

AGENCY FOR INTERNATIONAL DEVELOPMENT

48 CFR Parts 727, 742, and 752

RIN 0412-AA90

USAID Acquisition Regulation: Planning, Collection, and Submission of Digital Information; Submission of Activity Monitoring, Evaluation, and Learning Plan to USAID

AGENCY: U.S. Agency for International Development.

ACTION: Final rule.

SUMMARY: The United States Agency for International Development (USAID) is issuing a final rule amending USAID Acquisition Regulation (AIDAR) that implements USAID requirements for managing digital information as a strategic asset to inform the planning, design, implementation, monitoring, and evaluation of the Agency's foreign assistance programs. This final rule incorporates a new policy on Digital Information Planning, Collection, and Submission Requirements and the corresponding clause as well as a new clause entitled "Activity Monitoring, Evaluation, and Learning Plan Requirements" into the (AIDAR). This final rule is intended to reduce the burden on contractors, increase efficiency, and improve the use of data and other forms of digital information across the Agency's programs and operations.

DATES: Effective June 5, 2024.

FOR FURTHER INFORMATION CONTACT: Kelly Miskowski, USAID M/OAA/P, at 202-256-7378 or polycymailbox@usaid.gov for clarification of content or information pertaining to status or publication schedules. All communications regarding this rule must cite AIDAR RIN No. 0412-AA90.

SUPPLEMENTARY INFORMATION:

A. Background

USAID published a proposed rule in the **Federal Register** at 86 FR 71216 on December 15, 2021, to implement USAID requirements for managing digital information as a strategic asset to inform the planning, design, implementation, monitoring, and evaluation of the Agency's foreign assistance programs as outlined in 48 CFR parts 727, 742, and 752. USAID also published a notice of availability of supplemental document containing data standards in the **Federal Register** at 88 FR 22990 on April 14, 2023, and solicited comments. A response to comments received as well as a revised

copy of the supplemental document is included with this rulemaking.

On August 25, 2022, the Office of Science and Technology Policy (OSTP) published a Memorandum (viewable at this address: <https://www.whitehouse.gov/wp-content/uploads/2022/08/08-2022-OSTP-Public-Access-Memo.pdf>). In this memorandum, OSTP provided policy guidance to ensure that publications and their supporting data resulting from federally funded research are publicly accessible without an embargo on their free and public release. This memo was released after publication of the proposed rule. USAID's language around embargoes within this rule is intentionally flexible, granting embargoes on the release of digital objects only in limited circumstances, such as in the interest of international development and foreign policy objectives, consistent with both USAID and OSTP policy and guidance, and no changes have been made to the language of the rule as a result. In implementation, any approval of embargoes will be consistent with OSTP guidance.

B. Discussion and Analysis

Response to Comments on the Proposed Rule

Seventeen respondents submitted public comments in response to the proposed rule. USAID assessed the public comments in the development of the final rule. The full text of the comments is available at the Federal Rulemaking Portal, www.regulations.gov. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

1. Summary of Significant Changes

The following significant changes from the proposed rule are made in the final rule:

- a. Added definitions for data inventory, digital, and digital method.
- b. Revised applicability of 752.227-71 from the micro purchase threshold to the simplified acquisition threshold. Similarly, USAID has added an Alternate clause exempting certain contracts from the requirement to provide a data management plan. Specifically, contracts are exempted that: contain no data; are for emergency food assistance; are for disaster assistance, and transition-assistance activities managed by the Bureau for Humanitarian Assistance (BHA); or are for activities managed by the Bureau for Conflict Prevention and Stabilization's Office of Transition Initiatives (CPS/OTI).

c. The burden and cost estimates have been updated to reflect the changes outlined in paragraph b above, and the comments received related to this estimate are addressed in the revised Regulatory Impact Analysis. Additionally, comments regarding the number of respondents and whether the cost of design, testing, launch, and management of the Digital Front Door (DFD) website was subtracted are addressed as well.

d. Clarified the timeline for submission as outlined in AIDAR 752.227-71(f)(3)(i).

e. Various administrative amendments and clarifications have been added, such as revising references throughout the rule to indicate that the contracting officer, or contracting officer's representative if delegated, has authority to approve on behalf of USAID and renumbering of the AIDAR clause sections to conform with USAID numbering conventions.

2. Analysis of Public Comments

Below are the Agency's responses to comments on the changes proposed to United States Agency for International Development (USAID) Acquisition Regulation (AIDAR): Planning, Collection, and Submission of Digital Information as Well as Submission of Activity Monitoring, Evaluation, and Learning Plan to USAID. The Agency did not address comments unrelated to, or outside the scope of, the revisions of the proposed rule from the existing rule:

a. General Support for the Rule

1. *Comment:* Five respondents (7, 8, 9, 11, and 15) indicated general support for the rule. Some commenters noted that the rule will simplify reporting, reduce redundant data calls, and reduce the burden on contractors.

Response: USAID acknowledges the respondent's support for the rule.

b. Does Not Support the Rule

1. *Comment:* One respondent (16) did not support the rule, indicating that it will make it harder for contractors to act responsibly with data management of affected populations. Other commenters (11, 15) did not indicate a lack of support for the rule as a whole but did note that complex submission requirements may negatively impact local partners, small business, and potential market entrants due to potential cost and needed technical expertise.

Response: USAID acknowledges this feedback to the rule.

c. Data Rights and Protection

Several commenters (6, 7, 8, 11, 13, 14, 15, and 16) brought up issues around privacy, PII, publication, and informed consent, which are addressed in sub-categories as outlined below.

1. Access to Data and Data Rights—

A. Comment: Several commenters (6, 11, 13) inquired about whether the DFD will be public and available to other partners like the Development Experience Clearinghouse (DEC) and Development Data Library (DDL).

Response: The DFD is not its own system and is not intended to replace other systems. It is a public facing web page with centralized authentication that will direct users to the appropriate USAID systems for which they have authorized access. This includes but is not necessarily limited to the Development Information Solution (DIS), DEC, and DDL.

B. Comment: Commenter #8 specifically asked whether information that is exempt from the DFD (like PII) be submitted to USAID first as a restricted version before being scrubbed and sent to the DFD?

Response: The rule states that the contractor must not submit information to the DFD that contains personally identifiable information. And that to the maximum extent possible, the contractor must remove the association between the set of identifying data and the individual to which it applies unless retaining such information is essential to comply with the terms of the contract and upon written approval from the contracting officer or contracting officer's representative as delegated to submit this information. Otherwise, the "Submission Requirements" section states that contractors must "submit digital information created or obtained in performance of this contract to USAID at the finest level of granularity at which it was collected."

C. Comment: Commenter #16 questioned whether the contractor would be able to effectively restrict access to sensitive data without fear of losing funding.

Response: Some data might be exempted from submission under subsection (f)(4) of the clause, including as determined by the contracting officer or contracting officer's representative as delegated in (f)(4)(ii). The rule provides for categories of information not to submit to USAID. It further states that if the Contractor believes there is a compelling reason not to submit specific digital information that does not fall under an exemption in this section, including circumstances where

submission may jeopardize the personal safety of any individual or group, the Contractor must obtain written approval not to submit the digital information from the contracting officer. Further specifics under an individual award may be discussed with a contracting officer.

D. Comment: Some commenters (11, 13) noted that they did not believe it was necessary (or questioned when circumstances would require) to provide copies of license agreements for digital information or media releases.

Response: USAID believes it is critical for USAID to have documentation regarding the licenses for the digital information submitted to the DFD so that USAID understands the license parameters for use of the data. As such, data licenses are a submission requirement in this rule.

2. Informed Consent

A. Comment: Commenter #16 noted that the rule appears to contemplate large collections of data for purposes that cannot be fully known, which will negate the ability for truly informed consent to be given.

Response: The contract itself will mandate the required information to be collected and requirements relating to human subjects research and USAID's data rights. The rule does not mandate new digital information collections but provides guidance on the management of the specific digital information collected under the contract. To the extent the contractually required collection triggers informed consent requirements under Human Subjects Research, this is governed by AIDAR 752.7012 (the Federal Policy for the Protection of Human Subjects (the "Common Rule").

B. Comment: Commenter #8 indicated if providing personal information is a requirement for participation in an activity (such as attending a training), then providing such information can no longer be considered "voluntary." This commenter recommended that the rule explicitly address the rights of respondents/human subjects to voluntarily provide (or not provide) this data/PII or to otherwise restrict sharing of personal information.

Response: This rule does not address the provision of personal information as a precondition to receiving services. Existing informed consent requirements already address the voluntary provision of information when respondents elect to participate in human subjects research. Explicitly addressing the rights of respondents/human subjects is outside the scope of this rule. Please also refer to USAID's responses in C.4

of this section covering Protection of Information.

C. Comment: Two commenters (11, 13) noted that Ref (f)(1)(v) refers to AIDAR 752.7012; however, this only pertains to the protection of the individual as a research subject, which is not applicable to every contract.

Response: USAID has updated the rule to clarify that this requirement applies only when AIDAR 752.7012 is included in the contract. (See corresponding edits to 752.227–71(f)(1)(v)).

D. Comment: Commenter #14 requested clarity on 727.7002 Policy (b)(3) noting that it is unclear if USAID is requiring that the submission contain every signed consent form, an indication that each individual submitted consent, or just a blank copy of the form itself. They recommended adding clarifying language in 752.227–71.

Response: Paragraph (f)(1)(v) of this clause already instructs contractors to provide a "blank copy" so no further edits are needed.

3. Preparation of Data

A. Comment: Commenter #8 expressed concerns that as written proposed clause 752.227–71 requires submission of data scrubbed of PII. They indicate that scrubbing qualitative data such as speech patterns and other audio/video information is extremely costly and time consuming without sufficient guidance. As such, they recommend providing guidance on identifying high informational value qualitative data and the process for de-identifying these data. Additionally, they recommend: (1) clarifying the definition of "machine readable" to exclude unstructured qualitative data like audio/video recordings, interview/focus group notes and transcripts, and (2) revising submission requirement (i) to state, "Submit machine readable digital information created or obtained in performance of this contract to USAID at the finest level of granularity at which it was collected."

Response: Since audio or visual files may contain PII, contractors should work with their contracting officer representative to determine whether the information is necessary to submit, if an alternative such as a transcript or summary is acceptable, or an exemption from submission is appropriate. The contractor should address considerations for specific media formats and content during the development of the Data Management Plan. In addition, the draft rule allows flexibility for specific circumstances noting, "If the Contractor believes there

is a compelling reason not to submit specific digital information that does not fall under an exemption in this section, including circumstances where submission may jeopardize the personal safety of any individual or group, the Contractor must obtain written approval not to submit the digital information from the contracting officer.” (See 752.227–71(f)(4)(ii) of the Proposed Rule). No revisions to the rule are necessary.

To the commenter’s follow-up regarding “machine readable”, USAID has revised the final rule to indicate that the machine-readability requirement applies only to digital data and datasets, thus excluding digital objects like audio and video files (See edits to 752.227–71(f)(1)(ii)). With regard to the recommendation on submitting digital information at the “finest level of granularity at which it was collected,” there already exists a requirement in 752.227–71(f)(1)(i) to “Submit digital information created or obtained in performance of this contract to USAID at the finest level of granularity at which it was collected.” No further revisions are necessary. (See also response to c(4)(A) of this section below)

B. Comment: Commenter #7 questioned whether there would be analog options, noting that print outs of documents limit digital functionality (*i.e.*, a printed hyperlink cannot provide the additional information that someone may access in a digital copy).

