance is a quarters allowance granted to an employee for the reasonable cost of temporary quarters incurred by the employee and his family for a period not in excess of (i) 90 days after first arrival at a new post in a foreign area or a period ending with the occupation of residence (permanent) quarters, if earlier, and (ii) 30 days immediately preceding final departure from the post subsequent to the necessary vacating of residence quarters, unless an extension is authorized in writing by the Mission Director. The Contractor will be reimbursed for payments made to employees and authorized dependents for temporary quarters subsistence allowance, in lieu of living quarters allowance, not to exceed the amount set forth in the Standardized Regulations (Government Civilians, Foreign

Areas), Chapter 120, as from time to time amended.

(d) *Post allowance.* Post allowance is a cost-of-living allowance granted to an employee officially stationed at a post where the cost of living, exclusive of quarters cost, is substantially higher than in Washington, DC. The Contractor will be reimbursed for payments made to employees for post allowance not to exceed those paid USAID employees in the Cooperating Country, in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 220, as from time to time amended.

(e) *Supplemental post allowance.* Supplemental post allowance is a form of post allowance granted to an employee at his/her post when it is determined that assistance is necessary to defray extraordinary subsistence costs. The Contractor will be reimbursed for payments made to employees for supplemental post allowance not to exceed the amount set forth in the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 230, as from time to time amended.

(f) *Educational allowance.* Educational allowance is an allowance to assist an employee in meeting the extraordinary and necessary expenses, not otherwise compensated for, incurred by reason of his/her service in a foreign area in providing adequate elementary and secondary education for his/her children. The Contractor will be reimbursed for payments made to regular employees for educational allowances for their dependent children in amounts not to exceed those set forth in the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 270, as from time to time amended.

(g) *Educational travel.* Educational travel is travel to and from a school in the United States for secondary education (in lieu of an educational allowance) and for college education. The Contractor will be reimbursed for payments made to regular employees for educational travel for their dependent children provided such payment does not exceed that which would be payable in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 280, as from time to time amended. Educational travel shall not be authorized for regular employees whose assignment is less than two years.

(h) *Separate maintenance allowance.* Separate maintenance allowance is an allowance to assist an employee who is compelled, by reason of dangerous, notably unhealthful, or excessively adverse living conditions at his/her post of assignment in a foreign area, or for the convenience of the Government, to meet the additional expense of maintaining his/her dependents elsewhere than at such post. The Contractor will be reimbursed for payments made to regular employees for a

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separate maintenance allowance not to exceed that made to Aid employees in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 260, as from time to time amended.

(i) *Payments during evacuation.* The Standardized Regulations (Government Civilians, Foreign Areas) provide the authority for efficient, orderly, and equitable procedure for the payment of compensation, post differential and allowances in the event of an emergency evacuation of employees or their dependents, or both, from duty stations for military or other reasons or because of imminent danger to their lives. If evacuation has been authorized by the Mission Director the Contractor will be reimbursed for payments made to employees and authorized dependents evacuated from their post of assignment in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 600, and the Federal Travel Regulations, as from time to time amended.

(j) *Danger pay allowance.* (1) The contractor will be reimbursed for payments made to its employees for danger pay not to exceed that paid USAID employees in the cooperating country, in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 650, as from time to time amended.

(2) Danger pay is an allowance that provides additional compensation above basic compensation to an employee in a foreign area where civil insurrection, civil war, terrorism or wartime conditions threaten physical harm or imminent danger to the health or well-being of the employee. The danger pay allowance is in lieu of that part of the post differential which is attributable to political violence. Consequently, the post differential may be reduced while danger pay is in effect to avoid dual crediting for political violence.

[49 FR 13259, Apr. 3, 1984, as amended at 51 FR 11450, Apr. 3, 1986; 53 FR 50632, Dec. 16, 1988; 61 FR 39096, July 26, 1996; 61 FR 51235, Oct. 1, 1996]

752.7029 Post privileges.

For use in all USAID non-commercial contracts involving performance overseas.

