

October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur dioxide (SO₂).

Authority: 42 U.S.C. 7401 *et seq.*

Dated: October 27, 2015.

Samuel Coleman,

Acting Regional Administrator, Region 6.

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AGENCY FOR INTERNATIONAL DEVELOPMENT

48 CFR Parts 722, 729, 731, and 752

RIN 0412-AA78

Various Administrative Changes and Clauses to the USAID Acquisition Regulation

AGENCY: U.S. Agency for International Development.

ACTION: Proposed rule.

SUMMARY: The U.S. Agency for International Development (USAID) seeks public comment on a proposed rule that would revise the Agency for International Development Acquisition Regulation (AIDAR) to maintain consistency with Federal and Agency regulations and incorporate current and new USAID clauses into the regulation.

DATES: Comments must be received no later than December 14, 2015.

ADDRESSES: Address all comments concerning this notice to Marcelle J. Wijesinghe, Bureau for Management, Office of Acquisition and Assistance, Policy Division (M/OAA/P), Room 867J, SA-44, Washington, DC 20523-2052. Submit comments, identified by title of the action and Regulatory Information Number (RIN) by any of the following methods:

1. Through the Federal eRulemaking Portal at <http://www.regulations.gov> by following the instructions for submitting comments.
2. *By Email:* Submit electronic comments to both mwifesinghe@usaid.gov and lbond@usaid.gov. See **SUPPLEMENTAL INFORMATION** for file formats and other information about electronic filing.

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

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

SUPPLEMENTARY INFORMATION:

A. Instructions

All comments must be in writing and submitted through one of the methods specified in the Addresses section above. All submissions must include the title of the action and RIN for this rulemaking. Please include your name, title, organization, postal address, telephone number, and email address in the text of the message.

Comments submitted by email must be included in the text of the email or attached as a PDF file. Please avoid

using special characters and any form of encryption. Please note that USAID recommends sending all comments to the Federal eRulemaking Portal because security screening precautions have slowed the delivery and dependability of surface mail to USAID/Washington.

Three days after receipt of a comment and until finalization of the action, all comments will be made available at <http://www.regulations.gov> for public review without change, including any personal information provided. We recommend you do not submit information that you consider Confidential Business Information (CBI) or any information that is otherwise protected from disclosure by statute.

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

B. Background

USAID is seeking comments on the proposed rule as described below:

- FAR subpart 22.8 prohibits federal contractors performing in the U.S. from discrimination with regard to race, color, religion, sex, national origin, disability, age, genetic information, or veteran status. As a matter of policy, the Agency encourages all USAID contractors performing and recruiting entirely outside the United States to apply these same standards of nondiscrimination in their workplace. The provision entitled “Nondiscrimination” contains language that encourages contractors performing and recruiting entirely outside the United States to establish comprehensive nondiscrimination policies for their workplaces. The provision was implemented on an interim basis in 2012 through Agency policy found in ADS 302 Mandatory Reference, Special Provisions for Acquisition and is hereby formally incorporated in the AIDAR without revision at 752.222-71. The Agency believes that the transfer of the clause from the internal Agency policy into the AIDAR will have no impact on contractors.

- Section 579 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of FY 2003 (Pub. L. 108-7) and similar sections in subsequent acts require certain steps to prevent countries from imposing taxes [defined as Value Added Tax (VAT) or customs duties] on U.S. foreign assistance. If taxes or customs duties are imposed, the foreign government must reimburse the amount

of such taxes and duties to the U.S. Government. The Act also requires certain reporting to Congress.

The provision at 752.229-71 entitled “Reporting of Foreign Taxes”, implemented on an interim basis in 2007 through Agency policy found in ADS 302 Mandatory Reference, Special Provisions for Acquisition, specifies that the contractor must submit certain reports to the Contracting Officer’s Representative, with copies to the relevant Embassy, the Mission, or the Bureau for Management, Office of the Chief Financial Officer, Cash Management and Payments Division. AIDAR part 729, subpart 729.4 and sections 729.204-70 and 752.229-70 are added to formally incorporate this requirement into the AIDAR. The Agency believes that the transfer of the clause from the internal Agency policy into the AIDAR will have no impact on contractors.

- The Executive Order 13589 “Promoting Efficient Spending” dated November 9, 2011, directed agencies to reduce administrative costs by improving operations, increasing efficiency, and cutting unnecessary spending. To achieve savings, agencies were to improve efficiencies in various administrative areas, including conference expenditures. OMB memorandums M-11-35 “Eliminating Excess Conference Spending and Promoting Efficiency in Government” dated September 21, 2011, and M-12-12 “Promoting Efficient Spending to Support Agency Operations” dated May 11, 2012, further instructed all agencies “to conduct a thorough review of the policies and controls associated with conference-related activities and expenses” and to “exercise discretion and judgment in ensuring that conference expenses are appropriate, necessary, and managed in a manner that minimizes expense to taxpayers”.