Response: 752.227–71(f)(1)(i) states: “Use only digital methods and USAID-approved standards to the extent practicable . . .” This allows for analog options in the event that digital methods are not available or practicable.

4. Protection of Data

A. Comment: Some commenters (14, 16) expressed concerns about the broadness of “finest level of granularity” and requested that guidance be given as to how granular the data must be.

Response: Regarding the “finest level of granularity”, some, but not all, USAID contracts will provide technical details regarding the level of granularity required. In the absence of such technical guidance, contractors must collect digital information at a level of granularity that allows them to comply with the terms of their award. Barring specific exceptions outlined in the rule, contractors must submit this digital information at the same level of granularity at which it was obtained, rather than aggregating or otherwise generalizing the information. USAID will not necessarily publish or otherwise share data at the same level

of granularity as submitted by the contractor.

B. Comment: Commenter #16 noted that some international standards reference ‘personal data’ rather than PII, which protects broader categories of information to prevent re-identification particularly in areas with humanitarian concerns. Further, they noted that USAID requirements may be contrary to local rules and regulations regarding data protection and asked if partners will be given adequate support in these situations.

Response: USAID adheres to definitions and standards set forth by the Office of Management and Budget (OMB), including those in OMB Circular A–130, which defines personally identifiable information. USAID has processes in place to manage re-identification risks concerning personally identifiable information. In the event a USAID partner identifies a potential concern under local law that could impact their ability to plan for and adhere to the requirements of this clause, they should identify that concern during the Digital Information Planning process and contact their contracting officer representative for additional guidance.

C. Comment: Commenter #11 questioned whether USAID would limit methods, applications, or systems used for data collection; how USAID will define when digital data collection methods are impractical; and what process there is for Contractors to justify withholding data information.

Response: This rule does not provide specific requirements regarding applications and systems that contractors must use for data collection. Whether certain methods are impractical will be fact specific and should be addressed with the contracting officer representative. As to the process for contractors to justify withholding “data information” [sic], the rule states, “(ii) If the Contractor believes there is a compelling reason not to submit specific digital information that does not fall under an exemption in this section, including circumstances where submission may jeopardize the personal safety of any individual or group, the Contractor must obtain written approval not to submit the digital information from the contracting officer.”

d. Clarity on Language and Requirements

1. Background, Authority, Timeline, and Editorial

A. Comment: Several commenters (8, 11, 13) requested clarity on when to

submit digital information noting that the clause says 30 calendar days but also has an option to submit when the information meets the requirements of quality digital information or 30 days after closeout. Some specifically noted that allowing submission after closeout could allow the incumbent access to data which competitors for a follow-on would not. Finally, one commenter (8) asked that USAID consider providing additional time (rather than 30 days after contract end) and resources (including funding) for data submission.

Response: With regard to clarification on the submission timeline, USAID has updated the rule to emphasize that the contractor must adhere to the “schedule of the contract.” Should a timeline for a specific digital information not be specified in the award schedule, the language as written requires the contractor to submit the information “once it meets the requirements of quality digital information,” regardless of when this criterion is met during the award period. This is stated as a requirement, not as an option. This is intentional since USAID often requires access to finalized (*i.e.*, “quality”) information well before the end of a typical five year contract. As the contract draws to a close, USAID also recognizes that valuable information funded by the Agency may remain in the contractor’s possession, whether in draft or final “quality” form. For this reason, there is an additional, non-optional requirement to submit any “draft” and “quality” digital information not previously submitted, no later than 30-days after contract completion. The fact that the incumbent may still have access to this information during the 30-day period after contract completion does not in itself create a conflict of interest for the incumbent. The clause already allows the contractor to obtain approval from the contracting officer for variations to the 30 day submission period. Any costs associated with such submissions should be anticipated and planned for during proposal submission.

B. Comment: Commenter #11 recommended adding “as approved by USAID’s Chief Information Officer” as in Section (f)(1)(vi)(D)(2) throughout the rest of the section.

Response: USAID believes the language is sufficiently clear as written.

C. Comment: Two commenters (11, 13) requested clarity on which parts of the mandates listed in the section 727.7000 of the proposed AIDAR text will be implemented in the Rule.

Response: By implementing this rule, USAID intends to enhance compliance with several mandates which include

but are not necessarily limited to the following: (1) Broad sections of OMB Circular A-130, with a particular focus on Section 5 e. which outlines policy on “Information Management and Access;” (2) Foundations for Evidence-Based Policymaking Act, with a focus on Title II, “Open Government Data Act;” (3) The 21st Century IDEA Act, with a focus on Section 3, “Website Modernization;” and Section 4, “Digitization of Government Services and Forms;” (4) Foreign Aid Transparency and Accountability Act, including Section 3 (c) “Objectives of Guidelines;” and (5) the Geospatial Data Act, with a focus on Section 2806, “Geospatial data standards.”

D. Comment: Commenter #8 noted that the benefit of supporting institutional learning and public understanding of USAID program impact should be more explicit in the introduction.

Response: USAID appreciates this comment but believes that the preamble is sufficiently clear as written.

E. Comment: Commenter #11 asked whether digital information requested includes only information obtained for the purpose of implementing programmatic activities.

Response: USAID refers the respondent to “727.7003 Contract clause.” This section specifies the insertion of the clause into “contracts fully or partially funded with program funds. . . .” Therefore, the primary focus of this clause is on activities resourced with program funds. However, to limit burden, and per the definitions of “data” and “digital information” in the clause, there would be no requirement to submit “information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.” Please see also USAID’s response to the comment in (4)(B) of this section.

F. Comment: Commenter #13 indicated that 752.227–71(f) makes a reference to (f)(4) which, the respondent suggests, does not exist.

Response: Section (f)(4) of 752.227–71 is entitled “Exemptions.”

2. Digital Information, Methods, Objects, and Inventory

A. Comment: Two commenters (8, 12) requested a definition of “digital methods” per 752.227–71 and noted that as structured, the proposed rule requires submission of digital data that cannot comply with the machine-readable requirement (*i.e.*, audio recordings, transcripts).

Response: USAID has added a definition for “digital methods” to

Section 727.7001 and the clause 752.227–71(a). USAID appreciates the comment highlighting the challenges with submitting audiovisual files in machine readable format. In light of this issue, USAID has revised the final rule to indicate that the machine-readability requirement applies only to digital data and datasets. (See 752.227–71(f)(1)(ii)).

B. Comment: Commenter #11 requested a definition of both “data inventory” and “any digital object”.

Response: USAID appreciates these comments and has added definitions for “digital” and “data inventory” to Section 727.7001 and the clause 752.227–71(a). USAID notes that “digital object” is already defined in the clause.

3. Beneficiary Feedback

A. Comment: Commenter #8 requested clarity on how “beneficiary” is defined, and who will define the term (*i.e.*, do Contractors identify beneficiaries to elicit feedback from).

Response: This aspect of the rule is intended to implement a recurring requirement of recent appropriations acts. Most recently, in the FY 2022 Consolidated Appropriations Act Congress directed that Development Assistance (DA) funds shall be made available for the regular and systematic collection of feedback obtained directly from beneficiaries to enhance the quality and relevance of such assistance. The term “beneficiary” is not defined in this statute; its use herein is intended to be consistent with its use in the AIDAR, agency internal policies (Automated Directives Systems), and other agency policy and procedural documents. At times the individuals who may be considered as “beneficiaries” for a particular contract may depend on the specific nature of the contract and the implementation context. USAID believes it is not necessary to create a unique definition of “beneficiary” for the purpose of this rule, no changes to the AIDAR text are made. Specific concerns regarding identification of beneficiaries for an award may be discussed with a contracting officer.

B. Comment: Commenter #11 requested more clarity on what USAID means by “feedback” noting that there may be an appearance of coercion as beneficiaries receive benefits from the program. Given that potential conflict, will USAID use this feedback to assess contractor performance or USAID’s performance? Will questions be drafted and solicited through USAID or the contractor?

Response: While USAID does not define the term “feedback” per se, the AIDAR clause 752.242–71 contains the

definition of “feedback from beneficiaries”, which emphasizes the voluntary nature of these communications. As with any other data collection process managed by USAID contractors, beneficiary feedback must not be collected through coercion. Contractors must not withhold benefits based on whether a beneficiary provides feedback or the nature of the feedback about the benefits received.

Contracting officers may rely on information obtained from beneficiary feedback, or any other sources, as appropriate in evaluating past performance of offerors as permitted in the FAR. (For examples see FAR 15.305(a)(2)(ii), 13.106–2(b)(3)(ii) and FAR 12.206). Managers and decision-makers within USAID operating units will determine if beneficiary feedback will also be used to assess USAID’s performance. As to whether questions for soliciting feedback from beneficiaries will be drafted by USAID or the contractor, this will depend on the specific contract and the final Activity MEL Plan which should include the contractor’s plans for collecting, responding to, and reporting on feedback from beneficiaries, if required by the contract. USAID may consult with contractors as necessary in developing the Activity MEL Plan to ensure the proposed methods of collecting, responding to, and reporting beneficiary feedback is appropriate under the particular contract and activity.

C. Comment: Commenter #8 requested clarity on how the information will be used and recommended verification via third party or further guidance to prevent bias.

Response: USAID expects that contractors will review the feedback they receive and use it in their management decision-making as noted in the **Federal Register** notice to enhance the quality and relevance of USAID programs and to maximize the cost-effectiveness and utility of these programs for beneficiaries. We appreciate the recommendation that USAID verify beneficiary feedback information via a third party; if applicable, appropriate means of verifying contract compliance with this rule will be determined for each contract by the contract officer and contract officer’s representative.

D. Comment: Commenter #12 requested clarity on the term “cost-effectiveness”—specifically whether contractors will be expected to use feedback generally to over-all cost effectiveness or whether they will perform a formal cost effectiveness analysis.

Response: USAID contractors will not generally be expected to perform a formal cost effectiveness analysis solely based on beneficiary feedback. Rather, USAID expects that feedback from beneficiaries will be generally useful to the management decision-making of the contractor, particularly regarding adaptations a contractor might make to their implementation processes that could improve cost-effectiveness and utility of the assistance provided to beneficiaries.

E. Comment: Commenter #10 requested clarity on whether the definition of “regularly” collected feedback that is “appropriate” and “feasible” will be determined by the contractor and USAID during AMELP development.

Response: Rather than establishing the definition of “regularly”, USAID expects that a determination of “regular” feedback collection will depend on the size and scope of the activity and will be determined by the contractor and USAID during AMELP development, unless the frequency of beneficiary feedback collection is specified in the contract.

F. Comment: Commenter #14 requested clarity on if beneficiary feedback data collection could be combined with other collections.

Response: Unless mandated to be collected and reported separately by the award terms, beneficiary feedback may be combined with other data collection efforts.

