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# Special Contract Requirements

## A Mandatory Reference for ADS Chapter 302

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## Special Contract Requirements

The following special contract requirements are to be inserted in solicitations and contracts as prescribed in the relevant subject matter area in [ADS 302, USAID Direct Contracting](#). The requirements must be incorporated into Section H of the Uniform Contract Format (UCF) unless otherwise indicated in the prescription. These requirements must be in full text unless otherwise indicated, and must not be altered, unless a deviation in accordance with procedures in [ADS 302](#) is approved.

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## 1a. LIMITATION ON SUBCONTRACTING TO NON-LOCAL ENTITIES (May 2012)

(For use in all solicitations and resulting contracts, financed with FY 2012/2013 funds, where competition is limited to local entities. Please refer to [ADS 302, section 302.3.5.17, "Awards Limited to Local Competition"](#) for additional guidance. For solicitations and awards financed fully or in part with FY14 funds, use the revised provision in 6b below.)

### 302.3.5.17 Limitation on Subcontracting to Non-Local Entities (May 2012)

(a) Applicability. This clause applies to (i) contracts that have been awarded to those local entities under the authority of and as defined in Section 7077 of Public Law 112-74, the Consolidated Appropriations Act, 2012 (P.L. 112-74), also known as "Local Competition Authority" and (ii) contracts awarded to local entities (as defined in Section 7077 of Public Law 112-74) under the authority at AIDAR 706.302-70.

(b) By submission of an offer and execution of a contract, the Offeror/Contractor agrees that in performance of the contract for—

- (1) Services (except construction), at least 50 percent of the cost of contract performance incurred for personnel must be expended for employees of the prime/local entity.
- (2) Supplies (other than procurement from a non-manufacturer of such supplies), the prime/ local entity concern must perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials.
- (3) General construction, the prime/ local entity concern will perform at least 15 percent of the cost of the contract, not including the cost of materials, with its own employees.
- (4) Construction by special trade contractors, the concern will perform at least 25 percent of the cost of the contract, not including the cost of materials, with its own employees.

(c) By submission of an offer and execution of a contract, the Offeror/Contractor represents that it is an individual, a corporation, a nonprofit organization, or another body of persons that—

- (1) Is legally organized under the laws of;
- (2) Has as its principal place of business or operations in; and
- (3) Either is--
  - (A) majority owned by individuals who are citizens or lawful permanent residents of; or
  - (B) managed by a governing body the majority of whom are citizens or lawful permanent residents of; a country in which this contract will be primarily performed.

(d) For purposes of this clause, "majority owned" and "managed by" include, without limitation, beneficiary interests and the power, either directly or indirectly, whether exercised or exercisable, to control the election, appointment, or tenure of the

organization's managers or a majority of the organization's governing body by any means.

(END OF PROVISION)

**1b. LIMITATION ON SUBCONTRACTING TO NON-LOCAL ENTITIES (July 2014)**

*(For use in all solicitations and resulting contracts, financed fully or in part with FY2014 funds, where competition is limited to local entities. The previous version of this provision in 6a. above is still applicable to awards financed with FY2012/2013 funds. This revised version of the provision must be used for all awards financed fully or in part with FY14 funds. Please refer to [ADS 302](#), sections **302.3.4.5.e** and **302.3.5.17**, "Awards Limited to Local Competition" for additional guidance.)*

**302.3.5.17 Limitation on Subcontracting to Non-Local Entities (July 2014)**

(a) Applicability. This provision applies to:

(i) Contracts that have been awarded to those local entities under the authority of and as defined in Section 7077 of Public Law 112-74, the Consolidated Appropriations Act, 2012 (P.L. 112-74), as amended by Section 7028 of Public Law 113-76, the Consolidated Appropriations Act, 2014, also known as "Local Competition Authority"; and

(ii) Contracts awarded to local entities (as defined in Section 7077 of Public Law 112-74) under the authority at AIDAR 706.302-70 Impairment of foreign aid programs.

(b) By submission of an offer and execution of a contract, the Offeror/Contractor agrees that in performance of the contract for—

(1) Services (except construction), at least fifty (50) percent of the cost of contract performance incurred for personnel must be expended for employees of the prime/local entity.

(2) Supplies (other than procurement from a non-manufacturer of such supplies), the prime/ local entity concern must perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials.

(3) General construction, the prime/ local entity concern will perform at least 15 percent of the cost of the contract, not including the cost of materials, with its own employees.

(4) Construction by special trade contractors, the concern will perform at least 25 percent of the cost of the contract, not including the cost of materials, with its own employees.