To mitigate the risk of inappropriate spending, USAID revised Automated Directive System (ADS) 580 on agency internal policies and procedures pertaining to conferences funded by USAID and implemented a new clause entitled “Conference Planning and Required Approvals”, applicable to all contracts with an anticipated need for USAID-funded conferences. The clause requires contractors to obtain USAID approval prior to committing costs related to conferences funded in whole or in part with USAID funds when:

- (1) Twenty (20) or more USAID employees are expected to attend.
- (2) The net conference expense funded by USAID will exceed \$100,000 (excluding salary of employees),

regardless of the number of USAID participants.

The clause was implemented on an interim basis in 2013 through Agency policy found at ADS 302 Mandatory Reference, Special Provisions for Acquisition and is hereby formally incorporated into the AIDAR without revision. The Agency believes that the transfer of the clause from the internal Agency policy into the AIDAR will have no impact on contractors.

- In support of USAID’s procurement reform and to expedite award modifications that affect multiple awards, the Bureau for Management, Office of Acquisition and Assistance (M/OAA) has created a separate online portal for Implementing Partner Notices (IPN) for acquisition awards. The IPN Portal, located at <https://sites.google.com/site/usaipnforacquisitions/>, is the single point where USAID uploads proposed universal bilateral modifications for awards, which can be accessed electronically by registered contractors. The IPN Portal is also used to provide notices to USAID contractors who register with the IPN Portal. The AIDAR clause 752.7036, entitled “USAID Implementing Partner Notices (IPN) Portal for Acquisition”, directs contractors to register with the IPN Portal. Registered contractors will receive automatic email notifications when the IPN Portal is updated with proposed award modifications and/or notices. Partners may download and sign the proposed modification, and send it to the contracting officer for signature (execution) and distribution in accordance with the terms of the clause.

Proposed bilateral modifications provided through the IPN Portal are not effective until the contractor and the contracting officer sign the modification. The requirement to register in the IPN portal applies to all contracts except for orders under indefinite delivery contracts issued pursuant to (48 CFR) FAR subpart 16.5; orders under Federal Supply (GSA) Schedules issued pursuant to (48 CFR) FAR subpart 8.4; and contracts and purchase orders awarded under the simplified acquisitions procedures of (48 CFR) FAR part 13. The clause was implemented on an interim basis in July 2014 through Agency policy found at ADS 302 Mandatory Reference, Special Provisions for Acquisition and is hereby formally incorporated into the AIDAR without revision. The Agency believes that the transfer of the clause from the internal agency policy into the AIDAR will have no impact on contractors.

- Research indicates that persons with a history and proclivity to abusing children will often seek professional

positions which could give them access to vulnerable individuals. Often they will seek employment within countries with social welfare, protection, and judicial systems too weak or underdeveloped to protect children and other vulnerable populations against abuse and exploitation. Many USAID missions and projects are located in countries with ineffective systems. To protect children involved in or coming into contact with USAID programs from abuse, exploitation or neglect, USAID has established Child Safeguarding Standards. These standards are designed to complement the USAID Counter Trafficking in Persons (C-TIP) Code of Conduct by expanding the range of actions prohibited by USAID under the C-TIP Code of Conduct to include abuse, exploitation, or neglect of children. The mandatory requirements established by these standards satisfy obligations established in the U.S. Government Action Plan on Children in Adversity and the provisions of Public Law 109-95—The Assistance for Orphans and other Vulnerable Children Act of 2005 (Pub. L. 109-95).

The standards applicable to USAID contractors are implemented through a new clause at 752.7037, Child Safeguarding. The clause requires contractors to: (1) Ensure compliance with local child welfare and protection legislation or international standards; (2) prohibit all personnel from engaging in child abuse, exploitation, or neglect; (3) consider child safeguarding in project planning and implementation; (4) apply measures to reduce the risk of child abuse, exploitation, or neglect; (5) promote child-safe screening procedures for personnel; and (6) establish procedures to ensure that contractor personnel recognize child abuse, exploitation, or neglect, report and investigate allegations and take appropriate actions in response to such allegations.

C. Regulatory Planning and Review

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

D. Regulatory Flexibility Act

The proposed rule does not establish a new collection of information as contemplated by the Paperwork Reduction Act nor will it have an impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601,

et seq. Therefore, an Initial Regulatory Flexibility Analysis has not been performed.

