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Acquisition & Assistance Policy Directive (AAPD)

From the Director, Office of Acquisition & Assistance Issued: August 22, 2011

AAPD 10-03 – AMENDMENT 1

AIDAR, APPENDIX D: IMPLEMENTING BENEFITS FOR SAME-SEX DOMESTIC PARTNERS OF USPSCs

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/ **X Amends AAPD 10-03**

Applicable to:

Existing awards; Modification required

No later than

X 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 or N/A

Precedes change to:

X AIDAR Appendix J

USAID Automated Directives System (ADS) Chapter

Code of Federal Regulations

Other

No change to regulations

(signature on file)

Maureen A. Shauket

Director

PURPOSE: The purpose of this AAPD is to amend AAPD 10-03 to include benefits for same-sex domestic partners of TCN PSCs who are not compensated under the local compensation plan.

ACTION REQUIRED: Effective immediately, Contracting Officers (COs) must implement the changes to AIDAR Appendix J, as shown in Attachment 1 and as prescribed in the Guidance section below.

BACKGROUND: In June 2009, the Secretary of State announced that the Department of State would extend the full range of legally available benefits and allowances to same-sex domestic partners of Foreign Service employees serving overseas. USAID announced in Executive Message dated August 4, 2009, that the Agency is extending those benefits and allowances to USAID Foreign Service employees and to USPSCs serving overseas. AAPD 10-03 provided more detailed implementing guidance for the USPSCs.

At the time AAPD 10-03 was approved, the agency had not determined how or if these benefits could be applied to TCN PSCs whose compensation is based on Appendix D. It has since been determined that the benefits can be applied. The class deviation associated with AAPD 10-03 had very limited impact on Appendix J (see the original APPD). It did not address the TCN PSCs paid under Appendix D compensation. The Director, M/OAA, has approved a class deviation that addresses TCN PSCs paid under Appendix D when the Mission Director determines that the local plan is inappropriate by revising the definition of "Dependents" in Appendix J.

GUIDANCE: This AAPD amendment implements changes to the definition of "Dependents" in Appendix J to include same-sex domestic partners of TCN PSCs who are not compensated under the local compensation plan and authorizes benefits for TCN PSCs per AAPD 10-03.

There are now two versions of General Provision 1 in Appendix J.

- The first version of General Provision 1 remains the same except for title, prescription and date. It is to be used in both CCN and TCN contracts in which compensation is in accordance with the local compensation plan.
- The second version of GP 1 also revises the title, prescription and date, and changes section (o) Dependents. Paragraphs (a) through (n) remain unchanged from the current GP, with only "(o) Dependents" changed through the class deviation to add "same sex domestic partners" and their children as shown in the attached GP 1 "Definitions- Non-LCP (AUG 2011)".

POINT OF CONTACT: Questions may be directed to M/OAA/P, Thomas Henson, on (202) 567-4677.

Attachment: Revised section of AIDAR Appendix J

ATTACHMENT 1

Appendix J

General Provision 1

General Provision 1 will change to include the following TWO alternative General Provisions, for use according to the respective prescriptions:

1. DEFINITIONS - LCP (AUGUST 2011)

[For use in both Cooperating Country National (CCN) and Third Country National (TCN) Contracts in which compensation is in accordance with the local compensation plan.]

- (a) "USAID" shall mean the U.S. Agency for International Development.
- (b) "Administrator" shall mean the Administrator or the Deputy Administrator of the U.S. Agency for International Development.
- (c) "Contracting Officer" shall mean a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.
- (d) "Cooperating Country National" shall mean the individual engaged to serve in the Cooperating Country under this contract.
- (e) "Cooperating Country" shall mean the foreign country in or for which services are to be rendered hereunder.
- (f) "Cooperating Government" shall mean the government of the Cooperating Country.
- (g) "Government" shall mean the United States Government
- (h) "Economy Class" air travel shall mean a class of air travel which is less than business or first class.
- (i) "Local Currency" shall mean the currency of the cooperating country.
- (j) "Mission" shall mean the United States USAID Mission to, or principal USAID office in, the Cooperating Country.
- (k) "Mission Director" shall mean the principal officer in the Mission in the Cooperating Country, or his/her designated representative.
- (l) "Third Country National" shall mean an individual (i) who is neither a citizen of the United States nor of the country to which assigned for duty, and (ii) who is eligible for return travel to the TCN's home country or country from which recruited at U.S. Government expenses, and (iii) who is on a limited assignment for a specific period of time.
- (m) "Tour of Duty" shall mean the contractor's period of service under this contract and shall include, authorized leave and international travel.
- (n) "Traveler" shall mean the contractor or dependents of the contractor who are in authorized travel status.
- (o) "Dependents" shall mean spouse and children (including step and adopted children who are unmarried and under 21 years of age or, regardless of age, are incapable of self-support

1. DEFINITIONS – NON-LCP (AUGUST 2011).

[For use in Third Country National (TCN) Contracts for which the Mission Director, pursuant to Appendix J, Section 4(c)(2)(ii)(B), makes the determination that compensation in accordance with the local plan would be inappropriate and authorizes compensation in accordance with Sections 4(c)(d), (e), (g), (h), and (i) of Appendix D.]

- (a) “USAID” shall mean the U.S. Agency for International Development.
- (b) “Administrator” shall mean the Administrator or the Deputy Administrator of the U.S. Agency for International Development.
- (c) “Contracting Officer” shall mean a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.
- (d) “Cooperating Country National” shall mean the individual engaged to serve in the Cooperating Country under this contract.
- (e) “Cooperating Country” shall mean the foreign country in or for which services are to be rendered hereunder.
- (f) “Cooperating Government” shall mean the government of the Cooperating Country.
- (g) “Government” shall mean the United States Government
- (h) “Economy Class” air travel shall mean a class of air travel which is less than business or first class.
- (i) “Local Currency” shall mean the currency of the cooperating country.
- (j) “Mission” shall mean the United States USAID Mission to, or principal USAID office in, the Cooperating Country.
- (k) “Mission Director” shall mean the principal officer in the Mission in the Cooperating Country, or his/her designated representative.
- (l) “Third Country National” shall mean an individual (i) who is neither a citizen of the United States nor of the country to which assigned for duty, and (ii) who is eligible for return travel to the TCN’s home country or country from which recruited at U.S. Government expenses, and (iii) who is on a limited assignment for a specific period of time.
- (m) “Tour of Duty” shall mean the contractor’s period of service under this contract and shall include, authorized leave and international travel.
- (n) “Traveler” shall mean the contractor or dependents of the contractor who are in authorized travel status.
- (o) “Dependents” shall mean spouse, same sex domestic partner, and children (including step and adopted children, and children of same sex domestic partners) who are unmarried and under 21 years of age or, regardless of age, are incapable of self-support.