4. Finest Level of Granularity

A. Comment: Several commenters (9, 10, 11, 13, 15) requested clarity on the term “finest level of granularity” with several requesting that each contract should specify the level of detail (or allow for flexibility to ensure protection of data) noting concerns that a strict interpretation may result in turning over unnecessary, sensitive data. One (10) commenter inquired whether the contractor will use their own definitions of granularity or if there will be a USAID-defined standard or template (or process to determine this level of granularity) and questioned if the DFD submission would include any raw data in digital form.

Response: Some, but not all, USAID contracts will provide technical details regarding the level of granularity required. However, it is not practical to pre-specify levels of data granularity in all contracts, as the Agency may need to allow some contractor discretion in this area. Therefore, during “Digital information planning requirements” as specified in paragraph (b) of the clause 752.227–71, contractors should propose

a level of granularity that allows them to comply with the terms of their award. Barring specific exceptions outlined in the clause 752.227–71, contractors must submit this digital information at the same level of granularity at which it was obtained, rather than aggregating or otherwise generalizing the information. Depending on the requirements of the contract, the DFD submission process may include the submission of raw data in digital form, to include entering raw data in online DFD templates or the upload of entire datasets.

B. Comment: Some commenters (11, 12) requested further information on how the granular data would be used and submitted—specifically asking if it will only be for the purpose of implementing programmatic activities.

Response: USAID’s usage of the data will be determined by the data rights clause in the contract.

C. Comment: Commenter #16 recommended removing the requirement to share data at the finest level of granularity. Barring that, they requested guidance for exemptions to prevent potential re-identification of parties due to transmission of PII and potential data leaks.

Response: USAID cannot remove the “finest level of granularity” requirement without jeopardizing its ability to accomplish its mission. USAID is aware that re-identification risk increases with granularity and appreciates that commenters are aware of this. To this end, USAID has included exemptions from submission (See 752.227–71(f)(4)) and indicated that PII submitted should be limited to the maximum extent practicable (See 752.227–71(d)(2)). Moreover, USAID will not necessarily publish or otherwise share data at the same level of granularity as submitted by the contractor, especially if the contractor submits sensitive data. Regarding the request for additional guidance, this is outside the scope of this rule.

5. Digital Standards, Repositories, and Alternate Technologies

A. Comment: Some commenters (11, 13) requested a definition of alternate technology and information on how to know if the Chief Information Officer (CIO) has approved it.

Response: Technologies that are approved for USAID use fluctuate frequently, given the rapidly changing nature of technology itself. This makes it impracticable to provide a list or definition of USAID’s approved technologies in a static document. Contractors must seek approval to use alternate technologies by contacting their Contracting Officer. The

Contracting Officer will seek approval in consultation with USAID’s Office of the Chief Information Officer and USAID policy.

B. Comment: Some commenters (11, 13) noted that the hyperlink provided in (h) (data.usaid.gov/guidelines) was inoperable and requested access to the information for review.

Response: USAID will update the hyperlink to indicate data.usaid.gov/standards (see revised text in 752.227–71(h)). On April 14, 2023 USAID published a Notice of availability of a supplemental document in the **Federal Register** (88 FR 22990) specifically noting that USAID received requests under the comment period for this rule to provide access to the standards. The supplemental document entitled “USAID Digital Collection and Submission Standards” was available for comment. USAID collected those comments and provided a response to them in this document.

C. Comment: Several commenters (11, 13, 14) requested information on what the USAID approved standards are and if they will be provided to contractors.

Response: USAID published the “USAID Digital Collection and Submission Standards” in the **Federal Register** (88 FR 22990) on April 14, 2023 and provided a comment period for the public.

D. Comment: Some commenters (11, 13) requested a definition of USAID-approved by digital repository.

Response: USAID is not including a definition of a “USAID-approved digital repository” in the rule as this determination is an internal policy decision. USAID’s policies on acceptable digital repositories will be informed, in part, by the standards for digital repositories developed by the interagency Subcommittee on Open Science of the National Science and Technology Council (NSTC). This includes those found in the document *Desirable Characteristics of Data Repositories for Federally Funded Research*, released by OSTP in May 2022 (available at: <https://www.whitehouse.gov/wp-content/uploads/2022/05/05-2022-Desirable-Characteristics-of-Data-Repositories.pdf>).

E. Comment: Commenter #9 recommended using or aligning with the International Aid Transparency Initiative rather than a USAID-approved standard.

Response: Since the U.S. Government as a whole is a signatory to IATI (see: <https://iatistandard.org/en/news/united-states-marks-10-years-since-becoming-an-iati-signatory/>), USAID has included IATI as a recommended standard.

Should a data standard for a specific subject area not be available at data.usaid.gov/standards, the standard will be indicated in the contract itself or provided to the contractor upon consultation with the Contracting Officer.

F. Comment: Commenter #11 asked how USAID will define data standards—in the contract or agreed upon in the data management plan.

Response: USAID published the “USAID Digital Collection and Submission Standards” in the **Federal Register** (88 FR 22990) on April 14, 2023, and provided a comment period for the public.

6. Data Management Plan

A. Comment: Some commenters (11, 13) requested clarity on the requirements of a Data Management Plan with one noting that if DMP requirements are outlined in ADS 579, they should be directly in the rule as the ADS is USAID internal guidance.

Response: The preamble to the rule contains references to ADS 579 as background information only. However, the specific Data Management Plan (DMP) requirements are outlined in the proposed clause in 752.227–71(c)(2) *What to submit*.

B. Comment: Commenter #9 requested that contractors be allowed to identify which data they cannot share with USAID along with an appropriate justification.

Response: AIDAR 752.227–71(f)(4)(ii) indicates that “[i]f the Contractor believes there is a compelling reason not to submit specific digital information that does not fall under an exemption in this section, including circumstances where submission may jeopardize the personal safety of any individual or group, the Contractor must obtain written approval not to submit the digital information from the contracting officer.”

C. Comment: Commenter #8 requested clarity on which types of data and/or contracts will require a DMP.

Response: The rule, as revised, states that the clause applies to “solicitations and contracts fully or partially funded with program funds exceeding the simplified acquisition threshold.” (See 727.7003 and 752.227–71) Paragraph (c) of this clause includes the DMP requirements. As outlined in 727.7003, this paragraph is “[reserved]” and DMP requirements not applicable when the anticipated contract: (1) does not collect data; (2) implements emergency food assistance under the Food for Peace Act or section 491 of the Foreign Assistance Act of 1961, including for the procurement, transportation, storage,

handling and/or distribution of such assistance; (3) implements international disaster assistance under section 491 of the Foreign Assistance Act of 1961 or other authorities administered by the Bureau for Humanitarian Assistance; or (4) implements activities managed by the Bureau for Conflict Prevention and Stabilization’s Office of Transition Initiatives, or fully or partially funded with the Complex Crises Fund.

D. Comment: Commenter #13 noted that not allowing digital information collection until the DMP is approved may delay implementation.

Response: The contractor must begin award implementation upon formal approval of the award. However, digital information collection must not begin prior to approval of the data inventory and submission of any remaining components of the DMP unless authorized in writing by the contracting officer. Based on multiple lessons learned, USAID believes the value of requiring a DMP to far outweigh potential delays in submissions.

E. Comment: Several commenters (8, 10, 11, 14) requested clarity on the timeline, processes, and standards for DMPs—specifically information on what the documentation will look like; how standards will be defined that the contractor may be audited against; who will review/approve DMPs and standards for such approval; how approval officials will be trained as well as the timeline for review with a recommendation that they be reviewed annually; whether USAID will provide a template.

Response: This rule does not provide specific requirements on DMP standards, review, approval, templates, or training of USAID officials. Awards will have varying requirements on these matters, and partners must consult the terms of their award for specific details. These issues will be further addressed by USAID policy which USAID staff must consult in providing direction to implementing partners. For additional information, please consult ADS 579—USAID Development Data (available at: <https://www.usaid.gov/about-us/agency-policy/series-500/579>).

F. Comment: Commenter #14 requested that the DMP be part of the AMELP given that many of the requirements overlap (with another (11) asking for clarity on if they are separate requirements.

Response: The requirement to submit a DMP is distinct from the requirement to submit an Activity MEL plan. Both plans serve distinct purposes, as described in the rule, and some activities that do not require an Activity MEL plan may still require a DMP.

Unless otherwise precluded by the terms and conditions of their contract, contractors required to submit both a DMP and an Activity MEL plan may submit a DMP as a section of an Activity MEL plan or as a separate stand-alone plan.

7. Activity Monitoring Evaluation and Learning Plan

A. Comment: Commenter #13 noted that the clause cites ADS 200/201 which is internal policy and requested that the clause itself address plan requirements.

Response: The only reference to ADS 201 in the proposed AIDAR text is included in section 742.1170–5, as a source of additional information on USAID program cycle activity monitoring, evaluation and learning. The clause at 752.242–71 fully addresses the requirements for the Activity Monitoring, Evaluation, and Learning Plan.

B. Comment: Commenter #11 requested adoption of a longer timeline to develop the Activity MEL Plan (currently 90 days) citing UK agencies which use a six- to 12-month timeframe.

Response: Regarding the recommendation to adopt a longer timeline to develop the Activity MEL Plan, USAID, after consideration of the public comment, has determined to maintain the 90-day timeline, unless otherwise specified in the contract schedule. OMB guidance M–18–04 regarding Monitoring and Evaluation Guidelines for Federal Departments and Agencies that Administer United States Foreign Assistance recommends that monitoring and evaluation be planned early. USAID’s experience has shown that adherence to a 90-day timeline has provided sufficient time to generate an actionable AMELP without resulting in significant programmatic delays. Without obtaining an AMELP from the contractor in the early stages of activity implementation, USAID faces decreased ability to determine that U.S. Foreign Assistance goals are being met. Notably, AMELPs may be revised and updated, in coordination with USAID, as additional information becomes available.

8. Risk

A. Comment: Commenter #16 requested that a limited purpose for the collection be set out as well as time limits of data retention and clear requirements for data security and literacy.

Response: The scope of the contract itself will provide clarity on the purpose of the collection. USAID adheres to the requirements of the Federal Records Act for the retention of records and any

retention requirements on contractors will be outlined in the award. USAID requirements on data literacy and security are determined by the Agency's internal policies. USAID requirements for the contractor on data literacy and security would be outlined in the award.

B. Comment: Commenter #13 requested that paragraph (g)(2) be amended to indicate that the government *may* direct an embargo for one year when the contractor submits digital objects as mandating it may result in ineligibility to bid for follow-on contracts.

Response: The rule as currently written indicates that the "Contractor *may* request . . . an embargo. . . ." and that the "contracting officer or delegated contracting officer's representative *may* approve an embargo. . . ." (See 752.227–71(g)(2), emphasis added) This is intentionally permissive language. Per the August 25, 2022, memo from the White House Office of Science and Technology Policy entitled, "Ensuring Free, Immediate, and Equitable Access to Federally Funded Research," USAID may approve embargoes, including those that support foreign policy and international development objectives but currently has no reason to mandate embargoes.

C. Comment: Commenter #13 requested that the rule allow for the implementer to add a disclaimer of liability of information per section (f)(vi)(B).