POST PRIVILEGES (JUL 1993)

(a) Routine health room services may be available, subject to post policy, to U.S. citizen contractors and their authorized dependents (regardless of citizenship) at the post of duty. These services do not include hospitalization, or predeparture or end of tour medical examinations. The services normally include such medications as may be available, immunizations and preventive

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health measures, diagnostic examinations and advice, and home visits as medically indicated. Emergency medical treatment is provided to U.S. citizen employees and dependents, whether or not they may have been granted access to routine health room services, on the same basis as it would be to any U.S. citizen in an emergency medical situation in the country.

(b) Privileges such as the use of APO, PX's, commissaries, and officer's clubs are established at posts abroad pursuant to agreements between the U.S. and Cooperating Governments. These facilities are intended for and usually limited to members of the official U.S. establishment including the Embassy, USAID Mission, U.S. Information Service, and the Military. Normally, the agreements do not permit these facilities to be made available to nonofficial Americans.

[49 FR 13259, Apr. 3, 1984, as amended at 56 FR 7587, Feb. 25, 1991; 58 FR 58596, Nov. 2, 1993; 62 FR 40471, July 29, 1997]

752.7030 Inspection trips by contractor's officers and executives.

For use in cost reimbursement contracts with an educational institution involving performance overseas.

INSPECTION TRIPS BY CONTRACTOR'S OFFICERS AND EXECUTIVES (APR 1984)

Provided it is approved by the Mission Director, the Contractor may send the Campus Coordinator, a professional member of its staff as an alternate to the Campus Coordinator, or such of its senior officials (e.g., president, vice presidents, deans, or department heads) to the Cooperating Country as may be required to review the progress of the work under this contract. Except for the Campus Coordinator or his/her alternate, no direct salary charges will be paid hereunder with respect to any such officials.

752.7031 Leave and holidays.

For use in all USAID cost-reimbursement contracts for technical or professional services.

LEAVE AND HOLIDAYS (OCT 1989)

(a) *Vacation leave.* (1) The Contractor may grant to its employees working under this contract vacations of reasonable duration in accordance with the Contractor's practice for its employees, but in no event shall such vacation leave be earned at a rate exceeding 26 work days per annum. Reimbursement for vacation leave is limited to the amount earned by employees while serving under this contract.

For regular employees during their tour of duty in the Cooperating Country, vacation

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leave is provided under this contract primarily for purposes of affording necessary rest and recreation. The Contractor's Chief of Party, the employee and the Cooperating Country institution associated with this project shall develop vacation leave schedules early in the employee's tour of duty taking into consideration project requirements, employee preference and other factors.

(2) Leave taken during the concluding weeks of an employee's tour shall be included in the established leave schedule and be limited to that amount of leave which can be earned during a twelve-month period unless approved in accordance with paragraph (a)(3) of this clause.

(3) Vacation leave earned but not taken by the end of the employee's tour pursuant to paragraphs (a) (1) and (2) of this clause will be forfeited unless the requirements of the project precluded the employee from taking such leave, and the Contracting Officer (with the endorsement of the Mission) approves one of the following as an alternative:

(i) Taking, during the concluding weeks of the employee's tour, leave not permitted under (a)(2) of this section, or

(ii) Lump-sum payment for leave not taken provided such leave does not exceed the number of days which can be earned by the employee during a twelve-month period.

(b) *Sick Leave.* Sick leave is earned by employees in accordance with the Contractor's usual practice but not to exceed 13 work days per annum or 4 hours every 2 weeks. Additional sick leave after use of accrued vacation leave may be advanced in accordance with Contractor's usual practice, if in the judgment of the Contractor's Chief of Party it is determined that such additional leave is in the best interest of the project. In no event shall such additional leave exceed 30 days. The Contractor agrees to reimburse USAID for leave used in excess of the amount earned during the employee's assignment under this contract. Sick leave earned and unused at the end of a regular tour of duty may be carried over to an immediately-succeeding tour of duty under this contract. The use of home leave authorized under this clause shall not constitute a break in service for the purpose of sick leave carry-over. Contractor employees will not be compensated for unused sick leave at the completion of their duties under this contract.

(c) *Home leave.* (1) Home leave is leave earned for service abroad for use only in the United States, in the Commonwealth of Puerto Rico, or in the possessions of the United States.

