

PART II - CONTRACT CLAUSES

SECTION I - CONTRACT CLAUSES

I.1 NOTICE LISTING CONTRACT CLAUSES INCORPORATED BY REFERENCE

The following contract clauses pertinent to this section are hereby incorporated by reference (by Citation Number, Title, and Date) in accordance with the clause at FAR "52.252-2 CLAUSES INCORPORATED BY REFERENCE" in Section I of this contract. See FAR 52.252-2 for an internet address (if specified) for electronic access to the full text of a clause.

NUMBER	TITLE	DATE
	FEDERAL ACQUISITION REGULATION (48 CFR Chapter 1)	
52.202-1	DEFINITIONS	DEC 2001
52.203-3	GRATUITIES	APR 1984
52.203-5	COVENANT AGAINST CONTINGENT FEES	APR 1984
52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT	JUL 1995
52.203-7	ANTI-KICKBACK PROCEDURES	JUL 1995
52.203-8	CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY	JAN 1997
52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY	JAN 1997
52.203-12	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS	JUN 1997
52.204-2	SECURITY REQUIREMENTS	AUG 1996
52.204-4	PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER	AUG 2000
52.209-6	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT	JUL 1995
52.215-2	AUDIT AND RECORDS--NEGOTIATION	JUN 1999
52.215-8	ORDER OF PRECEDENCE--UNIFORM CONTRACT FORMAT	OCT1997
52.215-14	INTEGRITY OF UNIT PRICES ALTERNATE I (OCT 1997)	OCT 1997
52.216-7	ALLOWABLE COST AND PAYMENT	DEC 2002
52.216-8	FIXED-FEE	MAR 1997

52.219-25	SMALL DISADVANTAGED BUSINESS PARTICIPATION PROGRAM--DISADVANTAGED STATUS AND REPORTING	OCT 1999
52.222-1	NOTICE TO THE GOVERNMENT OF LABOR DISPUTES	FEB 1997
52.222-3	CONVICT LABOR	AUG 1996
52.222-19	CHILD LABOR - COOPERATION WITH AUTHORITIES AND REMEDIES	SEP 2002
52.222-21	PROHIBITION OF SEGREGATED FACILITIES	FEB 1999
52.222-26	EQUAL OPPORTUNITY	APR 2002
52.222-29	NOTIFICATION OF VISA DENIAL	FEB 1999
52.222-38	COMPLIANCE WITH VETERANS' EMPLOYMENT REPORTING REQUIREMENTS	DEC 2001
52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES	JUL 2000
52.227-14	RIGHTS IN DATA--GENERAL	JUN 1987
52.227-16	ADDITIONAL DATA REQUIREMENTS	JUN 1987
52.228-7	INSURANCE--LIABILITY TO THIRD PERSONS	MAR 1996
52.232-9	LIMITATION ON WITHHOLDING OF PAYMENTS	APR 1984
52.232-17	INTEREST	JUN 1996
52.232-22	LIMITATION OF FUNDS	APR 1984
52.232-23	ASSIGNMENT OF CLAIMS	JAN 1986
52.233-1	DISPUTES	JUL 2002
52.233-3	PROTEST AFTER AWARD	AUG 1996
52.237-8	ALTERNATE I (JUN 1985) RESTRICTION ON SEVERANCE PAYMENTS TO FOREIGN NATIONALS	OCT 1995
52.237-9	WAIVER OF LIMITATION ON SEVERANCE PAYMENTS TO FOREIGN NATIONALS	OCT 1995
52.242-1	NOTICE OF INTENT TO DISALLOW COSTS	APR 1984
52.242-3	PENALTIES FOR UNALLOWABLE COSTS	MAY 2001
52.242-4	CERTIFICATION OF FINAL INDIRECT COSTS	JAN 1997
52.242-13	BANKRUPTCY	JUL 1995
52.243-2	CHANGES--COST REIMBURSEMENT	AUG 1987
52.244-2	ALTERNATE I (APR 1984) SUBCONTRACTS	AUG 1998
52.244-5	ALTERNATE II (AUG 1998) COMPETITION IN SUBCONTRACTING	DEC 1996
52.244-6	SUBCONTRACTS FOR COMMERCIAL ITEMS	MAY 2002
52.246-23	LIMITATION OF LIABILITY	FEB 1997
52.246-25	LIMITATION OF LIABILITY--SERVICES	FEB 1997
52.248-1	VALUE ENGINEERING	FEB 2000
52.249-6	TERMINATION (COST-REIMBURSEMENT)	SEP 1996
52.249-14	EXCUSABLE DELAYS	APR 1984
52.253-1	COMPUTER GENERATED FORMS	JAN 1991