List of Subjects in 48 CFR Parts 722, 729, 731, and 752

Government procurement.

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

CHAPTER 7—AGENCY FOR INTERNATIONAL DEVELOPMENT

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

PART 722—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITION

- 1. The authority citation for 48 CFR part 722 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.

Subpart 722.8—Equal Employment Opportunity

- 2. Revise 722.810 to read as follows:

722.810 Solicitation provisions and contract clauses.

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

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

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

- 3. Add part 729 to subchapter E to read as follows.

PART 729—TAXES

Subpart 729.4—Contract Clauses

729.402–70 Foreign contracts.

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.

Subpart 729.4—Contract Clauses

729.402–70 Foreign contracts.

(a) Section 579 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of FY 2003 requires certain steps to prevent countries from imposing taxes [defined as Value Added Tax (VAT) or customs duties] on U.S. foreign assistance, or if imposed, requires the countries to reimburse the assessed taxes or duties. The Act also requires certain reporting to Congress. The

Department of State has published guidance for implementing this section of the Act.

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

(1) Contracts funded with Operating Expense, Public Law 480 funds, or trust funds; or

(2) Contracts where there will be no commodity transactions in a foreign country over the amount of \$500.

PART 731—CONTRACT COST PRINCIPLES AND PROCEDURES

- 4. The authority citation for 48 CFR part 731 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.

Subpart 731.2—Contracts With Commercial Organizations

- 5. Add 731.205–43 to read as follows.

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

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

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

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

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

SUBCHAPTER H—CLAUSES AND FORMS

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

- 6. The authority citation for 48 CFR part 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.

- 7. Add 752.222–71 to read as follows:

752.222–71 Nondiscrimination

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

Nondiscrimination (June 2012)

FAR Part 22 and the clauses prescribed in that part prohibit contractors performing in or recruiting from the U.S. from engaging in certain discriminatory practices. USAID is committed to achieving and maintaining a diverse and representative workforce and a workplace free of discrimination. Based on law, Executive Order, and Agency policy, USAID prohibits discrimination in its own workplace on the basis of race, color, religion, sex (including pregnancy and gender identity), national origin, disability, age, veteran's status, sexual orientation, genetic information, marital status, parental status, political affiliation, and any other conduct that does not adversely affect the performance of the employee. USAID does not tolerate any type of harassment, either sexual or nonsexual, of any employee or applicant for employment. Contractors are required to comply with the nondiscrimination requirements of the FAR.

In addition, the Agency strongly encourages all its contractors (at all tiers) to develop and enforce comprehensive nondiscrimination policies for their workplaces that include protection on these expanded bases, subject to applicable law.

(End of clause)

- 8. Add 752.229–71 to read as follows:

752.229–71 Reporting of foreign taxes.

As prescribed in (48 CFR) AIDAR 722.402–70, insert the following clause in section I of applicable solicitations and resulting contracts. The contracting officer must insert address and point of contact at the Embassy, Mission, or M/CFO/CMP as appropriate under section (d) of this clause.

Reporting of Foreign Taxes (July 2007)

(a) The contractor must annually submit a report by April 16 of the next year.

(b) Contents of Report. The report must contain:

(1) Contractor name.

(2) Contact name with phone, fax number and email address.

(3) Contract number(s).

(4) Amount of foreign taxes assessed by a foreign government [each foreign government must be listed separately] on commodity purchase transactions valued at \$500 or more financed with U.S. foreign assistance funds under this agreement during the prior U.S. fiscal year.

(5) Only foreign taxes assessed by the foreign government in the country receiving U.S. assistance are to be reported. Foreign taxes by a third party foreign government are not to be reported. For example, if a contractor performing in Lesotho using foreign assistance funds should purchase commodities in South Africa, any taxes imposed by South Africa would not be

reported in the report for Lesotho (or South Africa).

(6) Any reimbursements received by the contractor during the period in paragraph (b)(4) of this clause regardless of when the foreign tax was assessed and any reimbursements on the taxes reported in paragraph (b)(4) of this clause received through March 31.

(7) Report is required even if the contractor did not pay any taxes during the reporting period.

(8) Cumulative reports may be provided if the contractor is implementing more than one program in a foreign country.

(c) *Definitions.* For purposes of this clause:

(1) *Agreement* includes USAID direct and country contracts, grants, cooperative agreements and interagency agreements.

(2) *Commodity* means any material, article, supply, goods, or equipment.

(3) *Foreign government* includes any foreign governmental entity.

(4) *Foreign taxes* means value-added taxes and customs duties assessed by a foreign government on a commodity. It does not include foreign sales taxes.