(c) By submission of an offer and execution of a contract, the Offeror/Contractor represents that it is an individual, a corporation, a nonprofit organization, or another body of persons that:

- (1) Is legally organized under the laws of;
  - (2) Has as its principal place of business or operations in;
  - (3) Is majority owned by individuals who are citizens or lawful permanent residents of; and
  - (4) Is managed by a governing body the majority of who are citizens or lawful permanent residents of the country in which this contract will be primarily performed.
- (d) For purposes of this clause, “majority owned” and “managed by” include, without limitation, beneficiary interests and the power, either directly or indirectly, whether exercised or exercisable, to control the election, appointment, or tenure of the organization's managers or a majority of the organization's governing body by any means.

(END OF PROVISION)

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## **2. Reserved**

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### **3. Submission of Datasets to the Development Data Library (DDL)**

For use in all solicitations and contracts. Please refer to [ADS 302, USAID Direct Contracting, Section 302.3.5.21](#), “Submission of Datasets to the Development Data Library (DDL)” for additional guidance.

#### **302.3.5.21 Submission of Datasets to the Development Data Library (DDL) (October 2014)**

- (a) Definitions. For the purpose of submissions to the DDL:
  - (1) “Dataset” is an organized collection of structured data, including data contained in spreadsheets, whether presented in tabular or non-tabular form. For example, a Dataset may represent a single spreadsheet, an extensible mark-up language (XML) file, a geospatial data file, or an organized collection of these. This requirement does not apply to aggregated performance reporting data that the contractor submits directly to a USAID portfolio management system or to unstructured data, such as email messages, PDF files, PowerPoint presentations, word processing documents, photos and graphic images, audio files, collaboration software, and instant messages. Neither does the requirement apply to the contractor’s information that is incidental to award

administration, such as financial, administrative, cost or pricing, or management information. Datasets submitted to the DDL will generally be those generated with USAID resources and created in support of Intellectual Work that is uploaded to the Development Experience Clearinghouse (DEC) (see AIDAR 752.7005 “Submission Requirements for Development Experience Documents”).

(2) “Intellectual Work” includes all works that document the implementation, monitoring, evaluation, and results of international development assistance activities developed or acquired under this award, which may include program and communications materials, evaluations and assessments, information products, research and technical reports, progress and performance reports required under this award (excluding administrative financial information), and other reports, articles and papers prepared by the contractor under the award, whether published or not. The term does not include the contractor’s information that is incidental to award administration, such as financial, administrative, cost or pricing, or management information.

(b) Submissions to the Development Data Library (DDL)

(1) The Contractor must submit to the Development Data Library (DDL), at [www.usaid.gov/data](http://www.usaid.gov/data), in a machine-readable, non-proprietary format, a copy of any Dataset created or obtained in performance of this award, including Datasets produced by a subcontractor at any tier. The submission must include supporting documentation describing the Dataset, such as code books, data dictionaries, data gathering tools, notes on data quality, and explanations of redactions.

(2) Unless otherwise directed by the Contracting Officer (CO) or the Contracting Officer Representative (COR), the contractor must submit the Dataset and supporting documentation within thirty (30) calendar days after the Dataset is first used to produce an Intellectual Work or is of sufficient quality to produce an Intellectual Work. Within thirty (30) calendar days after award completion, the contractor must submit to the DDL any Datasets and supporting documentation that have not previously been submitted to the DDL, along with an index of all Datasets and Intellectual Work created or obtained under the award. The contractor must also provide to the COR an itemized list of any and all DDL submissions.

The contractor is not required to submit the data to the DDL, when, in accordance with the terms and conditions of this award, Datasets containing results of federally funded scientific research are submitted to a publicly accessible research database. However, the contractor must submit a notice to the DDL by following the instructions at [www.usaid.gov/data](http://www.usaid.gov/data), with a copy to the COR, providing details on where and how to access the data. The direct results of federally funded scientific research must be reported no later than when the data are ready to be submitted to a peer-reviewed journal for publication, or no later than five calendar days prior to the conclusion of the award, whichever occurs earlier.

(3) The contractor must submit the Datasets following the submission instructions and acceptable formats found at [www.usaid.gov/data](http://www.usaid.gov/data).

(4) The contractor must ensure that any Dataset submitted to the DDL does not contain any proprietary or personally identifiable information, such as social security numbers, home addresses, and dates of birth. Such information must be removed prior to submission.

(5) The contractor must not submit classified data to the DDL.

