



Special Provisions for Acquisition

A Mandatory Reference for ADS Chapter 302

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Special Provisions for Acquisition

The following provisions are to be inserted in solicitations and contracts as prescribed in the relevant subject matter area in ADS Chapter 302 USAID Direct Contracting. The provisions must be incorporated into Section H of the Uniform Contract Format (UCF) unless otherwise indicated in the prescription of the provision. Provisions 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.

1. Reporting Of Foreign Taxes

(Please refer to ADS 302, section 302.3.5.5, "Reporting on Taxation of U.S. Foreign Assistance")

302.3.5.5 REPORTING OF FOREIGN TAXES (July 2007)

- (a) The contractor must annually submit a report by April 16 of the next year.
- (b) Contents of Report. The report must contain:
 - (1) Contractor name.
 - (2) Contact name with phone, fax and email.
 - (3) Contract number(s).
 - (4) Amount of foreign taxes assessed by a foreign government [each foreign government must be listed separately] on commodity purchase transactions valued at \$500 or more financed with U.S. foreign assistance funds under this agreement during the prior U.S. fiscal year.
 - (5) Only foreign taxes assessed by the foreign government in the country receiving U.S. assistance is to be reported. Foreign taxes by a third party foreign government are not to be reported. For example, if a contractor performing in Lesotho using foreign assistance funds should purchase commodities in South Africa, any taxes imposed by South Africa would not be reported in the report for Lesotho (or South Africa).
 - (6) Any reimbursements received by the contractor during the period in (4) regardless of when the foreign tax was assessed and any reimbursements on the taxes reported in (4) received through March 31.
 - (7) Report is required even if the contractor did not pay any taxes during the report period.
 - (8) Cumulative reports may be provided if the contractor is implementing more than one program in a foreign country.
- (c) Definitions. For purposes of this clause:
 - (1) "Agreement" includes USAID direct and country contracts, grants, cooperative agreements and interagency agreements.
 - (2) "Commodity" means any material, article, supply, goods, or equipment.
 - (3) "Foreign government" includes any foreign governmental entity.
 - (4) "Foreign taxes" means value-added taxes and custom duties assessed by a foreign government on a commodity. It does not include foreign sales taxes.

- (d) Where. Submit the reports to: **[insert address and point of contact at the Embassy, Mission, or CFO/CMP as appropriate]**.
- (e) Subagreements. The contractor must include this reporting requirement in all applicable subcontracts and other subagreements.
- (f) For further information see <http://www.state.gov/m/rm/c10443.htm>.

[END OF PROVISION]

2. Personal Identity Verification of Contractor Personnel

(Please refer to ADS 302, section 302.3.5.13, “Homeland Security Presidential Directive 12 (HSPD 12)”)

***NOTE:** For existing contracts awarded prior to October 27, 2005: FAR 52.204-9 and this provision must be included no later than October 27, 2007. However, existing contracts must be modified earlier if there is a need for any contract employee to receive one of the new PIV smart card IDs prior to that date.*

302.3.5.13 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (July 2007)

(a) Before a contractor (or a contractor employee) may obtain a USAID ID (new or replacement) authorizing him/her routine access to USAID facilities, or logical access to USAID’s information systems, the individual must provide two forms of identity source documents in original form and a passport size photo. One identity source document must be a valid Federal or state government-issued picture ID. (Overseas foreign nationals must comply with the requirements of the Regional Security Office.) USAID/Washington contractors must contact the USAID Security Office to obtain the list of acceptable forms of documentation, and contractors working in overseas Missions must obtain the acceptable documentation list from the Regional Security Officer. Submission of these documents, and related background checks, are mandatory in order for the contractor to receive a building access ID, and before access will be granted to any of USAID’s information systems. All contractors must physically present these two source documents for identity proofing at their USAID/Washington or Mission Security Briefing. The contractor or his/her Facilities Security Officer must return any issued building access ID and remote authentication token to USAID custody upon termination of the individual’s employment with the contractor or completion of the contract, whichever occurs first.

(b) The contractor must comply with all applicable HSPD-12 and PIV procedures, as described above, and any subsequent USAID or government-wide HSPD-12 and PIV procedures/policies, including any subsequent related USAID General Notices, Office of Security Directives and/or Automated Directives System (ADS) policy directives and required procedures. This includes HSPD-12 procedures established in

USAID/Washington and those procedures established by the overseas Regional Security Office.

(c) The contractor is required to include this provision in any subcontracts that require the subcontractor or subcontractor employee to have routine physical access to USAID space or logical access to USAID's information systems.

[END OF PROVISION]

3. Standards for Accessibility for the Disabled In USAID Construction Contracts

(Please refer to ADS 302, section 302.3.5.14, "Supporting USAID's Disability Policy in Contracts")

(This provision will be later incorporated as a clause in the AIDAR and will then be removed from this document.)

302.3.5.14 STANDARDS FOR ACCESSIBILITY FOR THE DISABLED IN USAID CONSTRUCTION CONTRACTS (July 2007)

(a) One of the objectives of the USAID Disability Policy is to engage other U.S. government agencies, host country counterparts, governments, implementing organizations and other donors in fostering a climate of nondiscrimination against people with disabilities. As part of this policy USAID has established standards for any new or renovation construction project funded by USAID to allow access by people with disabilities (PWDs). The full text of the policy paper can be found at the following website: http://www.usaid.gov/about_usaid/disability/.

(b) USAID requires the contractor to comply with standards of accessibility for people with disabilities in all structures, buildings or facilities resulting from new or renovation construction or alterations of an existing structure.

(c) The contractor will comply with the host country or regional standards for accessibility in construction when such standards result in at least substantially equivalent accessibility and usability as the standard provided in the Americans with Disabilities Act (ADA) of 1990 and the Architectural Barriers Act (ABA) Accessibility Guidelines of July 2004. Where there are no host country or regional standards for universal access, or where the host country or regional standards fail to meet the ADA/ABA threshold, the standard prescribed in the ADA and the ABA must be used.

(d) New Construction. All new construction will comply with the above standards for accessibility.

(e) Alterations. Changes to an existing structure that affect, or could affect, the usability of the structure will comply with the above standards for accessibility unless the contractor obtains the Contracting Officer's advance approval that compliance is technically infeasible or constitutes an undue burden or both. Compliance is technically infeasible where structural conditions would require removing or altering a load-bearing member that is an essential part of the structural frame or because other existing physical or site constraints prohibit modification or addition of elements, spaces, or features that are in full and strict compliance with the minimum requirements of the standard. Compliance is an undue burden where it entails either a significant difficulty or expense or both.

(f) Exceptions. The following construction related activities are excepted from the requirements of paragraphs (a) through (d) above: (1) Normal maintenance, re-roofing, painting or wallpapering, or changes to mechanical or electrical systems are not alterations and the above standards do not apply unless they affect the accessibility of the building or facility; and (2) emergency construction (which may entail the provision of plastic sheeting or tents, minor repair and upgrading of existing structures, rebuilding of part of existing structures, or provision of temporary structures) intended to be temporary in nature. A portion of emergency construction assistance may be provided to people with disabilities as part of the process of identifying disaster- and crisis-affected people as "most vulnerable."

[END OF PROVISION]

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