(2) A regular employee who is a U.S. citizen or resident and has served at least 2 years overseas, as defined in paragraph (c)(4) of this clause, under this contract and has not taken more than 30 workdays leave (vacation, sick, or leave without pay) in the

United States, may be granted home leave of not more than 15 workdays for each such year of service overseas, provided that such regular employee agrees to return overseas upon completion of home leave under an additional 2 year appointment, or for a shorter period of not less than 1 year of overseas service under the contract if the Mission Director has approved in advance. Home leave must be taken in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States; any days spent elsewhere will be charged to vacation leave or leave without pay.

(3) Notwithstanding the requirement in paragraph (c)(2), of this clause, that the Contractor's regular employee must have served 2 years overseas under this contract to be eligible for home leave, Contractor may grant advance home leave to such regular employee subject to all of the following conditions:

(i) Granting of advance home leave would in each case serve to advance the attainment of the objectives of this contract;

(ii) The regular employee shall have served a minimum of 18 months in the Cooperating Country on his/her current tour of duty under this contract; and

(iii) The regular employee shall have agreed to return to the Cooperating Country to serve out the remainder of his/her current tour of duty and an additional 2 year appointment under this contract, or such other additional appointment of not less than 1 year of overseas service as the Mission Director may approve.

(4) The period of service overseas required under paragraph (c)(2) or paragraph (c)(3) of this clause shall include the actual days spent in orientation in the United States (less language training) and the actual days overseas beginning on the date of departure from the United States port of embarkation on international travel and continuing, inclusive of authorized delays en route, to the date of arrival at the United States port of debarkation from international travel. Allowable vacation and sick leave taken while overseas, but not leave without pay, shall be included in the required period of service overseas. An amount equal to the number of days vacation and sick leave taken in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States will be added to the required period of service overseas.

(5) Salary during travel to and from the United States for home leave will be limited to the time required for travel by the most expeditious air route. The Contractor will be responsible for reimbursing USAID for salary payments made during home leave if in spite of the undertaking of the new appointment the regular employee, except for reasons beyond his/her control as determined by the Contracting Officer, does not return overseas

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and complete the additional required service. Unused home leave is not reimbursable under this contract.

(6) To the extent deemed necessary by the Contractor, regular employees in the United States on home leave may be authorized to spend not more than 5 days in work status for consultation at home office/campus or at USAID/Washington before returning to their post of duty. Consultation at locations other than USAID/Washington or home office/campus, as well as any time in excess of 5 days spent for consultation, must be approved by the Mission Director or the Contracting Officer.

(7) Except as provided in the schedule or approved by the Mission Director or the Contracting Officer, home leave is not authorized for TCN or CCN employees.

(d) *Holidays.* Holidays for Contractor employees serving in the United States shall be in accordance with the Contractor's established policy and practice. Holidays for Contractor employees serving overseas should take into consideration local practices and shall be established in collaboration with the Mission Director.

(e) *Military leave.* Military leave of not more than 15 calendar days in any calendar year may be granted in accordance with the Contractor's usual practice to each regular employee whose appointment is not limited to 1 year or less and who is a reservist of the United States Armed Forces, provided that such military leave has been approved in advance by the cognizant Mission Director or Assistant Administrator. A copy of any such approval shall be provided to the Contracting Officer.

(f) *Leave Records.* The Contractor's leave records shall be preserved and made available as part of the contractor's records which are required to be preserved and made available by the Examination of Records by the Comptroller General and Audit clauses of this contract.

(End of clause)

[54 FR 46392, Nov. 3, 1989, as amended at 56 FR 2699, Jan. 24, 1991]

752.7032 International travel approval and notification requirements.

For use in any USAID contract requiring international travel.

INTERNATIONAL TRAVEL APPROVAL AND NOTIFICATION REQUIREMENTS (JAN 1990)

Prior written approval by the Contracting Officer is required for all international travel directly and identifiably funded by USAID under this contract. The Contractor shall therefore present to the Contracting Officer an itinerary for each planned international trip, showing the name of the trav-

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eler, 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 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 shall notify the cognizant Mission, with a copy to the Contracting Officer, of planned travel, identifying the travellers and the dates and times of arrival.