[End of Provision]

**4a. ORGANIZATIONAL CONFLICTS OF INTEREST: DESIGN/IMPLEMENT, DEFINITE QUANTITY (September 2018)**

(For use in all solicitations and resulting contracts for design/implementation.)

**302.3.5.10 Organizational Conflicts of Interest: Preclusion from Implementation Contract (September 2018)**

This contract requires the Contractor to furnish important services in support of the design of \_\_\_\_\_ [*specify activity*] (the "Activity"). In accordance with the principles of FAR Subpart 9.5 and USAID policy, the Contractor will be ineligible to furnish, as a Prime or Subcontractor or otherwise, the implementation services for the activity, unless the Head of the Contracting Activity authorizes a waiver (in accordance FAR 9.503 and AIDAR 709.503) determining that preclusion of the Contractor from the implementation contract would not be in the Government's interest.

[END OF PROVISION]

**4b. ORGANIZATIONAL CONFLICTS OF INTEREST: DESIGN/IMPLEMENT, INDEFINITE QUANTITY (September 2018)**

(For use in all solicitations and resulting contracts covering an indefinite quantity contract involving design/implementation.)

**302.3.5.10 Organizational Conflicts of Interest: Preclusion from Implementation Contract (September 2018)**

Task orders under this contract may require the Contractor to furnish important services in support of the design of specific activities. In accordance with the principles of FAR Subpart 9.5 and USAID policy, the Contractor will be ineligible to furnish, as a Prime or Subcontractor or otherwise, the implementation services for any activities for which it provides substantial design services except for such services that may be furnished

under this contract, unless the Head of the Contracting Activity authorizes a waiver (in accordance FAR 9.503) determining that preclusion of the Contractor from the implementation contract would not be in the Government's interest. When a task order includes a work requirement that will preclude the Contractor from furnishing implementation services, a special contract requirement stating the preclusion will be included in the task order.

[END OF PROVISION]

#### **4c. ORGANIZATIONAL CONFLICTS OF INTEREST: DESIGN/IMPLEMENT, TASK ORDERS (September 2018)**

(For use in all task orders involving design/implementation.)

##### **Organizational Conflicts of Interest: Preclusion from Implementation Contract (September 2018)**

This task order requires the Contractor to furnish important services in support of the design of \_\_\_\_\_ [specify activity] (the "Activity"). In accordance with the principles of FAR Subpart 9.5 and USAID policy, the Contractor will be ineligible to furnish, as a Prime or Subcontractor or otherwise, the implementation services for the activity, unless the Head of the Contracting Activity authorizes a waiver (in accordance FAR 9.503 and AIDAR 709.503) determining that preclusion of the Contractor from the implementation contract would not be in the Government's interest.

[END OF PROVISION]

#### **4d. ORGANIZATIONAL CONFLICTS OF INTEREST: EVALUATION, DEFINITE QUANTITY (September 2018)**

(For use in all solicitations and resulting contracts covering a definite quantity involving evaluation services.)

##### **Organizational Conflicts of Interest: Preclusion from Furnishing Certain Services and Restriction on Use of Information (September 2018)**

(a) This contract requires the Contractor to furnish services in support of the evaluation of \_\_\_\_\_ [specify activity or Contractor]. In accordance with the principles of FAR Subpart 9.5 and USAID policy, the Contractor will be ineligible to furnish, as a Prime or Subcontractor or otherwise, the implementation services under any contract or task order that results in response to findings, proposals, or recommendations in the evaluation report within 18 months of USAID accepting the report, unless the Head of the Contracting Activity authorizes a waiver (in accordance



FAR 9.503) determining that preclusion of the Contractor from the implementation work would not be in the Government's interest.

(b) In addition, by accepting this contract, the Contractor agrees that it will not use or make available any information obtained about another organization under the contract in the preparation of proposals or other documents in response to any solicitation for a contract or task order.

(c) If the Contractor gains access to proprietary information of other company(ies) in performing this evaluation, the Contractor must agree with the other company(ies) to protect their information from unauthorized use or disclosure for as long as it remains proprietary, and must refrain from using the information for any purpose other than that for which it was furnished. The Contractor must provide a properly executed copy of all such agreements to the CO.

[END OF PROVISION]

#### **4e. ORGANIZATIONAL CONFLICTS OF INTEREST: EVALUATION, INDEFINITE QUANTITY (September 2018)**

(For use in all solicitations and resulting contracts covering an indefinite quantity contract involving evaluation services.)