AIDAR 48 CFR Chapter 7

752.202-1	USAID DEFINITIONS	JAN 1990
752.204-2	SECURITY REQUIREMENTS	
752.211-70	LANGUAGE AND MEASUREMENT	JUN 1992
752.225-70	SOURCE, ORIGIN, AND NATIONALITY REQUIREMENTS	FEB 1997
752.226-2	SUBCONTRACTING WITH DISADVANTAGED ENTERPRISE	APR 1997
752.226-3	LIMITATIONS ON SUBCONTRACTING	JUN 1993
752.228-7	INSURANCE-LIABILITY TO THIRD PERSONS	
752.228-70	MEDICAL EVACUATION (MEDVAC) SERVICES	MAR 1993
752.242-70	PERIODIC PROGRESS REPORTS	JUL 1998
752.7001	BIOGRAPHICAL DATA	JUL 1997
752.7002	TRAVEL AND TRANSPORTATION	JAN 1990
752.7006	NOTICES	APR 1984
752.7007	PERSONNEL COMPENSATION	JUL 1996
752.7008	USE OF GOVERNMENT FACILITIES OR PERSONNEL	APR 1984
752.7010	CONVERSION OF U.S. DOLLARS TO LOCAL CURRENCY	APR 1984
752.7011	ORIENTATION AND LANGUAGE TRAINING	APR 1984
752.7013	CONTRACTOR-MISSION RELATIONSHIPS	OCT 1989
752.7014	NOTICE OF CHANGES IN TRAVEL REGULATIONS	JAN 1990
752.7015	USE OF POUCH FACILITIES	JUL 1997
752.7025	APPROVALS	APR 1984
752.7028	DIFFERENTIALS AND ALLOWANCES	JUL 1996
752.7029	POST PRIVILEGES	JUL 1993
752.7033	PHYSICAL FITNESS	JUL 1997
752.7034	ACKNOWLEDGEMENT AND DISCLAIMER	DEC 1991

I.2 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within 60 days.

**I.3 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT
(MAR 2000)**

- (a) The Government may extend the term of this contract by written notice to the Contractor within 60 days provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the Government to an extension.
- (b) If the Government exercises this option, the extended contract shall be considered to include this option clause.
- (c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 3 years.

**I.4 52.219-26 SMALL DISADVANTAGED BUSINESS PARTICIPATION
PROGRAM--INCENTIVE SUBCONTRACTING (OCT 2000)**

- (a) Of the total dollars it plans to spend under subcontracts, the Contractor has committed itself in its offer to try to award a certain amount to small disadvantaged business concerns in the North American Industry Classification System (NAICS) Industry Subsectors as determined by the Department of Commerce.
- (b) If the Contractor exceeds its total monetary target for subcontracting to small disadvantaged business concerns in the authorized SIC Major Groups, it will receive percent of the dollars in excess of the monetary target, unless the Contracting Officer determines that the excess was not due to the Contractor's efforts (e.g., a subcontractor cost overrun caused the actual subcontract amount to exceed that estimated in the offer, or the excess was caused by the award of subcontracts that had been planned but had not been disclosed in the offer during contract negotiations). Determinations made under this paragraph are not subject to the Disputes clause of this contract.
- (c) If this is a cost-plus-fixed-fee contract, the sum of the fixed fee and the incentive fee earned under this contract may not exceed the limitations in subsection 15.404-4 of the Federal Acquisition Regulation.

I.5 52.227-23 RIGHTS TO PROPOSAL DATA (TECHNICAL) (JUN 1987)

Except for data contained on pages __, it is agreed that as a condition of award of this contract, and notwithstanding the conditions of any notice appearing thereon, the Government shall have unlimited rights (as defined in the "Rights in Data--General" clause contained in this contract) in and to the technical data contained in the proposal dated upon which this contract is based.

I.6 52.232-25 PROMPT PAYMENT (FEB 2002)

Notwithstanding any other payment clause in this contract, the Government will make invoice payments under the terms and conditions specified in this clause. The Government considers payment as being made on the day a check is dated or the date of an electronic funds transfer (EFT). Definitions of pertinent terms are set forth in sections 2.101, 32.001, and 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see paragraph (a)(4) of this clause concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) Invoice payments--

(1) Due date.