(End of clause)

[55 FR 6805, Feb. 27, 1990]

752.7033 Physical fitness.

For use in all USAID contracts involving performance overseas.

PHYSICAL FITNESS (JUL 1997)

(The requirements of this provision do not apply to employees hired in the Cooperating Country or to authorized dependents who were already in the Cooperating Country when their sponsoring employee was hired.)

(a) *Assignments of less than 60 days in the Cooperating Country.* The contractor shall require employees being assigned to the Cooperating Country for less than 60 days to be examined by a licensed doctor of medicine. The contractor shall require the doctor to provide to the contractor a written statement that in his/her medical opinion the employee is physically qualified to engage in the type of activity for which he/she is employed and the employee is physically able to reside in the country to which he/she is assigned. Under a cost reimbursement contract, if the contractor has no written statement of medical opinion on file prior to the departure for the Cooperating Country of any employee and such employee is unable to perform the type of activity for which he/she is employed or cannot complete his/her tour of duty because of any physical disability (other than physical disability arising from an accident while employed under this contract), the contractor shall be responsible for returning the disabled employee to his/her point of hire and providing a replacement at no additional cost to the Government. In addition, in the case of a cost reimbursement contract, the contractor shall not be entitled to reimbursement for any additional costs attributable to delays or other circumstances caused by the employee's inability to complete his/her tour of duty.

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(b) *Assignments of 60 days or more in the Cooperating Country.* (1) The Contracting Officer shall provide the contractor with a reproducible copy of the "USAID Contractor Employee Physical Examination Form". This form is for collection of information; it has been reviewed and approved by OMB (see 701.105(a)). Information required by the Paperwork Reduction Act for reporting the burden estimate, the points of contact regarding burden estimate, and the OMB approval expiration date, are printed on the form. The contractor shall reproduce the form as required, and provide a copy to each employee and authorized dependent proposed for assignments of 60 days or more in the Cooperating Country. The contractor shall have the employee and all authorized dependents obtain a physical examination from a licensed physician, who will complete the form for each individual. The employee will deliver the physical examination form(s) to the embassy health unit in the Cooperating Country.

(2) (The following information is provided for two purposes: To assist fixed price offerors to develop their price proposal, and to provide cost reimbursement contractors with guidance in determining reasonable and allowable costs.) As a contribution to the cost of medical examinations, USAID shall reimburse the contractor for the physical examination authorized in paragraph (a) of this section in an amount not to exceed \$100 for the physical examination, plus reimbursement of charges for immunizations to the extent not covered by the contractor's health insurance policy. For physical examinations authorized in paragraph (b)(1) above, the USAID contribution to the cost of the examination shall be as follows:

(i) For the employee and authorized dependents 12 years of age and over, one half of the cost of each examination up to a maximum USAID share of \$300 per individual, plus reimbursement of charges for immunizations to the extent not covered by the contractor's health insurance policy.

(ii) For authorized dependents under 12 years of age, one half of the cost of each examination up to a maximum USAID share of \$120 per individual, plus reimbursement of charges for immunizations to the extent not covered by the contractor's health insurance policy.

(iii) The contractor must obtain the prior written approval of the Contracting Officer to receive any USAID contributions higher than these limits.

(End of clause)

[56 FR 7588, Feb. 25, 1991, as amended at 58 FR 58596, Nov. 2, 1993; 62 FR 40471, July 29, 1997; 62 FR 45334, Aug. 27, 1997]

752.7034 Acknowledgement and disclaimer.

For use in any USAID contract which funds or partially funds publications, videos, or other information/media products.

ACKNOWLEDGEMENT AND DISCLAIMER (DEC 1991)

(a) USAID shall be prominently acknowledged in all publications, videos or other information/media products funded or partially funded through this contract, and the product shall state that the views expressed by the author(s) do not necessarily reflect those of USAID. Acknowledgements should identify the sponsoring USAID Office and Bureau or Mission as well as the U.S. Agency for International Development substantially as follows:

"This (publication, video or other information/media product (specify)) was made possible through support provided by the Office of _____, Bureau for _____, U.S. Agency for International Development, under the terms of Contract No. _____. The opinions expressed herein are those of the author(s) and do not necessarily reflect the views of the U.S. Agency for International Development."

