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Acquisition & Assistance Policy Directive (AAPD)

From the Director, Office of Acquisition & Assistance Issued: December 22, 2016

AAPD 16-05

Designation of USPSCs as Contracting Officers and CCNPSC Warrant Program

Class Deviation to AIDAR – no. M-OAA-DEV-AIDAR-16-5c

Subject Category: Acquisition Management, Personal Services Contracts

Type: POLICY

AAPDs provide information of significance to all agency personnel and partners involved in the Acquisition and Assistance process. Information includes (but is not limited to): advance notification of changes in acquisition or assistance regulations; reminders; procedures; and general information. Also, AAPDs may be used to implement new requirements on short-notice, pending formal amendment of acquisition or assistance regulations.

AAPDs are EFFECTIVE AS OF THE ISSUED DATE unless otherwise noted in the guidance below; the directives remain in effect until this office issues a notice of cancellation.

This AAPD: Is New Replaces/ Amends **AAPD 14-05**

Applicable to:

- Existing awards; Modification required
 - No later than
 - As noted in guidance below*
- RFPs/RFAs issued on or after the effective date of this AAPD; all other Pending Awards, i.e., 8(a), sole source, IQC
- Other

Precedes change to:

- FAR Part(s)
- AIDAR Part(s) **701 and Appendix J**
- USAID Automated Directives System (ADS) Chapter
- Other Code of Federal Regulations
- Other
- No change to regulations

New Provision/Clause Provided Herein: If checked, scheduled update to GLAAS:

/s/

Mark A. Walther, Acting Director,
M/OAA

I. PURPOSE:

The purpose of this AAPD is to inform Agency staff about revisions to the requirements for designation of U.S. personal services contractors (USPSCs) as Contracting Officers (COs), and continuation of the permanent Warrant Program for cooperating country national personal services contractors (CCN PSCs) as COs or Agreement Officers (AOs.) These revisions are authorized by class deviation number M-OAA-DEV-AIDAR-16-5c approved by the Director, Office of Acquisition and Assistance, Bureau for Management (M/OAA) on September 12, 2016 and effective through September 15, 2018.

This AAPD replaces and supersedes AAPD 14-05, “Foreign Service National (FSN) Warrant Program,” in its entirety.

Required Action:

USAID Missions requiring the designation of a USPSC as a Contracting Officer do not require a deviation. However, approval of the exception by the Assistant Administrator, Bureau for Management (AA/M) as specified in Appendix D is required. Requests must be submitted through the Mission Director or the Supervisory Contracting Officer to CCNWarrants@usaid.gov.

USAID Missions interested in participating in the CCNPSC warrant program must submit expressions of interest through the Mission Director or the Supervisory Contracting Officer to CCNWarrants@usaid.gov.

II. BACKGROUND:

USPSCs: AIDAR 701.603-70 currently prohibits USPSCs from being designated as COs because they are not U.S. citizen direct hire employees of the U.S. Government. As such, a deviation from the AIDAR is required each time USAID seeks to designate a USPSC as a CO. Given that designation of the USPSC as a CO and the deviation are both signed by the Senior Procurement Executive (SPE), the SPE determined that the request for a deviation was redundant. Therefore, an AIDAR proposed rule was published in the Federal Register to revise this section, eliminating the need for a deviation. Until the AIDAR rule is finalized through the rule-making process, the SPE approved a class deviation revising the language in AIDAR 701.603-70 as provided in section III below.

CCNPSCs: On September 16, 2014, the Office of Acquisition and Assistance in the Bureau for Management (M/OAA) launched the permanent Warrant Program to provide an opportunity for CCN PSCs to qualify for and obtain a certificate of appointment, more commonly referred to as a “warrant,” for acquisition and/or assistance (A&A) authority. In order to establish the program, the M/OAA Director approved a two-year class deviation through September 16, 2016, in accordance with AIDAR 701.470(b)(1) and 701.601(a)(2)(ii). Additionally, the AA/M approved an exception in accordance with AIDAR Appendix J, section 4 and ADS 103.3.1.1(b)(4.). A proposed AIDAR rule was published in the Federal Register to incorporate this language into the regulation; but as this AIDAR revision is not final yet, the M/OAA Director signed this 2016 class deviation to extend the CCNPSC Warrant Program.

III. GUIDANCE:

The 2016 class deviation revises AIDAR sections 701.603-70, and Appendix J, sections 4(b)(3)b and 4(b)(4), as follows:

701.603-70 Designation of contracting officers. A contracting officer represents the U.S. Government through the exercise of his/her delegated authority to negotiate, sign, and administer contracts on behalf of the U.S. Government. The contracting officer's duties are sensitive, specialized, and responsible. In order to ensure proper accountability, and to preclude possible security, conflict of interest, or jurisdiction problems, USAID contracting officers must be U.S. citizen direct-hire employees of the U.S. Government. *However, upon*

approval of an exception by the Assistant Administrator for the Bureau for Management (AA/M), in accordance with the limitations in AIDAR Appendix D, the Senior Procurement Executive may designate a USPSC as a Contracting Officer or delegate the USPSC authority to sign obligating and subobligating documents. The Senior Procurement Executive may also delegate limited contracting officer authority to Cooperating Country National personal service contractors (CCN PSCs) who meet the requirements in the Agency's warrant program for CCN PSCs, as specified in Appendix J.

Appendix J, section 4(b)(3)b - [A CCN PSC] may not be designated as a Contracting Officer or delegated authority to sign obligating or subobligating documents, *unless specifically delegated limited contracting officer authority by the Senior Procurement Executive. In order to be delegated limited contracting officer authority, Cooperating Country National PSCs (CCN PSCs) must meet the requirements in the Agency's warrant program for CCN PSCs.*

Appendix J, section 4(b)(4) - Exceptions. *Exceptions to the limitations in (b)(3)(a), (c), (d) and (e) must be approved by the Assistant Administrator for Management (AA/M).*

Based on the approval of this 2016 class deviation, Missions interested in requesting the designation of a USPSC as a CO do not need to prepare a request for deviation from AIDAR 701.603-70. However, approval of the exception by the AA/M as specified in AIDAR Appendix D, section 4.(b)(3)e, is required. Additionally, the USPSC must meet the Agency's warrant requirements for designation as a Contracting Officer and/or an Agreement Officer

The 2016 class deviation also allows the designation of CCN PSCs as Contracting and Agreement Officers based on the Mission's needs and contingent upon the CCN PSC meeting the requirements of the Agency's CCN PSC Warrant Program.

IV. POINT OF CONTACT:

USAID Contracting Officers may direct their questions about this AAPD to CCNWarrants@usaid.gov.