Response: Please note that contractors are already allowed under 752.227–71(f)(1)(vi) of the rule to "provide additional details or metadata" regarding the "quality of submissions of draft digital information." This additional information would alert USAID, as well as other potential users of the data, to any potential drawbacks of using the submitted information to draw definitive conclusions.

D. Comment: Some commenters (11, 13) requested information on who will perform the "rigorous risk assessment of digital information submitted to USAID" and whether there will be guidance or a timeline provided; they additionally asked about permissions and restrictions to digital information to the DFD and whether the public will have access.

Response: USAID's risk assessment process will begin after submission of information via the DFD and will involve multiple experts spanning several parts of the Agency. For additional information, ADS 579 outlines the existing implementation of this process. USAID will apply permissions and restrictions to digital

information submitted via the DFD as consistent with its existing information technology policies as outlined in the ADS 500 series. Information submitted via the DFD may be entirely restricted from public view, made available to bona fide research institutions, made partially available to the public, or made entirely available to the public, in accordance with existing U.S. government mandates, depending on the sensitivity of the information or other legal considerations.

e. USAID Systems and Processes

1. Digital Portals

A. Comment: Several commenters (6, 11, 12, 13, 17) asked whether this rule will retire existing digital portals such as the DEC, DDL, DIS, FTFMS, and other Mission level systems and if so, that a list of portals, processes, and protocols eliminated be provided with a timeline to ease transition.

Response: The DFD is not its own system and is not intended to replace other systems. It is a public facing web page with centralized authentication that will direct users to the appropriate USAID systems for which they have authorized access. This includes but is not necessarily limited to the Development Information Solution (DIS), Development Experience Clearinghouse (DEC), and Development Data Library (DDL). Upon publication of this rule, contractor requirements in AIDAR Clause (DEC) 752.7005 will be eliminated.

B. Comment: Some commenters (6, 8, 13) wondered if legacy documents from existing portals (DEC/DDL) will be available or if these portals can be maintained during the transitional period (and if maintained, how would they change)?

Response: Digital objects that are publicly available via the DEC, DDL, and other public-facing data portals will continue to be available as the DFD requirement is implemented.

C. Comment: Some commenters (11, 13, 17) asked that in the event that other portals are not retired, under what circumstances would contractors be required to submit to these other portals (*i.e.* the DIS; or whether draft digital information goes to the DFD or another digital repository).

Response: While the DEC and other submission clauses will be retired upon implementation of this rule, the systems will continue to exist in their current form. However, submission workflows into those systems will take place via the DFD, reducing the total number of URLs required to meet contractual requirements.

D. Comment: Some commenters (11, 13) noted that the link to dfd.usaid.gov is not live and requested access to review.

Response: The link to the DFD will be active upon publication of the final rule.

E. Comment: Commenter #11 asked whether contractors will maintain unique registrations on the DFD for each contract.

Response: The contractor can choose whether to assign a single individual to submit information on behalf of multiple contracts or to assign a single individual to submit information for each individual contract. However, contractors must ensure compliance with the requirements in the clause for each individual award.

F. Comment: Commenter #17 requested standard reporting templates for submissions to the DFD and asked about integration of existing monitoring tools. They (17) further asked about USAID's plan to address technical challenges and limitations for global systems implementation and learning curves/technical deficiencies internationally.

Response: Rather than providing standard USAID templates, the user interface for each system will guide partners in entering the information required. To address the learning curve associated with these changes, USAID will continue to provide training, communications, and instructional guides to facilitate the transition.

G. Comment: Commenter #8 noted that the current DDL platform has a 500-variable maximum for .csv submission resulting in large datasets needing to be broken up into parts.

Response: The Agency is aware of technical limitations in submitting datasets to the DDL and continues to work to make ongoing enhancements to these technologies.

2. Revisions to Existing Policy

Comment: Two commenters (11, 13) asked whether ADS 302.3.5.21 (Submissions of Datasets to the Development Data Library (DDL) (October 2014)) will be removed or revised as the proposed rule removes AIDAR 752.7005 and the anticipated timeline for removal.

Response: Yes. USAID's internal policy guidance will be amended to reflect the change to the AIDAR. The rule currently removes and reserves AIDAR 752.7005.

3. Contracting Officer's Representative Approvals

A. Comment: Some commenters (11, 13) noted that language giving Contracting Officer's Representative

discretion to change submission requirements may lead to confusion, and commenter #11 recommended that COR discretion to tell a contractor where to submit information should be on a mission basis instead. Commenter #11 noted that requiring COR approval each time an exception is necessary is prohibitively costly in politically insecure or otherwise challenging environments.

Response: USAID believes that allowing COR discretion on submission requirements is essential given that submission questions are often fact specific. In addition, USAID is developing guidance for CORs and USAID staff on how to handle such requests in order to ensure a consistent approach to the greatest extent possible. This guidance will also outline alternate technologies and USAID-approved repositories for the submission of digital information. USAID does not agree that COR involvement in granting exemptions is unreasonable in challenging operational environments. To the maximum extent practicable, the contractor should address these challenges during the digital information planning process in order to mitigate unforeseen costs and to obtain necessary approvals should such circumstances arise.

B. Comment: Some commenters (11, 13) requested more information on processes for the approval of digital information, to include whether approvals of digital information are granted within or outside the DFD. These commenters also requested information on the submission exemption process.

Response: The means of granting approval will vary based on the type of digital information submitted. USAID has updated the AIDAR requirements in 752.227–71(f)(3)(i) to clarify that with the exception of datasets, the Contractor must submit all other digital objects within 30 days of obtaining the contracting officer or delegated contracting officer representative's approval. This pre-submission approval process will generally take place via email. The direct submission of digital data (e.g. indicator data) and datasets via the DFD will trigger a semi-automated approval process that will take place directly within USAID information systems. This process will take place via a combination of system-generated messages and email exchanges with USAID personnel. Exemptions are already addressed in AIDAR 752.227–71(f)(4) and will be granted on a case-by-case basis.

4. Exceptions and Oversight

A. Comment: Commenter #11 requested information on the process to exempt data submission when the personal safety of an individual or group is jeopardized.

Response: Circumstances that jeopardize the safety of an individual or group can vary widely, and USAID will address these on a case-by-case basis. To enable USAID to make an informed decision tailored to the specific circumstance, AIDAR 752.227–71(f)(1)(vi)(A) requires that the contractor furnish details and/or metadata regarding known sensitivities within digital information that may jeopardize the personal safety of any individual or group. In addition, contractors should use the digital information planning process to identify any potential security or safety concerns early in the activity to the greatest extent possible.

B. Comment: Commenter #7 asked whether there would be USAID/ Washington oversight of the recommended contractual requirements.

Response: Contract Officers will monitor individual contracts for compliance with submission requirements. In addition, USAID/ Washington will periodically monitor information systems to help ensure that submissions received are consistent with planned submissions identified by the contractor during the digital information planning process. Members of the public who observe that documents or other digital artifacts are missing from USAID's public websites are encouraged to contact USAID directly. In some cases, these documents may be awaiting further curation by staff or exempted from public disclosure due to sensitivities or other legal considerations.

f. Applicability

1. Acquisition vs. Assistance

Comment: Several commenters (5, 6, 8) inquired about whether these provisions would be for contracts only—specifically asking about the use of the word 'contractor' rather than 'implementing partner'.

Response: This rulemaking action is to amend the AIDAR which is USAID's supplement to the FAR. As such, this only pertains to contracts.

2. Existing Contracts

Comment: Some commenters (8, 12) asked whether existing contracts would be amended resulting in revisions to already approved AMELPs or the need to develop DMPs and whether

additional funding would be provided for these actions.

Response: The requirements established by this rule will apply to all new contracts that meet the applicability criteria defined in this rule. However, USAID may modify, in accordance with FAR 1.108(d): 1) existing indefinite delivery contracts to include the new AIDAR clauses for future orders, and 2) existing contract or task or delivery order when exercising an option or modifying a contract or order to extend the period of performance.

3. Burden on Small Entities

A. Comment: Some commenters (11, 13) inquired as to the need to apply these clauses to any contract above the micro-purchase threshold noting the increased burden on small entities. They requested it to be changed to the Simplified Acquisition Threshold.

Response: USAID accepts the recommendation to revise applicability to contracts above the Simplified Acquisition Threshold. The corresponding changes are made to sections 727.7003 and 752.227–71.

B. Comment: Commenter #11 noted that the requirement to submit media release templates is particularly onerous to small business and requested that images be allowed to be credited/ captioned by source.

Response: In order to use photos submitted by contractors which contain images of individuals, USAID must establish that the individuals provided consent to appear in the photos. USAID therefore requires media releases for these photos, which cannot be accomplished via photo captioning.

C. Comment: Two commenters (10, 15) noted that requiring only digital methods will carry substantial burden and cost which may disadvantage local and new contractors. They recommend allowing a broader range of approaches, from digital to manual (with digital being preferred and used as appropriate and practical) and asked whether USAID approval would be necessary.

Response: Should the contractor encounter obstacles adhering to digital collection methods, the contractor must first identify these in the Data Management Plan. USAID may allow for an alternative collection method on a case-by-case basis per the exception in Section 752.227–71(d)(1)(i). This exception may apply, for instance, to situations where availability of or access to digital technologies is limited; where the knowledge and capacity to use them may be limited; or circumstances where their use may prove overly burdensome.

4. Other Applicability Questions

A. *Comment:* Commenter #6 asked whether this rule covers GIS data projects that are submitted to Missions.

Response: The draft rule applies to “digital information produced, furnished, acquired, or collected in performance of a USAID contract,” and therefore also applies to GIS data projects that may be submitted to missions.

B. *Comment:* Commenter #15 asked if the rule is applicable only for US Government standard indicators or custom indicators as well.

Response: The rule applies to both standard and custom indicator data under the broader definition of “digital information.”

g. Out of Scope

A. *Comment:* Several commenters (1, 2, 3, and 4) included comments which were not within the scope of the rule including topics such as Presidential visits, criticism of the agency broadly, questions about registration, and concerns related to COVID vaccination.

Response: USAID acknowledges receipt of these out-of-scope comments.

B. *Comment:* Commenter #13 inquired about USAID’s response to the Paperwork Reduction Act request for comments on the DIS Pilot.

Response: The DIS Pilot comments are addressed separately alongside this rule.

C. *Comment:* Commenter #13 questioned the cost analysis—specifically about the determination of respondents; whether the DIS costs were included in the Rule; whether decommissioning of certain portals was included; and whether the cost of design, testing, launch, and management of the DFD system was considered.

Response: Please see the Regulatory Impact Analysis (RIA) for more detail regarding respondents. Because DIS is intended to be an Agency-wide portfolio management system covering the entire program cycle, internal costs unrelated to this rulemaking effort were not included in the RIA. Costs related to partner submission of information via the Digital Front Door have been added to the revised RIA. USAID’s long-term vision is to combine the Development Experience Clearinghouse (DEC) and Development Data Library (DDL) into a single digital repository. As this repository is still in planning stages and is outside the scope of this rulemaking, costs are not available, and USAID did not take them into account in the RIA for this rulemaking. Please see the revised RIA for detail on the estimated

cost of establishing the Digital Front Door.