- (i) Except as indicated in paragraphs (a)(2) and (c) of this clause, the due date for making invoice payments by the designated payment office is the later of the following two events:**
 - (A) The 30th day after the designated billing office receives a proper invoice from the Contractor (except as provided in paragraph (a)(1)(ii) of this clause).**
 - (B) The 30th day after Government acceptance of supplies delivered or services performed. For a final invoice, when the payment amount is subject to contract settlement actions, acceptance is deemed to occur on the effective date of the contract settlement.**
- (ii) If the designated billing office fails to annotate the invoice with the actual date of receipt at the time of receipt, the invoice payment due date is the 30th day after the date of the Contractor's invoice, provided the designated billing office receives a proper invoice and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.**

(2) Certain food products and other payments.

- (i) Due dates on Contractor invoices for meat, meat food products, or fish; perishable agricultural commodities; and dairy products, edible fats or oils, and food products prepared from edible fats or oils are--**
 - (A) For meat or meat food products, as defined in section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), and as further defined in Pub. L. 98-181, including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product, as close as possible to, but not later than, the 7th day after product delivery.**

- (B) For fresh or frozen fish, as defined in section 204(3) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)), as close as possible to, but not later than, the 7th day after product delivery.
- (C) For perishable agricultural commodities, as defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), as close as possible to, but not later than, the 10th day after product delivery, unless another date is specified in the contract.
- (D) For dairy products, as defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), edible fats or oils, and food products prepared from edible fats or oils, as close as possible to, but not later than, the 10th day after the date on which a proper invoice has been received. Liquid milk, cheese, certain processed cheese products, butter, yogurt, ice cream, mayonnaise, salad dressings, and other similar products, fall within this classification. Nothing in the Act limits this classification to refrigerated products. When questions arise regarding the proper classification of a specific product, prevailing industry practices will be followed in specifying a contract payment due date. The burden of proof that a classification of a specific product is, in fact, prevailing industry practice is upon the Contractor making the representation.
- (ii) If the contract does not require submission of an invoice for payment (e.g., periodic lease payments), the due date will be as specified in the contract.
- (3) Contractor's invoice. The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraphs (a)(3)(i) through (a)(3)(x) of this clause. If the invoice does not comply with these requirements, the designated billing office will return it within 7 days after receipt (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils), with the reasons why it is not a proper invoice. The Government will take into account untimely notification when computing any interest penalty owed the Contractor.
- (i) Name and address of the Contractor.
- (ii) Invoice date and invoice number. (The Contractor should date invoices as close as possible to the date of the mailing or transmission.)
- (iii) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).
- (iv) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.
- (v) Shipping and payment terms (e.g., shipment number and date of shipment, discount for prompt payment terms). Bill of lading number and weight of shipment will be

shown for shipments on Government bills of lading.

- (vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).
 - (vii) Name (where practicable), title, phone number, and mailing address of person to notify in the event of a defective invoice.
 - (viii) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.
 - (ix) Electronic funds transfer (EFT) banking information.
 - (A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.
 - (B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision (e.g., 52.232- 38, Submission of Electronic Funds Transfer Information with Offer), contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer--Central Contractor Registration, or 52.232-34, Payment by Electronic Funds Transfer--Other Than Central Contractor Registration), or applicable agency procedures.
 - (C) EFT banking information is not required if the Government waived the requirement to by EFT.
 - (x) Any other information or documentation required by the contract (e.g., evidence of shipment).
- (4) Interest penalty. The designated payment office will pay an interest penalty automatically, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(4)(i) through (a)(4)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday, the designated payment office may make payment on the following working day without incurring a late payment interest penalty.
- (i) The designated billing office received a proper invoice.
 - (iii) The Government processed a receiving report or other Government documentation authorizing payment, and there was no disagreement over quantity, quality, or Contractor compliance with any contract term or condition.
 - (iv) In the case of a final invoice for any balance of funds due the Contractor for supplies delivered or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