(d) *Where.* Submit the reports to: [CO must insert address and point of contact at the Embassy, Mission, or CFO/CMP as appropriate].

(e) *Subagreements.* The contractor must include this reporting requirement in all applicable subcontracts and other subagreements.

(f) For further information see <http://2001-2009.state.gov/s/d/rm/c10443.htm>.

(End of clause)

■ 9. Add 752.231-72 to read as follows:

752.231-72 Conference planning and required approvals.

As prescribed in (48 CFR) AIDAR 731.205-43, insert the following clause in section I of all solicitations and resulting contracts anticipated to include a requirement for a USAID-funded conference, as defined in the clause.

Conference Planning and Required Approvals (AUG 2013)

(a) *Definitions:*

Conference means a seminar, meeting, retreat, symposium, workshop, training activity or other such event that requires temporary duty travel of USAID employees. For the purpose of this policy, an employee is defined as a U.S. direct hire; personal services contractor, including U.S. PSCs, Foreign Service National (FSN)/Cooperating Country National (CCN) and Third Country National (TCN); or a Federal employee detailed to USAID from another government agency.

(b) The contractor must obtain USAID approval prior to committing costs related to conferences funded in whole or in part with USAID funds when:

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

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

number of USAID participants. Conferences approved at the time of award will be incorporated into the award. Any subsequent requests for approval of conferences must be submitted by the contractor to the USAID contracting officer representative (COR). The COR will obtain the required agency approvals and communicate such approvals to the contractor in writing.

(c) The request for conference approval must include:

(1) A brief summary of the proposed event;

(2) A justification for the conference and alternatives considered, e.g., teleconferencing and videoconferencing;

(3) The estimated budget by line item (e.g., travel and per diem, venue, facilitators, meals, equipment, printing, access fees, ground transportation);

(4) A list of USAID employees attending and a justification for each; and the number of other USAID-funded participants (e.g., institutional contractors);

(5) The venues considered (including government-owned facility), cost comparison, and justification for venue selected if it is not the lowest cost option;

(6) If meals will be provided to local employees (a local employee would not be in travel status), a determination that the meals are a necessary expense for achieving Agency objectives; and

(7) A certification that strict fiscal responsibility has been exercised in making decisions regarding conference expenditures, the proposed costs are comprehensive and represent the greatest cost advantage to the U.S. Government, and that the proposed conference representation has been limited to the minimum number of attendees necessary to support the Agency's mission.

(End of clause)

■ 10. Add 752.7036 to read as follows:

752.7036 USAID Implementing Partner Notices (IPN) portal for acquisition.

Insert the clause at 752.7036 in section I of all solicitations and resulting contracts, except for orders under indefinite delivery contracts issued pursuant to (48 CFR) FAR subpart 16.5; orders under Federal Supply (GSA) Schedules issued pursuant to (48 CFR) FAR subpart 8.4; and contracts and purchase orders awarded under the simplified acquisitions procedures of (48 CFR) FAR part 13.

USAID Implementing Partner Notices (IPN) Portal for Acquisition (July 2014)

(a) *Definitions:*

Universal bilateral modification means a bilateral modification, as defined in FAR subpart 43.1, affecting all USAID awards or a class of awards, as specified in the Agency notification of such modification, that updates or incorporates new FAR or AIDAR clauses, other terms and conditions, or special requirements.

USAID Implementing Partner Notices (IPN) Portal for Acquisition (IPN Portal) means the single point where USAID uploads universal bilateral modifications, which can be

accessed electronically by registered USAID contractors. The IPN Portal is located at <https://sites.google.com/site/iphnforacquisitions/>.

IPN Portal Administrator means the USAID official designated by the M/OAA Director, who has overall responsibility for managing the USAID Implementing Partner Notices Portal for Acquisition.

(b) By submission of an offer and execution of a contract, the Offeror/Contractor acknowledges the requirement to:

(1) Register with the IPN Portal if awarded a contract resulting from this solicitation, and

(2) Receive universal bilateral modifications of this contract and general notices through the IPN Portal.

(c) Procedure to register for notifications.

Go to: <https://sites.google.com/site/usaipnforacquisitions/> and click the "Register" button at the top of the page. Contractor representatives must use their official organization email address when subscribing, not personal email addresses.

(d) *Processing of IPN portal modifications.*

(1) The contractor may access the IPN Portal at any time to review all IPN Portal modifications; however, the system will also notify the contractor by email when the USAID IPN Portal Administrator uploads a universal bilateral modification for contractor review and signature. Proposed IPN Portal modifications distributed through the IPN Portal are applicable to all awards, unless otherwise noted in the proposed modification.