D. *Comment:* Commenter #15 requested suggested language for informed consent forms noting that in order to obtain informed consent, the contractor will need to clearly describe how the data submitted to the DFD will be accessed and used.

Response: Suggested language for informed consent is outside the scope of this rule.

E. *Comment:* Commenter #8 noted that local partners under assistance may lack the data management capacity to implement this rule.

Response: USAID’s assistance awards are outside the scope of this rule.

F. *Comment:* Commenter #11 requested a definition of forms of informed consent, guidance on collection, and what forms of collection are appropriate to document informed consent.

Response: USAID requirements relative to informed consent for human subjects research are found in 22 *CFR* part 225 and are thus not covered under the scope of this rule.

G. *Comment:* Commenter #15 requested that the rule include language regarding coordination of contractors with in-country review boards and other governing bodies.

Response: This is outside the scope of this rule which deals with digital information planning, collection, and submission.

H. *Comment:* Two commenters (11, 13) questioned how USAID will protect proprietary data if contractors submit such data in accordance with (f)(1)(ii) from competitors; how USAID will share data security issues with partners; and how USAID and the contractor will share data security responsibility.

Response: These comments regarding USAID’s security responsibilities are beyond the scope of this rule. USAID is subject to legal and policy requirements on implementing adequate safeguards for handling business confidential and proprietary information. Contractors must follow the terms of their award regarding security and privacy requirements.

I. *Comment:* Commenter #16 indicated concern about the length of time of data retention by USAID, data security for certain local organizations who may lack expertise

Response: USAID retains and disposes of electronic records in accordance with National Archives and Records Administration rules and policies. Regarding concerns that local partners may lack data security expertise and the need for support, this is outside the scope of the rule.

J. *Comment:* Commenter #7 asked if the DMP requirements will relate in any way to the USAID Digital Strategy requirements of a Digital Learning Plan and the regular requirement of a Learning Agenda; and if so, whether USAID will manage and communicate evolving guidance to contractors on these various mandates.

Response: Specifics on how DMPs relate to internal USAID guidance are outside the scope of this rule.

Summary of Changes and Response to Comments on the Notice of Availability of Supplemental Document, Published in the Federal Register at 88 FR 22990 on April 14, 2023

Three respondents submitted public comments in response to the Notice. USAID reviewed the public comments in the development of the final rule. Based on the comments, the supplemental document has been revised as outlined in (i) below. Additionally, changes to the “geospatial” language have been made to align with USAID policy. Note that the text is provided without hyperlinks in this document, but they are available at data.usaid.gov/standards. Below are the Agency’s responses to comments and the changes made to the rule as a result of those comments are provided as follows:

h. *Comment #1:* requested information on how to access an account.

Response: This is outside the scope of this rulemaking.

i. *Comment #2:* noted that the inclusion of “Metadata Creation Tools” may be inappropriate. They indicated that including specific tools may give an appearance of preference or endorsement of such tools as they may not be the best for the job and that updating the AIDAR will take a long time potentially locking in the use of outdated tools.

Response: USAID has updated the standards to cite a non-exhaustive list of potential metadata tools, rather than to explicitly list them under “Recommended Digital Information Technical Standards.”

j. *Comment #3:* indicated general support for rule and moving to digital information. The respondent requested that there be policies to standardize information collection in the Data Management Plan and noted that USAID may be able to provide standardized templates for data collection.

Response: This comment is outside the scope of the rulemaking. USAID solicited comments as to the standards, including the text of AIDAR 752.227–71(h) that refers to the standards. USAID

received comments on the Data Management Plan during the comment period for the proposed rulemaking, and responses to those comments are available in Section d.6 above.

Response to Comments on DIS Pilot

Seventeen respondents submitted public comments in response to the DIS Pilot. USAID reviewed the public comments in the development of the final rule. Below are the Agency's responses to comments on the DIS Pilot. Some of the comments received will not be addressed as RIN 0412-AA90 makes a response unnecessary. Those comments are summarized in the section below. Additionally, some comments have already been addressed in responses to comments received under the proposed rule which are also summarized below. The Agency did not address comments unrelated to, or outside the scope of, the 30-day Information Collection Notice:

k. General Support for the Collection

1. *Comment:* Commenter #17 indicated general support for the collection. They noted that the rule will simplify reporting, reduce redundant data calls, and reduce the burden on contractors.

Response: USAID acknowledges the support for the collection.

1. Comments That Are Superseded by the Rule

Comment: Two commenters (14, 17) requested information on the burden estimate. Commenter #14 questioned the benefit of the system. Commenter #10 questioned which countries had to implement the pilot. Two commenters (3, 17) questioned the length of the pilot, if the pilot results would be made public, how data migration will occur after the pilot, what language should be included in contracts, and whether RIN 0412-AA90 would be published for comment. Several commenters (3, 12, 13, 14, 16, 17) asked about API and connections to other data systems, standardizing requirements and guidance, concern regarding reidentification and other security risks, what data would need to be submitted, cost allowability, information about approvals and how data will be used, reporting frequency, data aggregation, what indicator information would be used as well as if they can be customized, and other process questions about the pilot. Commenter #3 asked about an OIG Audit and its impact on the pilot. Commenter #8 indicated that on Item 20, Sec 2 ("login.gov username"), the instructions on the access form do not clarify what the

username is or if IPs already have one. Commenter #8 also requested clarity on what IPs are expected to do in DIS.

Response: The pilot, applicable to several missions, ended with publication of RIN 0412-AA90. Questions around benefits, API connections, adding contract language, standardization, security, submission requirements, reporting, access forms and other items related to the pilot are superseded by the text of the Rule. The rule also clarifies what contractors must do when submitting digital information to USAID.

m. Comments That Have Been Answered Through Comment Responses to the Rule

Comment: Commenter #13 asked about whether staff will be able to access more than one project or see across a variety of projects. Commenter #2 requested that the system be aligned to build upon the Common Data Model for Nonprofits. Commenter #13 asked about what the Development Experience Clearinghouse is. Commenter #14 asked about integration of various USAID platforms (the Development Data Library, for example).

Response: USAID has provided robust responses to these questions in response to comments received under the rulemaking. Specifically, see sections B.2)(e)(1)(E); B.2)(d)(5); and B.2)(e)(1)(A)-(C) of the **Federal Register** Notice for RIN 0412-AA90 which includes the text of relevant comments and responses.

n. Access to Data

1. *Comment:* Commenter #4 questioned whether a prime contractor will have to enter data for subcontractors or whether the subs will have separate access to enter their data directly.

Response: The clause requires the contractor to submit all digital information produced, furnished, acquired or collected in performance of this contract by its subcontractors at any tier. While some USAID systems may allow delegation of the submission role, it remains the responsibility of the prime contractor to ensure the submission of the digital information per the requirements of the rule.

2. *Comment:* Several commenters (8, 13, 15) asked about system access. Specifically, whether the system will have a place to specify roles in the "implementing partner user information" section; how IPs can manage employees offboarding from the system when they leave the IP or award; and whether the system will be open to

allow all users to see information or be limited by award.

Response: The system will have a place to specify user roles. The COR will assign the contractor a user role within the system. Once assigned a user role, the contractor will manage further access to the award, including during offboarding. Submitters will only be able to see data for awards with which they are associated in the system; data access is not open to all users.

3. *Comment:* Commenter 16 asked whether the public will be able to access the data in the DIS system.

Response: USAID will release data to the public from its internal systems in keeping with its internal policies as informed by US Government and international transparency commitments. USAID will not provide direct public access to the DIS system.

o. System Design Information

1. *Comment:* Commenter #3) asked if USAID had a help center for DIS and requested a FAQ page.

Response: Contractors can email AskDIS@usaid.gov for help center assistance. The DIS Frequently Asked Questions (FAQ) document for contractors is found on the USAID public website (available at: <https://www.usaid.gov/partner-with-us/resources-for-partners/development-information-solution/faqs>).

2. *Comment:* Commenter #13 asked if the DIS will be the place where they enter information about indicators or just view them once reports are submitted.

Response: Per the Rule, USAID contractors will submit all digital information to one centralized portal, the USAID Digital Front Door (DFD). The DFD is intended as a submission mechanism, whereas viewing will take place via established USAID systems and websites.

3. *Comment:* Commenter #13 asked who is responsible for setting up the website for each respective project in DIS (if there are specific indicators being reported for each of the projects).

Response: USAID operating units are responsible for establishing activities in DIS within a contract. The person with the COR role in DIS is responsible for establishing the indicators associated with the activity.

4. *Comment:* Commenter #13 asked if the system will allow for central level viewing of an IP portfolio.

Response: The system currently does not allow for linkages among multiple activities to provide a central portfolio view for an implementing partner.

p. USAID Approval and Oversight

Comment: Commenter #16 requested comment on when comprehensive information about the structure and operation of the DIS system will be available.

Response: USAID will continue to provide information on the Agency's public DIS website (available at: <https://www.usaid.gov/partner-with-us/resources-for-partners/development-information-solution>) as it becomes available.

q. Outside the Scope

Comment: Many commenters (1, 5, 6, 7, 9, and 11) submitted comments that were outside the scope of the DIS Pilot.

Response: USAID acknowledges receipt of these out-of-scope comments.

USAID Digital Collection and Submission Standards

We are publishing the revised Collection & Submission Standards in this final rule. As noted in the regulatory text, the standards can also be found at data.usaid.gov/standards with hyperlinks:

USAID's Digital Collection and Submission Standards are a compendium of standards for USAID staff and contractors to use in support of USAID programs and operations. The standards in Section A are required. Section B contains recommended standards that represent industry best practices.

Section A: Required Digital Information Technical Standards

I. File Format Standards

A. Acceptable Non-Proprietary Formats

1. Text and Documents

- (a) Portable Document Format (PDF/A is preferred, however .pdf is acceptable)
- (b) Plain text (.txt)
- (c) LaTeX documents (.tex)
- (d) Hypertext Markup Language (.html)
- (e) Open Document Format (.odt)
- (f) Extensible Markup Language (.xml)
- (g) JavaScript Object Notation (.json)

2. Tables, Spreadsheets, and Databases

- (a) Comma-Separated Values (.csv)
- (b) Tab-separated tables (.txt—sometimes .tsv)
- (c) Comma-separated tables (.csv or .txt)
- (d) Other standard delimiter (e.g. colon, pipe)
- (e) Fixed-width
- (f) OpenDocument Spreadsheet (.ods)

3. Audio Files

- (a) WAVE (.wav)
- (b) FLAC (.flac)
- (c) MPEG-3

(d) MP3

4. Image Files

- (a) JPEG (.jpg or .jpeg)
- (b) Portable Network Graphics (.png)
- (c) TIFF (.tiff or .tif)
- (d) Portable Document Format (.pdf)

5. Video Files

- (a) Video File (.mov)
- (b) MPEG-4 (mp4)
- (c) JPEG2000 (mj2)

6. Geospatial Files

- (a) QGIS Project (.qgs)
- (b) ESRI Shapefile (.shp, .shx, .dbf)
- (c) Annotated TIFF Raster Files (.tif)
- (d) Keyhole Mark Language (.kml)
- (e) Geographic Data Format based on JSON (.geojson)
- (f) Google Earth GIS Format (.kml, .kmz)
- (g) Well Known Text for Spatial Objects (.wkt)
- (h) Raster GIS File Format
- (i) Unidata Scientific Data Format

II. Subject Area Standards

A. Narrative Text

1. Digital narrative text that is written in the English language, including narrative about USAID programs and operations, must comply with the *Plain Writing Act of 2010* and associated guidelines and resources found on the *federal plain language website*. Because USAID may publish a narrative in keeping with the U.S. Government legislative requirements (e.g. the *Foreign Aid Transparency and Accountability Act of 2016*) and other transparency commitments (e.g. *International Aid Transparency Initiative; Open Government Partnership*) or Freedom of Information Act requests, the narrative must be clear, thorough, and descriptive to facilitate public understanding.

