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Acquisition & Assistance Policy Directive (AAPD)

From the Director, Office of Acquisition & Assistance

Issued: January 8, 2024

AAPD 24-04

Applicability of FAR Subpart 4.23 - Federal Acquisition Supply Chain Security Act (FASCSA) Orders to USAID personal services contracts with individuals under the AIDAR Appendices D and J

Subject Category:	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 _____

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 Subpart 4.23
- AIDAR Parts **Appendix D and 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/ Jami Rodgers

I. PURPOSE:

The purpose of this AAPD is to inform contracting officers that the following provision and clauses must **NOT** be incorporated in solicitations, new and existing awards of personal services contracts with individuals issued under the AIDAR Appendices D and J:

- [FAR 52.204-28](#) (“Federal Acquisition Supply Chain Security Act Orders—Federal Supply Schedules, Governmentwide Acquisition Contracts, and Multi-Agency Contracts”)
- [FAR 52.204-29](#) (“Federal Acquisition Supply Chain Security Act Orders—Representation and Disclosures”)
- [FAR 52.204-30](#) (“Federal Acquisition Supply Chain Security Act Orders—Prohibition”)

II. BACKGROUND/GUIDANCE:

Effective December 4, 2023, FAR subpart 4.23 establishes that Federal agencies are “prohibited from procuring or obtaining, or extending or renewing a contract to procure or obtain, any covered article, or any products or services produced or provided by a source, including contractor use of covered articles or sources, if that prohibition is established by an applicable FASCSA order issued by the Director of National Intelligence, Secretary of Defense, or Secretary of Homeland Security (the “issuing official”)(see [41 CFR 201–1.304\(a\)](#)),” unless an exception or waiver applies. These requirements address risks in supply chains by reducing or removing threats and vulnerabilities that may lead to data and intellectual property theft, damage to critical infrastructure, harm to Federal information systems, and other threats to national security. USAID has made a determination that this statutory requirement does not apply to USAID’s personal service contracts under the AIDAR Appendices D and J as the contracts are entered into with individuals; and because PSCs are provided with support services, equipment, and supplies; and are not allowed to subcontract out any work.

The M/OAA Director has approved a class deviation from the FAR providing COs the authority to exclude these provisions and clauses in personal services contracts under the AIDAR appendices D and J.

III. POINTS OF CONTACT:

USAID COs may direct questions regarding this AAPD to this [PSC Policy Mailbox](#).

TAB 1: FEDERAL ACQUISITION REGULATION (FAR) DEVIATION TEXT

Additions are **[bolded and bracketed]**, deletions are ~~struck through~~.

(Deviation #: M-OAA-DEV-FAR-24-01c)

4.2306 Solicitation provision and contract clauses.

(a) In all Federal Supply Schedules, Governmentwide acquisition contracts, and multi-agency contracts where FASCSA orders are applied at the order level, the contracting officer shall insert the clause at 52.204–28, Federal Acquisition Supply Chain Security Act Orders—Federal Supply Schedules, Governmentwide Acquisition Contracts, and Multi-Agency Contracts, in the basic contract solicitation and resultant contract (see 4.2304(b)(1)(ii)).

(b) The contracting officer shall insert the provision at 52.204–29, Federal Acquisition Supply Chain Security Act Orders—Representation and Disclosures—

- (1) In all solicitations, except for Federal Supply Schedules, Governmentwide acquisition contracts, and multi-agency contracts.
- (2) In all solicitations for Federal Supply Schedules, Governmentwide acquisition contracts, and multi-agency contracts, if FASCSA orders are applied at the contract level (see 4.2304(b)(1)(i)).

(c) The contracting officer shall insert the clause at 52.204–30, Federal Acquisition Supply Chain Security Act Orders—Prohibition—

- (1) In solicitations and contracts if the conditions specified at 4.2304(a)(1) apply, except for Federal Supply Schedules, Governmentwide acquisition contracts, and multi-agency contracts. For acquisitions where conditions specified at 4.2304(a)(2) apply, then the contracting officer shall use the clause with its Alternate I.
- (2) In Federal Supply Schedules, Governmentwide acquisition contracts, and multi-agency contracts—
 - (i) Where FASCSA orders are applied at the contract level, with its Alternate I in all solicitations and resultant contracts. See 4.2304(b)(1)(i).
 - (ii) Where FASCSA orders are applied at the order level, with its Alternate II in all RFQs, or in all notices of intent to place an order. See 4.2304(b)(1)(ii).

(d) The requirements in paragraphs (a) through (c) do not apply to solicitations for contracts with, or contracts with, individuals issued in accordance with Appendices D and J of the AIDAR.