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AAPD 13-01 is archived because it has been superseded by the new FAR rule that was issued in FAC 2005-82 on May 7, 2015.



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Acquisition & Assistance Policy Directive (AAPD)

From the Director, Office of Acquisition & Assistance Issued: June 28, 2013

AAPD 13-01

REVIEW AND JUSTIFICATION OF PASS-THROUGH CONTRACTS

Subject Category: Acquisition Management
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 CIB/AAPD

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

recedes change to:

- AIDAR Part(s) Appendix
- USAID Automated Directives System (ADS) Chapter
- Code of Federal Regulations
- Federal Acquisition Regulations

No change to regulations

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

/s/

Aman S. Djahanbani

1. **PURPOSE:**

The purpose of this AAPD is to require Contracting Officers to perform three additional steps relative to the FAR 52.215-22 and FAR 52.215-23 review and justification of Pass-Through contracts. This AAPD is being issued to meet the requirements in Section 802 of the 2013 National Defense Authorization Act (NDAA).

2. **ACTION REQUIRED:**

Effective immediately, whenever an offeror for a contract, task order or delivery order informs the Contracting Officer, pursuant to FAR 52.215-22 or 52.215-23 that the offeror intends to award subcontracts for more than seventy (70) percent of the total cost of work to be performed under the contract, task order, or delivery order, the Contracting Officer must ---

- (i) Consider the availability of alternative contract vehicles and the feasibility of contracting directly with a subcontractor or subcontractors that will perform the bulk of the work;
- (ii) Make a written determination that the contracting approach selected is in the best interest of the Government; and
- (iii) Document the basis for such determination.

3. **BACKGROUND:**

Current FAR Requirements: There is existing language in FAR 52.215-22 which requires offerors that **intend to subcontract more than 70% of the total cost of the contract, task order or delivery order**, to identify in their proposals the amount of indirect costs and profit/fee applicable to the work performed by the subcontractor. FAR 52.215-22 also requires offerors to submit a description of the added value that the offeror will be providing, as it relates to the work proposed for those subcontractors. The Contracting Officer is required to analyze that information and either accept or reject the offeror's value added assessment. (Note: FAR 52.215-23 also covers any "post-award" situations in which the subcontracting might exceed 70% of the total cost of the contract, task order or delivery order.)

New Requirements - Section 802 of 2013 NDAA: The requirements in FAR 52.215-22 have recently been expanded in Section 802 of the National Defense Authorization Act for Fiscal Year 2013. Section 802 requires the Secretary of Defense, the Secretary of State, and the Administrator of the USAID to issue guidance to ensure that in any case in which an offeror for a contract, task order or delivery order informs the agency pursuant to FAR 52.215-22 that the offeror intends to award subcontracts for more than 70% of the total cost of work to be performed under the contract, task order or delivery order, the Contracting Officer is required to

adhere to the requirements listed in Section 2 above.

A new FAR rule is currently in process, which will implement Section 802 of the FY13 NDAA to “all” agencies governed by the FAR.

4. DURATION OF AAPD:

This AAPD is effective immediately and remains in effect until such time as the new FAR rule which implements FY 13 NDAA Section 802 becomes effective. At that time, the new FAR rule will take precedence and this AAPD will be rescinded.

5. POINT OF CONTACT:

USAID Contracting Officers may direct their questions about this AAPD to Rosella Marshall, M/OAA/P, at (202) 567-4675 or email: romarshall@usaid.gov.

End of AAPD