B. Geospatial

1. The location(s) where an activity is implemented must be collected at the Exact Site Location. Exact Site Location is defined as a populated place, an actual exact site location, or an exact area or line feature. The location(s) of the activity's intended beneficiaries must be collected at least at the first level administrative boundary. When the location of the activity's intended beneficiaries is considered nationwide, it must be collected at the country/territory level. USAID follows the *Geopolitical Entities, Names, and Codes (GENC) Standard* and additional geospatial data standards as outlined in *ADS 579saa "Geographic Data Collection and Submission Standards"* and *ADS 579mab "Activity Location Data."*

C. Date

1. YYYY-MM-DD.

Section B: Recommended Digital Information Technical Standards

USAID recommends the following standards that have not been formally adopted as a requirement by the Agency, but encouraged and recommended for use to improve the management, quality and usefulness of the data. USAID recommends the use of the following standards when appropriate and practicable:

I. Code, Algorithm, and Analytical Files.

- A. Javascript (.js)
- B. Java
- C. .NET
- D. Python (.py)
- E. Ruby (.rb)
- F. R (.r)
- G. SQL

II. GS1 Standards—USAID-funded programs beyond Global Health are strongly recommended to adopt GS1 Standards for the supply chain to facilitate product identification, location identification, and product master data of Agency-funded commodities. Additional guidance for implementation of GS1 Standards can be found here.

III. Statistical Data and Metadata eXchange (SDMX) for statistical data.

IV. CGIAR Ontologies for crop and agronomy ontology.

V. FHIR for healthcare data exchange.

VI. ISO 8601 for Date, Time, and Time Zone.

VII. Open Geospatial Consortium (OGC) Standards for geospatial data. The Open Geospatial Consortium (OGC) is an international consortium of more than 500 businesses, government agencies, research organizations, and universities driven to make geospatial (location) information and services FAIR—Findable, Accessible, Interoperable, and Reusable..

VIII. International Aid Transparency Initiative (IATI).

IX. FAIR Data Principles—To the extent possible, USAID-funded data and metadata must align with data principles which are Findable, Accessible, Interoperable, and Reusable.

Resources for creating metadata to meet these standards include, but are not limited to, the following:

I. Content Standard for Digital Geospatial Metadata (CSDGM) Tools.

II. USGS TKME—A Windows platform tool for creating FGDC-CSDGM which can be configured for Biological Data Profile and other extensions. The software program is closely aligned with the Metadata Parser, and can be configured for French and Spanish.

III. mdEditor—Create ISO and FGDC-CSDGM metadata with this web-based tool.

IV. Data dictionary conversion service—Convert a data dictionary table to/from metadata format (instructions).

V. USDA Metavist—A desktop metadata editor for creating FGDC–CSDGM for geospatial metadata. Includes the Biological Data Profile (version 1.6). Produced and maintained by the USDA Forest Service. Download the USGS Alaska Science Center (ASC) Metavist User Guide [PDF] to learn more about the tool and ASC best practices for authors.

VI. Microsoft XML Notepad—A simple intuitive user interface for browsing and editing XML files. Does not automatically produce FGDC–CSDGM records but allows easy editing and validation of existing metadata records. See Advanced Users to learn how to configure this tool.

C. Regulatory Considerations and Determinations

(1) Executive Orders 12866 and 13563

This final rule was drafted in accordance with Executive Order (E.O.)

12866, as amended by E.O. 14094, and E.O. 13563. OMB has determined that this rule is a “significant regulatory action,” as defined in section 3(f) of E.O. 12866, as amended, and is therefore subject to review by OMB. This rule is not a major rule under 5 U.S.C. 804.

(2) Expected Cost Impact on the Public

USAID remains committed to reducing the burden on its contractors while maximizing taxpayer value. By launching the USAID Digital Front Door (DFD) as outlined in this clause, USAID intends to reduce the total number of portals through which its contractors must submit information to USAID, thereby reducing time and effort and improving operational efficiency.

The following is a summary of the impact on contractors awarded contracts that include the new AIDAR clause. The cost estimates were developed by subject matter experts based on USAID’s experience collecting reports and information products through the Development Experience Clearinghouse

(DEC) (see AIDAR 752.7005) and piloting digital data collection through the Development Data Library (DDL) and the Development Information Solution (DIS).

This rule results in a total annualized (7% discount) public net cost of \$2.5 million. This annual burden takes into account the current baseline that contractors already prepare, maintain, and submit AMELPs, already remove PII from data prior to submission, already collect standard indicator data, and already request embargoes and data submission exemptions from Contracting officer’s Representative on a case-by-case basis. Further, since contractors already submit documents and data to the DEC and DDL, these costs were removed from the overall estimated cost. The following is a summary of the annual public costs over a 20-year time horizon.

Year	Public	Total
1	\$1,867,000	\$1,867,000
2	2,650,000	2,650,000
3	2,703,000	2,703,000
.....	2,756,000	2,756,000
20	2,756,000	2,756,000
Total undiscounted costs		65,988,000
Present Value (PV) of Costs Discounted at 7%		54,072,000
Annualized Costs Discounted at 7%		2,514,000

This rule has extensive benefits for the public, contractors, the research community, the private sector, and the USG, though many of these benefits are challenging to quantify. Overarchingly, this rule will increase efficiency for contractors, minimize data errors, and improve the privacy and security of data. Further, this rule will help contractors to produce data assets that are trustworthy, high-quality, and usable by the general public and the research community for accountability, research, communication, and learning. For the public, there is an immense richness in the data collected by USAID and its partners around the world, and this data holds the potential to improve the lives of some of the world’s most vulnerable people. When a development project ends, the data can yield new insights for years or decades into the future. It is the responsibility of the Agency and those representing the government to ensure that data is accessible, standardized, and secure. Finally, these estimates have been downwardly adjusted since the

publication of the proposed rule to reflect USAID’s responses to comments from the public.

In addition, under current protocols, USAID contractors are required to submit digital information to USAID under multiple award requirements using several different information management portals. The maintenance of these separate portals has made it challenging for USAID to integrate this information strategically to render a more holistic and detailed view of its global portfolio. By implementing these changes, USAID intends to reduce administrative burden on contractors and USG staff.

(3) Regulatory Flexibility Act

USAID does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* USAID has therefore not performed an Initial Regulatory Flexibility Analysis (IRFA).

(4) Paperwork Reduction Act

This rule contains information collection requirements that have been submitted to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35). This information collection requirement has been assigned OMB Control Number 0412–0620, entitled “AIDAR: Planning, Collection and Submission of Digital Information and Activity Monitoring, Evaluation, and Learning Plans to USAID”. Following receipt of comments, USAID has made several revisions to this collection to downwardly adjust the burden. Specifically, USAID revised the applicability of 752.227–71 from the micro purchase threshold to the simplified acquisition threshold. Similarly, USAID has added an Alternate clause exempting certain contracts from the requirement to provide a data management plan. Specifically, contracts are exempted that: contain no data; are for emergency food assistance; are for disaster assistance, and transition-assistance

activities managed by the Bureau for Humanitarian Assistance (BHA); or are for activities managed by the Bureau for Conflict Prevention and Stabilization's Office of Transition Initiatives (CPS/OTI). For additional detail, please see the Regulatory Impact Assessment as well as responses to comments in sections B. 2)(g)(C) and B. 2)(f)(3)(A) above.

Additionally, USAID posted a 60-Day Notice of Information Collection: Proposals, Submissions, and Approvals (the "DIS Pilot") in the **Federal Register** at 85 FR 83027 on December 21, 2020. USAID published a 30-Day Notice including a response to comments received on May 25, 2021 and solicited additional comments (See 86 FR 28053). Following receipt of additional comments, USAID, with approval from OMB, is providing a response to comments received to the 30-day Collection Notice with this Rulemaking. As the "DIS Pilot" collection has been discontinued due to this rulemaking action, this separate information collection approval request has been canceled.

List of Subjects in 48 CFR Parts 727, 742, and 752

Government procurement.

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

■ 1. The authority citation for 48 CFR parts 727, 742, and 752 continues to read as follows:

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

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

PART 727—PATENTS, DATA, AND COPYRIGHTS

■ 2. Add subpart 727.70 to read as follows:

Subpart 727.70—Digital Information Planning, Collection, and Submission Requirements

Sec.
727.7000 Scope of subpart
727.7001 Definitions
727.7002 Policy
727.7003 Contract clause.

Subpart 727.70—Digital Information Planning, Collection, and Submission Requirements

727.7000 Scope of subpart.

(a) This part prescribes the policies, procedures, and a contract clause pertaining to data and digital

information management. It implements the following requirements:

- (1) Digital Accountability and Transparency (DATA) Act of 2014;
 - (2) Foundations for Evidence-Based Policymaking Act ("Evidence Act") of 2018;
 - (3) 21st Century Integrated Digital Experience Act (21st Century IDEA Act);
 - (4) Foreign Aid Transparency and Accountability (FATAA) Act of 2016;
 - (5) Geospatial Data Act of 2018;
 - (6) OMB Circular A–130.
- (b) [Reserved]

727.7001 Definitions.

As used in this subpart—

Data means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

Data asset is a collection of data elements or data sets that may be grouped together.

Data inventory is the first component of a Data Management Plan (DMP). The data inventory is a list of high-value data assets that the contractor anticipates producing during the period of award performance.

Data management plan (DMP) is a tool that guides the identification of anticipated data assets and outlines tasks needed to manage these assets across a full data lifecycle.

Data set is an organized collection of structured data, including data contained in spreadsheets, whether presented in tabular or non-tabular form. For example, a data set may represent a single spreadsheet, an extensible mark-up language (XML) file, a geospatial data file, or an organized collection of these. A data set does not include unstructured data, such as email or instant messages, PDF files, PowerPoint presentations, word processing documents, images, audio files, or collaboration software.

Digital means the coding scheme generally used in computer technology to represent data.

Digital data means quantitative and qualitative programmatic measurements that are entered directly into a computer. Examples include numeric targets established during activity design or implementation; baseline, mid-line, or final measurements created or obtained via field assessments; surveys or interviews; performance monitoring indicators as specified in the Contractor's approved Activity Monitoring, Evaluation, and Learning

(AMELP) (see 752.242–71); evaluation results; or perception metrics collected from beneficiaries on the quality and relevance of International Disaster Assistance and Development Assistance.

Digital information is a subset of data and means:

- (1) Digital text;
- (2) Digital data;
- (3) Digital objects; and
- (4) Metadata created or obtained with USAID funding supported by this award that are represented, stored, or transmitted in such a way that they are available to a computer program.