- (5) Computing penalty amount. The Government will compute the interest penalty in accordance with the Office of Management and Budget prompt payment regulations at 5 CFR part 1315.
- (i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance is deemed to occur constructively on the 7th day (unless otherwise specified in this contract) after the Contractor delivers the supplies or performs the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. If actual acceptance occurs within the constructive acceptance period, the Government will base the determination of an interest penalty on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.
 - (ii) The prompt payment regulations at 5 CFR 1315.10(c) do not require the Government to pay interest penalties if payment delays are due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. The Government and the Contractor shall resolve claims involving disputes and any interest that may be payable in accordance with the clause at FAR 52.233-1, Disputes.
- (6) Discounts for prompt payment. The designated payment office will pay an interest penalty automatically, without request from the Contractor, if the Government takes a discount for prompt payment improperly. The Government will calculate the interest penalty in accordance with the prompt payment regulations at 5 CFR part 1315.
- (7) Additional interest penalty.
- (i) The designated payment office will pay a penalty amount, calculated in accordance with the prompt payment regulations at 5 CFR part 1315 in addition to the interest penalty amount only if--
 - (A) The Government owes an interest penalty of \$1 or more;
 - (B) The designated payment office does not pay the interest penalty within 10 days after the date the invoice amount is paid; and
 - (C) The Contractor makes a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(7)(ii) of this clause, postmarked not later than 40 days after the invoice amount is paid.
 - (ii)(A) The Contractor shall support written demands for additional penalty payments with

the following data. The Government will not request any additional data. The Contractor shall--

- (1) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;
- (2) Attach a copy of the invoice on which the unpaid late payment interest is due; and
- (3) State that payment of the principal has been received, including the date of receipt.

(B) If there is no postmark or the postmark is illegible--

- (1) The designated payment office that receives the demand will annotate it with the date of receipt, provided the demand is received on or before the 40th day after payment was made; or
 - (2) If the designated payment office fails to make the required annotation, the Government will determine the demand's validity based on the date the Contractor has placed on the demand, provided such date is no later than the 40th day after payment was made.
- (ii) The additional penalty does not apply to payments regulated by other Government regulations (e.g., payments under utility contracts subject to tariffs and regulation).
- (b) Contract financing payment. If this contract provides for contract financing, the Government will make contract financing payments in accordance with the Applicable contract financing clause.
 - (c) Fast payment procedure due dates. If this contract contains the clause at 52.213-1, Fast Payment Procedure, payments will be made within 15 days after the date of receipt of the invoice.
 - (d) Overpayments. If the Contractor becomes aware of a duplicate payment or that the Government has otherwise overpaid on an invoice payment, the Contractor shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.

I.7 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

<http://arnet.gov/far/>

I.8 AIDAR 752.7032 INTERNATIONAL TRAVEL APPROVAL AND NOTIFICATION REQUIREMENTS (JAN 1990)

Prior written approval by the Contracting Officer is required for all international travel directly and identifiably funded by USAID under this contract. The Contractor shall therefore present to the Contracting Officer an itinerary for each planned international trip, showing the name of the traveler, purpose of the trip, origin/destination (and intervening stops), and dates of travel, as far in advanced of the proposed travel as possible, but in no event less than three weeks before travel is planned to commence. The Contracting Officer's prior written approval may be in the form of a letter or telegram or similar device or may be specifically incorporated into the schedule of the contract. At least one week prior to commencement of approved international travel, the Contractor shall notify the cognizant Mission, with a copy to the Contracting Officer, of planned travel, identifying the travelers and the dates and times of arrival.

I.9 COMMUNICATIONS PRODUCTS (OCT 1994)

- (a) Definition - Communications products are any printed materials (other than non-color photocopy material), photographic services or video production services.
- (b) Standards - USAID has established standards for communications products. These standards must be followed unless otherwise specifically provided in the contract or approved in writing by the contracting officer. A copy of the standards for USAID financed publications and video productions is attached.
- (c) Communications products which meet any of the following criteria are not eligible for USAID financing under this agreement unless specifically authorized in the contract or in writing by the contracting officer:
 - (1) All communications materials funded by operating expense account funds;
 - (2) Any communication products costing over \$25,000, including the costs of both preparation and execution. For example, in the case of a publication, the costs will include research, writing and other editorial services (including any associated overhead), design, layout and production costs.
 - (3) Any communication products that will be sent directly to, or likely to be seen by, a Member of Congress or Congressional staffer; and
 - (4) Any publication that will have more than 50 percent of its copies distributed in the United States (excluding copies provided to CDIE and other USAID/W offices for internal use.

- (d) The initial proposal must provide a separate estimate of the cost of every communications product as defined in paragraph (a) above [not just those which meet the criteria in paragraph (c)] which is anticipated under the contract. Each estimate must include all of the costs associated with preparation and execution of the product. Any subsequent request for approval of a covered communication product must provide the same type of cost information.