(2) Within 15 calendar days from receipt of the notification email from the IPN Portal, the contractor must do one of the following:

(i) (A) Verify applicability of the proposed modification to their award(s) per the instructions provided with each modification;

(B) Download the modification and incorporate the following information on the SF30 form: Contract number, organization name, and organization mailing address as it appears in the basic award;

(C) Sign the hardcopy version; and

(D) Send the signed modification (by email or hardcopy) to the CO for signature.

Note: The contractor must not incorporate any other changes to the IPN Portal modification. Bilateral modifications provided through the IPN Portal are not effective until the both the contractor and the CO sign the modification;

(ii) Notify the Contracting Officer in writing if the modification requires negotiation of additional changes to terms and conditions of the contract; or

(iii) Notify the Contracting Officer that the contractor declines to sign the modification.

(3) Within 30 calendar days of receipt of a signed modification from the contractor, the CO must provide the fully executed modification to the contractor or initiate discussions with the contractor.

(End of clause)

■ 11. Add 752.7037 to read as follows:

752.7037 Child safeguarding standards.

Insert the clause at 752.7037, Child Safeguarding Standards, in section I of

all solicitations and contracts other than those for commercial items.

Child Safeguarding Standards (Date)

(a) Implementation of activities under this award may involve children, or personnel engaged in the implementation of the award may come into contact with children, which could raise the risk of child abuse, exploitation, or neglect within this award. The contractor agrees to abide by the following child safeguarding core principles:

(1) Ensure compliance with host country and local child welfare and protection legislation or international standards, whichever gives greater protection, and with U.S. law where applicable;

(2) Prohibit all personnel from engaging in child abuse, exploitation, or neglect;

(3) Consider child safeguarding in project planning and implementation to determine potential risks to children that are associated with project activities and operations;

(4) Apply measures to reduce the risk of child abuse, exploitation, or neglect, including, but not limited to, limiting unsupervised interactions with children; prohibiting exposure to pornography; and complying with applicable laws, regulations, or customs regarding the photographing, filming, or other image-generating activities of children;

(5) Promote child-safe screening procedures for personnel, particularly personnel whose work brings them in direct contact with children; and

(6) Have a procedure for ensuring that personnel and others recognize child abuse, exploitation, or neglect; mandating that

personnel and others report allegations; investigating and managing allegations; and taking appropriate action in response to such allegations, including, but not limited to, dismissal of personnel.

(b) The contractor must also include in the code of conduct for all personnel implementing USAID-funded activities, the child safeguarding principles in paragraphs (a)(1) through (6) of this clause.

(c) The following definitions apply for purposes of this clause:

(1) *Child*: A child or children are defined as persons who have not attained 18 years of age.

(2) *Child abuse, exploitation, or neglect*: Constitutes any form of physical abuse; emotional ill-treatment; sexual abuse; neglect or insufficient supervision; trafficking; or commercial, transactional, labor, or other exploitation resulting in actual or potential harm to the child's health, well-being, survival, development, or dignity. It includes, but is not limited to: Any act or failure to act which results in death, serious physical or emotional harm to a child, or an act or failure to act which presents an imminent risk of serious harm to a child.

(3) *Emotional abuse or ill treatment*: Constitutes injury to the psychological capacity or emotional stability of the child caused by acts, threats of acts, or coercive tactics. Emotional abuse may include, but is not limited to: Humiliation, control, isolation, withholding of information, or any other deliberate activity that makes the child feel diminished or embarrassed.

(4) *Exploitation*: Constitutes the abuse of a child where some form of remuneration is

involved or whereby the perpetrators benefit in some manner. Exploitation represents a form of coercion and violence that is detrimental to the child's physical or mental health, development, education, or well-being.

(5) *Neglect*: Constitutes failure to provide for a child's basic needs within USAID-funded activities that are responsible for the care of a child in the absence of the child's parent or guardian.

(6) *Physical abuse*: Constitutes acts or failures to act resulting in injury (not necessarily visible), unnecessary or unjustified pain or suffering without causing injury, harm or risk of harm to a child's health or welfare, or death. Such acts may include, but are not limited to: Punching, beating, kicking, biting, shaking, throwing, stabbing, choking, or hitting (regardless of object used), or burning. These acts are considered abuse regardless of whether they were intended to hurt the child.

(7) *Sexual abuse*: Constitutes fondling a child's genitals, penetration, incest, rape, sodomy, indecent exposure, and exploitation through prostitution or the production of pornographic materials.

(d) The contractor must insert this clause in all subcontracts under this award.

(End of clause)

Dated: August 25, 2015.

Deborah Broderick,

Acting Chief Acquisition Officer.

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