(b) Unless the contractor is instructed otherwise by the cognizant technical office, publications, videos or other information/media products funded under this contract and intended for general readership or other general use will be marked with the USAID logo and/or U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT appearing either at the top or at the bottom of the front cover or, if more suitable, on the first inside title page for printed products, and in equivalent/appropriate location in videos or other information/media products. Logos and markings of co-sponsors or authorizing institutions should be similarly located and of similar size and appearance.

(End of clause)

[57 FR 5237, Feb. 13, 1992]

752.7035 Public notices.

The following clause is for use when the cognizant technical office determines that the contract is of public interest, and that both the public and the Government would benefit from public notices concerning the contract, and requests that the Contracting Officer include the clause in the contract.

PUBLIC NOTICES (DEC 1991)

It is USAID's policy to inform the public as fully as possible of its programs and activities. The contractor is encouraged to give public notice of the receipt of this contract and, from time to time, to announce progress and accomplishments. Press releases or other public notices should include a statement substantially as follows: "The U.S. Agency for International Development administers the U.S. foreign assistance program providing economic and humanitarian assistance in more than 80 countries worldwide." The contractor may call on USAID's Legislative and Public Affairs (LPA) for advice regarding public Notices. The contractor is requested to provide copies of notices or announcements to the cognizant technical officer and to USAID's Legislative and Public Affairs (LPA) as far in advance of release as possible.

(End of clause)

[57 FR 5237, Feb. 13, 1992, as amended at 60 FR 11913, Mar. 3, 1995]

Subpart 752.3-70—USAID Clause Matrices [Reserved]

PART 753—FORMS

Subpart 753.1—General

Sec.

753.107 Obtaining forms.

Subpart 753.2—Prescription of Forms

753.270 Prescription of USAID Forms.

Subpart 753.3—Illustration of Forms

753.300 Scope of subpart.

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

SOURCE: 53 FR 50632, Dec. 16, 1988, unless otherwise noted.

Subpart 753.1—General

753.107 Obtaining forms.

Copies of any USAID Form referenced in the AIDAIR may be obtained from the U.S. Agency for International Development, Washington, DC 20523-0001, Attention: M/AS/ISS, Dis-

tribution, Room B-929 N.S., or from the cognizant Contracting Officer.

[53 FR 50632, Dec. 16, 1988, as amended at 56 FR 2699, Jan. 24, 1991; 56 FR 67226, Dec. 30, 1991; 59 FR 33447, June 29, 1994; 62 FR 40471, July 29, 1997]

Subpart 753.2—Prescription of Forms

753.270 Prescription of USAID forms.

The requirements for use of USAID forms are contained in parts 701 through 752 where the subject matter applicable to the form is addressed.

Subpart 753.3—Illustration of Forms

753.300 Scope of subpart.

USAID forms are not illustrated in the AIDAR. Copies of any USAID form prescribed in the AIDAR may be obtained as provided in 753.107.

APPENDIXES A-C TO CHAPTER 7 [RESERVED]

APPENDIX D TO CHAPTER 7—DIRECT USAID CONTRACTS WITH A U.S. CITIZEN OR A U.S. RESIDENT ALIEN FOR PERSONAL SERVICES ABROAD

1. *General.* (a) *Purpose.* This appendix sets forth the authority, policy, and procedures under which USAID contracts with a U.S. citizen or U.S. resident alien for personal services abroad.

(b) *Definitions.* (1) *Personal services contract (PSC)* means a contract that, by its express terms or as administered, make the contractor personnel appear, in effect, Government employees (see FAR 37.104).

(2) *Employer-employee relationship* means an employment relationship under a service contract with an individual which occurs when, as a result of the contract's terms or the manner of its administration during performance, the contractor is subject to the relatively continuous supervision and control of a Government officer or employee.

(3) *Non-person services contract* means a contract under which the personnel rendering the services are not subject either by the contract's terms or by the manner of its administration, to the supervision and control usually prevailing in relationships between the Government and its employees.

(4) *Independent contractor relationship* means a contract relationship in which the contractor is not subject to the supervision