Digital method is a means of using computer technology to gather, process, analyze, transmit, store, or otherwise use data and other forms of information.

Digital object includes digital or computer files that are available to a computer program. Examples include digital word processing or PDF documents or forms related to activity design, assessment reports, periodic progress and performance reports, academic research documents, publication manuscripts, evaluations, technical documentation and reports, and other reports, articles and papers prepared by the contractor, whether published or not. Other examples include data sets, spreadsheets, presentations, publication-quality images, audio and video files, communication materials, information products, extensible mark-up language (XML) files, and software, scripts, source code, and algorithms that can be processed by a computer program.

Digital text includes text-based descriptions of programmatic efforts that are entered directly into a computer, rather than submitted as a digital object.

727.7002 Policy.

(a) It is the policy of USAID to manage data as a strategic asset to inform the planning, design, implementation, monitoring, and evaluation of the Agency's foreign assistance programs. To achieve this, it is also USAID's policy to manage data and digital information across a full life cycle. This life cycle includes the following stages: Govern, Plan, Acquire, Process, Analyze, Curate, and Publish/Share. For more information about the USAID Development Data policy, see ADS Chapter 579 at <https://www.usaid.gov/about-us/agency-policy/series-500/579>. For more information about USAID's Program Cycle policy, see ADS Chapter 201 at <https://www.usaid.gov/about-us/agency-policy/series-200/201>.

(b) In furtherance of this policy, USAID requires that contractors:

(1) Engage in digital information planning, including creating a Data Management Plan (DMP) to identify and plan for the management of data assets that will be produced, furnished, acquired, or collected in a USAID-funded activity.

(2) Use only digital methods and USAID-approved standards, to the extent practicable, to produce, furnish, acquire, or collect information necessary to implement the contract requirements.

(3) Provide documentation of informed consent the contractor receives when obtaining information on individuals.

(4) Submit to USAID digital information produced, furnished, acquired, or collected in performance of a USAID contract at the finest level of granularity employed during contract implementation.

(c) As specified in ADS Chapter 579, USAID implements appropriate controls to restrict data access in a way that balances the potential benefits with any underlying risks to its beneficiaries and contractors.

727.7003 Contract clause.

(a) Insert the clause 752.227–71 to USAID in Section H of solicitations and contracts fully or partially funded with program funds exceeding the simplified acquisition threshold. The contracting officer may insert this clause in other USAID contracts if the contracting officer, in consultation with the requiring office, determines that doing so is in the best interest of the Agency.

(b) Insert the clause at 752.227–71, with its Alternate I when the anticipated contract:

(1) Does not collect data;

(2) Implements emergency food assistance under the Food for Peace Act or section 491 of the Foreign Assistance Act of 1961, including for the procurement, transportation, storage, handling and/or distribution of such assistance;

(3) Implements international disaster assistance under section 491 of the Foreign Assistance Act of 1961 or other authorities administered by the Bureau for Humanitarian Assistance; or

(4) Implements activities managed by the Bureau for Conflict Prevention and Stabilization's Office of Transition Initiatives, or is fully or partially funded with the Complex Crises Fund.

SUBCHAPTER G—CONTRACT MANAGEMENT

PART 742—CONTRACT ADMINISTRATION

Subpart 742.11—Production, Surveillance, and Reporting

■ 3. Amend 742.1170–3, by redesignating paragraphs (b)(2) through (7) as paragraphs (b)(3) through (8) and adding a new paragraph (b)(2).

The addition reads as follows:

742.1170–3 Policy.

* * * * *

(b) * * *

(2) The contract requirements for an activity monitoring, evaluation, and learning plan, as applicable;

* * * * *

■ 4. Add 742.1170–5 to read as follows:

742.1170–5 Activity Monitoring, Evaluation, and Learning Plan requirement and contract clause.

(a) When the requiring office needs information on how the contractor expects to monitor implementation performance and context, conduct or collaborate on an evaluation, and generate evidence to inform learning and adaptive management, the contracting officer may require the contractor to submit an Activity Monitoring, Evaluation, and Learning Plan (AMELP) tailored to specific contract requirements. For more information on monitoring, evaluation, and learning during the design and implementation of activities, see ADS Chapter 201 at <https://www.usaid.gov/about-us/agency-policy/series-200/201>.

(b) Unless instructed otherwise in writing by the requiring office, the contracting officer must insert the clause at 752.242–71 in section F of solicitations and contracts exceeding the simplified acquisition threshold, except as specified in paragraph (c) of this section. The contracting officer may insert this clause in other USAID contracts if the contracting officer, in consultation with the requiring office, determines that an Activity Monitoring, Evaluation, and Learning Plan is necessary, as provided in paragraph (a) of this section.

(c) The clause is not required to be included in contracts for:

(1) Supplies and services that USAID acquires for its own direct use or benefit;

(2) Emergency food assistance under the Food for Peace Act or section 491 of the Foreign Assistance Act of 1961, including for the procurement, transportation, storage, handling and/or distribution of such assistance;

(3) International disaster assistance under section 491 of the Foreign Assistance Act of 1961 or other authorities administered by the Bureau for Humanitarian Assistance; or

(4) Activities managed by the Bureau for Conflict Prevention and Stabilization's Office of Transition Initiatives, or fully or partially funded with the Complex Crises Fund.

SUBCHAPTER H—CLAUSES AND FORMS

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 5. Add 752.227–71 to read as follows:

752.227–71. Planning, Collection, and Submission of Digital Information to USAID.

As prescribed in AIDAR 727.7003, insert the following clause in Section H of solicitations and contracts:

Planning, Collection, and Submission of Digital Information to USAID (JUN 2024)

(a) *Definitions.* As used in this clause—
Computer is a fixed or mobile device that accepts digital data and manipulates the information based on a program or sequence of instructions for how data is to be processed.

Data means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

Data asset is a collection of data elements or data sets that may be grouped together.

Data inventory is the first component of a Data Management Plan (DMP). The data inventory is a list of high-value data assets that the contractor anticipates producing during the period of award performance.

Data management plan (DMP) is a tool that guides the identification of anticipated data assets and outlines tasks needed to manage these assets across a full data lifecycle.

Data set is an organized collection of structured data, including data contained in spreadsheets, whether presented in tabular or non-tabular form. For example, a data set may represent a single spreadsheet, an extensible mark-up language (XML) file, a geospatial data file, or an organized collection of these. A data set does not include unstructured data, such as email or instant messages, PDF files, PowerPoint presentations, word processing documents, images, audio files, or collaboration software.

Digital means the coding scheme generally used in computer technology to represent data.

Digital data means quantitative and qualitative programmatic measurements that are entered directly into a computer. Examples include numeric targets established during activity design or implementation; baseline, mid-line, or final measurements created or obtained via field assessments; surveys or interviews;

performance monitoring indicators as specified in the Contractor's approved AMELP; evaluation results; or perception metrics collected from beneficiaries on the quality and relevance of International Disaster Assistance and Development Assistance.

Digital information is a subset of data and means:

- (i) Digital text;
- (ii) Digital data;
- (iii) Digital objects; and
- (iv) Metadata created or obtained with

USAID funding regarding international development or humanitarian assistance activities supported by this award that are represented, stored, or transmitted in such a way that they are available to a computer program.

Digital method is a means of using computer technology to gather, process, analyze, transmit, store, or otherwise use data and other forms of information.

Digital object includes digital or computer files that are available to a computer program. Examples include digital word processing or PDF documents or forms related to activity design, assessment reports, periodic progress and performance reports, academic research documents, publication manuscripts, evaluations, technical documentation and reports, and other reports, articles and papers prepared by the Contractor under this contract, whether published or not. Other examples include data sets, spreadsheets, presentations, publication-quality images, audio and video files, communication materials, information products, extensible mark-up language (XML) files, and software, scripts, source code, and algorithms that can be processed by a computer program.

Digital repository refers to information systems that ingest, store, manage, preserve, and provide access to digital content.

Digital text includes text-based descriptions of programmatic efforts that are entered directly into a computer, rather than submitted as a digital object.

Draft digital information refers to digital information that, in the professional opinion of the Contractor, does not adhere to the information quality standards such that it presents preliminary, unverified, incomplete, or deliberative findings, claims, analysis, or results that may lead the consumer of such material to draw erroneous conclusions.

Granularity refers to the extent to which digital content or objects provide access to detailed, distinct data points. Coarse granularity generally means that distinct data points reflect larger, representational units or have been joined together or aggregated, thus providing less detail. A fine level of granularity generally means that distinct data points reflect smaller, individualized units that have not been aggregated, thus providing a higher level of detail. For example, a data set containing a list of every activity conducted by week would generally exhibit a finer level of granularity than a data set listing the various categories of activities conducted by month. The degree of granularity can be relative to the contents of a specific data set and can be geographic, temporal, or across other dimensions.

Information quality standards means the elements of utility, objectivity, and integrity collectively.

Integrity is an element of the information quality standards that means information has been protected from unauthorized access or revision, to ensure that the information is not compromised through corruption or falsification.

Machine readable means data in a format that can be easily processed by a computer without human intervention while ensuring that no semantic meaning is lost.

Metadata includes structural or descriptive information about digital data or digital objects such as content, format, source, rights, accuracy, provenance, frequency, periodicity, granularity, publisher or responsible party, contact information, method of collection, and other descriptions.

Objectivity is an element of the information quality standards that means whether information is accurate, reliable, and unbiased as a matter of presentation and substance.

Personally identifiable information (PII) means information that can be used to distinguish or trace an individual's identity, either alone or when combined with other information that is linked or linkable to a specific individual. [See Office of Management and Budget (OMB) Circular No. A-130, Managing Federal Information as a Strategic Resource.] PII can include both direct identifiers (such as name, health identification numbers, etc.), and indirect identifiers (geographic location, age) that when linked with other information can result in the identification of an individual.

Publication object is a digital object that has been accepted for publication prior to the end date of this contract and whose content is based on or includes any other digital information created or obtained in performance of this contract. In the research community, a publication object is often synonymous with a quality research manuscript that has been accepted by an academic journal for publication. However, publication objects can also consist of other digital objects (e.g., photos, videos, etc.) published via news media, the internet, or other venues.

Quality digital information means digital information that, in the professional opinion of the Contractor, adheres to the information quality standards and presents reasonably sound and substantiated findings, claims, analysis, or results regarding activities.

Registered with the USAID Digital Front Door (DFD) means: that—

- (i) The Contractor entered all mandatory information required to obtain access to the DFD.
- (ii) The Contractor agrees to abide by the DFD terms and conditions of use.
- (iii) The Government has validated the Contractor's registration by providing access to the DFD.

USAID Digital Front Door (DFD), located at dfd.usaid.gov is a website where the Contractor transacts business with USAID, such as submitting digital information.

Utility is an element of the information quality standards that means whether information is useful to its intended users,

including the general public, and for its intended purpose.

(b) *Digital information planning requirements*. The Contractor must engage in digital information planning to ensure compliance with the collection and submission of all digital information, as required under this award.

(c) *Data Management Plan (DMP)*—(1) *What is required*. The Contractor must prepare and maintain a Data Management Plan (DMP) that reflects the digital information planning requirements outlined in paragraph (b) of this clause.