##### **Organizational Conflicts of Interest: Preclusion from Furnishing Certain Services and Restriction on Use of Information (September 2018)**

(a) Task orders under this contract may require the Contractor to furnish important services in support of evaluation of Contractors or of specific activities. In accordance with the principles of FAR Subpart 9.5 and USAID policy, the Contractor will be ineligible to furnish, as a Prime or Subcontractor or otherwise, implementation services under any contract or task order that results in response to findings, proposals, or recommendations in an evaluation report written by the Contractor. This preclusion will apply to any such awards made within 18 months of USAID accepting the report, unless the Head of the Contracting Activity authorizes a waiver (in accordance FAR 9.503) determining that preclusion of the Contractor from the implementation work would not be in the Government's interest.

(b) In addition, by accepting this contract, the Contractor agrees that it will not use or make available any information obtained about another organization under the contract in the preparation of proposals or other documents in response to any solicitation for a contract or task order.

(c) If the Contractor gains access to proprietary information of other company(ies) in performing this evaluation, the Contractor must agree with the other company(ies) to protect their information from unauthorized use or disclosure for as long as it remains

proprietary, and must refrain from using the information for any purpose other than that for which it was furnished. The Contractor must provide a properly executed copy of all such agreements to the CO.

[END OF PROVISION]

#### **4f. ORGANIZATIONAL CONFLICTS OF INTEREST: EVALUATION, TASK ORDERS (September 2018)**

(For use in all task orders involving evaluation services.)

##### **Organizational Conflicts of Interest: Preclusion from Furnishing Certain Services and Restriction on Use of Information (September 2018)**

This task order requires the Contractor to furnish important services in support of evaluation of \_\_\_\_\_ [*specify Contractor or activity*]. In accordance with the principles of FAR Subpart 9.5 and USAID policy, the Contractor will be ineligible to furnish, as a Prime or Subcontractor or otherwise, implementation services under any contract or task order that results in response to findings, proposals, or recommendations in an evaluation report written by the Contractor. This preclusion will apply to any such awards made within 18 months of USAID accepting the report, unless the Head of the Contracting Activity authorizes a waiver (in accordance FAR 9.503) determining that preclusion of the Contractor from the implementation work would not be in the Government's interest.

[END OF PROVISION]

#### **4g. ORGANIZATIONAL CONFLICTS OF INTEREST: AUDIT (September 2018)**

(For use in all solicitations and resulting contracts involving audit services.)

##### **Organizational Conflicts of Interest: Preclusion from Furnishing Certain Services and Restriction on Use of Information (September 2018)**

This contract requires the Contractor to provide certain audit services for USAID. To guard against the possibility that the Contractor might receive an unfair competitive advantage in competing for future USAID consulting contracts through its exposure to sensitive cost and other proprietary information of USAID contracts which it will audit under this contract, by accepting this contract, the Contractor agrees that it will not use, or make available to anyone, for the purpose of preparing proposals or any other documents in response to a solicitation for a contract or task order, any proprietary, cost, or otherwise sensitive business information obtained as a result of an audit.

The Contractor must agree with the companies that it audits to protect their proprietary information from unauthorized use or disclosure for as long as it remains proprietary, and must refrain from using the information for any purpose other than that for which it was furnished. The Contractor must provide a properly executed copy of all such agreements to the CO.

[END OF PROVISION]

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## 5. Sexual Misconduct

*For use in all solicitations and resulting contracts where the contract requires the contractor (or contractor employees) to have routine physical access to USAID facilities.*

### **Sexual Misconduct (December 2020)**

(a) USAID has a zero-tolerance policy for sexual misconduct with the goal of fostering a respectful, safe, healthy and inclusive work environment. USAID maintains policies and procedures to establish a workplace free of sexual misconduct as described in agency policy at [ADS Chapter 113, Preventing and Addressing Sexual Misconduct](#).

(b) USAID has developed two methods for receiving allegations of sexual misconduct: USAID's Unified Misconduct Reporting Portal, available on LaunchPad ([launchpad.usaid.gov](http://launchpad.usaid.gov)), and Service Desk, phone, (202) 712-1234. These are also available to the Contractor or its employee(s).

(c) USAID may conduct administrative inquiries into allegations of sexual misconduct that occur within U.S. Government facilities or while the contractor employee is performing services under the contract. The Contracting Officer will provide the results of any inquiry involving a contractor employee to the contractor, subject to federal law and USAID's information disclosure policies. USAID retains the right to suspend or terminate a contractor employee's access to any systems and/or facilities for incidents of sexual misconduct.

(d) The Contractor agrees to incorporate the substance of paragraphs (a) through (d) of this requirement in all subcontracts that may require contractor employees to have routine physical access to USAID facilities.

[END OF PROVISION]

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