(2) *What to submit*. The DMP must be appropriate to the programmatic scope and context of the contract, and to the nature and complexity of the data to be collected or acquired in the course of the contract. The DMP must address, at a minimum, the following:

- (i) Data inventory; and
- (ii) If requested in writing by the Contracting Officer,
 - (A) Protocols for data collection, management and storage;
 - (B) Protocols for maintaining adequate safeguards that include the privacy and security of digital information collected under the award;
 - (C) Documentation that ensures other users can understand and use the data;
 - (D) Protocols for preserving digital information and facilitating access by other stakeholders; and
 - (E) Terms of use on data usage, publication, curation, or other dissemination plans.

(3) *When to submit*. The Contractor must develop and submit, at a minimum, the data inventory component of the DMP to the contracting officer for approval within ninety (90) days after contract award, unless the contracting officer establishes a different time period. The Contractor must submit the remaining components of the DMP to the contracting officer for approval, as soon as they become available. The contractor must not begin digital information collection prior to approval of the data inventory and submission of any remaining components of the DMP unless authorized in writing by the contracting officer.

(4) *When to revise*. The Contractor must revise the DMP as necessary throughout the period of performance of this contract. Any revisions to the plan must be approved by the contracting officer or contracting officer's representative as delegated.

(d) *Digital information production and collection requirements*. (1) The Contractor must:

- (i) Use only digital methods to the extent practicable to produce, furnish, acquire, or collect information in performance of this contract. If the Contractor is unable to consistently collect data using digital methods, the Contractor must obtain the contracting officer or delegated contracting officer's representative's approval for any alternative collection method.
- (ii) Collect digital information at the finest level of granularity that enables the Contractor to comply with the terms of this contract.

(2) To the extent practicable, the Contractor must limit the collection of PII to only that

which is necessary to comply with the requirements of the contract.

(e) *Registration requirements.* The Contractor must:

(1) Be registered with the USAID Digital Front Door (DFD) within ninety (90) days after award of this contract; and

(2) Maintain access to the DFD during the period of performance of this contract.

(f) *Submission requirements*—(1) *What to submit.* Unless an exemption in paragraph (f)(4) of this section applies, the Contractor must:

(i) Submit digital information created or obtained in performance of this contract to USAID at the finest level of granularity at which it was collected.

(ii) Submit digital information in nonproprietary formats and digital data and data sets in machine readable formats. The Contractor may also submit proprietary formats in addition to a nonproprietary format.

(iii) Submit a copy of any usage license agreement that the Contractor obtained from any third party who granted usage rights for the digital information.

(iv) Submit a copy of any photo or media release template that the Contractor used to obtain permission from any third party for the use of the photo or media.

(v) When the contract includes AIDAR clause 752.7012, Protection of the Individual as a Research Subject, provide a blank copy of the form, document, instructions, or other instruments used to obtain informed consent from persons whose individual information is contained in the original version of the digital object.

(vi) If applicable, provide additional details or metadata regarding:

(A) Where and how to access digital information that the Contractor submits to a USAID-approved digital repository or via alternate technology as approved by USAID's Chief Information Officer;

(B) The quality of submissions of draft digital information;

(C) Known sensitivities within digital information that may jeopardize the personal safety of any individual or group, whether the Contractor has submitted the information or has received a submission exemption;

(D) Digital information for which the Contractor was unable to obtain third party usage rights, a media release, or informed consent or which has other proprietary restrictions.

(2) *Where to submit.* The Contractor must submit digital information through the DFD, unless specifically authorized by the contracting officer in writing to submit to a USAID-approved digital repository instead or via alternate technology as approved by USAID's Chief Information Officer.

(3) *When to submit.* (i) With the exception of data sets, the Contractor must submit all other Digital Objects within 30 days of obtaining the contracting officer or delegated contracting officer representative's approval. Unless otherwise specified in the schedule of the contract or otherwise instructed by the contracting officer or delegated contracting officer's representative, the Contractor must submit data sets and all other digital information created or obtained in

performance of this contract to USAID once it meets the requirements of quality digital information. Unless otherwise approved by the contracting officer in writing, within thirty (30) days after the contract completion date, the Contractor must submit all digital information not previously submitted, including both draft digital information and quality digital information required under this contract.

(ii) Upon written approval of the contracting officer or delegated contracting officer's representative, the Contractor must submit draft digital information to USAID when the "best available" information is required in order to meet time constraints or other programmatic or operational exigencies.

(4) *Exemptions.* (i) The Contractor must not submit digital information through the DFD that contains:

(A) Classified information.

(B) Personally identifiable information.

The Contractor must, to the maximum extent possible, remove the association between the set of identifying data and the individual to which it applies unless retaining such information is essential to comply with the terms of this contract and upon written approval from the contracting officer or delegated contracting officer's representative to submit this information.

(ii) If the Contractor believes there is a compelling reason not to submit specific digital information that does not fall under an exemption in this section, including circumstances where submission may jeopardize the personal safety of any individual or group, the Contractor must obtain written approval not to submit the digital information from the contracting officer.

(5) *Approval requirements.* Upon receipt of digital information submitted by the Contractor, the contracting officer or delegated contracting officer's representative will either approve or reject the submission. When a submission is rejected, the Contractor must make corrections and resubmit the required information. USAID does not consider the submission accepted until the contracting officer or delegated contracting officer's representative provides written approval to the Contractor.

(g) *Publication considerations.* (1) If the Contractor produces a publication object, the Contractor must submit via the DFD a copy of the publication object, the publication acceptance notification, along with a link at which the final published object may be accessed.

(2) For any digital object the Contractor submits in compliance with the terms of this contract, the Contractor may request from the contracting officer or delegated contracting officer's representative an embargo on the public release of the digital object. The contracting officer or delegated contracting officer's representative may approve an embargo request that is for no more than 12 months at a time, with additional scrutiny for digital objects relied upon for journal publication. A determination on this request will be provided to the Contractor in writing.

(3) If the Contractor used a digital object previously submitted via the DFD to generate

the publication object, and that digital object is governed by a pre-existing embargo, that embargo will expire on the day the publication object is scheduled for publication. USAID may elect to publish digital information on which the publication object is based as early as the date the publication object is scheduled for publication.

(h) *USAID digital collection and submission standards.* The Contractor must comply with the version of USAID's Digital Collection and Submission Standards in effect on the date of award as outlined at data.usaid.gov/standards. If the Contractor is unable to adhere to USAID's Digital Collection and Submission Standards, the Contractor must obtain USAID's written approval for an alternative approach.

(i) *Access to the digital information.*

USAID will conduct a rigorous risk assessment of digital information that the Contractor submits to USAID to determine the appropriate permissions and restrictions on access to the digital information. USAID may release the data publicly in full, redact or otherwise protect aspects of the information prior to public release, or hold the information in a non-public status.

(j) *Obligations regarding subcontractors.* (1) The Contractor must furnish, acquire, or collect information and submit to USAID, in accordance with paragraph (f) of this clause, all digital information produced, furnished, acquired, or collected in performance of this contract by its subcontractors at any tier.

(2) The Contractor must insert the terms of this clause, except paragraph (e) of this clause, in all subcontracts.

(End of clause)

Alternate I (JUN 2024). As prescribed in AIDAR 727.7003, substitute the following paragraph (c) for paragraph (c) of the basic clause:

(c) [Reserved]

■ 6. Add 752.242–71 to read as follows:

752.242–71 Activity Monitoring, Evaluation, and Learning Plan

As prescribed in AIDAR 742.1170–5, insert the following clause in section F of solicitations and contracts.

Activity Monitoring, Evaluation, and Learning Plan (JUN 2024)

(a) *Definitions.* As used in this clause—

Activity Monitoring, Evaluation, and Learning Plan (AMELP) means a plan for monitoring, evaluating, and collaborating, learning, and adapting during implementation of a USAID contract. Some USAID documentation may refer to "MEL Plan" or "Activity MEL Plan". These terms are synonymous.

Contract will be interpreted as "task order" or "delivery order" when this clause is used in an indefinite-delivery contract.

Evaluation means the systematic collection and analysis of data and information about the characteristics and outcomes of the programming carried out through a contract, conducted as a basis for judgments, to understand and improve effectiveness and efficiency, and timed to inform decisions about current and future programming.

Feedback from beneficiaries means perceptions or reactions voluntarily communicated by a beneficiary of USAID assistance about the USAID assistance received.

Indicator means a quantifiable measure of a characteristic or condition of people, institutions, systems, or processes that might change over time.

Learning activity means efforts for the purpose of generating, synthesizing, sharing, and applying evidence and knowledge.

Monitoring context means the systematic collection of information about conditions and external factors relevant to implementation and performance of the contract.

Output means the tangible, immediate, and intended products or consequences of contract implementation within the Contractor's control or influence.

Outcome means the conditions of people, systems, or institutions that indicate progress or lack of progress toward the achievement of the goals and objectives of the contract.

Performance indicator means an indicator that measures expected outputs and/or outcomes of the contract implementation.

Target means a specific, planned level of results to achieve within a specific timeframe with a given level of resources.

(b) *Requirements.* (1) Unless otherwise specified in the schedule of the contract, the Contractor must develop and submit a proposed AMELP to the contracting officer or

delegated contracting officer's representative within ninety (90) days of contract award.

The contracting officer or delegated contracting officer's representative will review and provide comments within thirty (30) days after receiving the proposed AMELP. The Contractor must submit a final AMELP for contracting officer or delegated contracting officer's representative approval no later than 15 days after receiving comments.

(2) The Contractor must revise the AMELP as necessary during the period of performance of this contract. Any revisions to the plan must be approved by the contracting officer or delegated contracting officer's representative.

(c) *Content.* (1) The Contractor's proposed AMELP must include, at a minimum, the following:

(i) The Contractor's plan for monitoring, including any existing systems or processes for monitoring progress, any Standard Foreign Assistance Indicators as agreed upon by the contracting officer or delegated contracting officer's representative, any other USAID required indicators, and other relevant performance indicators of the contract's outputs and outcomes, their baseline (or plan for collecting baseline), and targets; and

(ii) The Contractor's plan for regular and systematic collection of feedback from beneficiaries, responding to feedback received, and reporting to USAID a summary

of feedback and actions taken in response to the feedback received, or a rationale for why collecting feedback from beneficiaries is not applicable for this contract.

(2) The Contractor's proposed AMELP must be appropriate to the size and complexity of the contract and address the following, as applicable:

(i) Plans for monitoring context and emerging risks that could affect the achievement of the contract's results;

(ii) Plans for any evaluations to be conducted by the contractor, sub-contractor or third-party, including collaboration with an external evaluator;

(iii) Learning activities, including plans for capturing knowledge at the close-out of the contract;

(iv) Estimated resources for the AMELP tasks that are a part of the contract's budget; and

(v) Roles and responsibilities for all proposed AMELP tasks.

[End of clause]

752.7005 [Removed and Reserved]

■ 7. Remove and Reserve 752.7005.

Jami J. Rodgers,

Chief Acquisition Officer.

[FR Doc. 2024-09373 Filed 5-3-24; 8:45 am]

BILLING CODE 6116-01-P