



# Standard Provisions for U.S. Nongovernmental Organizations

A Mandatory Reference for ADS Chapter 303

Partial Revision Date: 02/04/2021  
Responsible Office: M/OAA/P  
File Name: 303maa\_020421

# Standard Provisions for U.S. Nongovernmental Organizations

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## **MANDATORY STANDARD PROVISIONS FOR U.S. NONGOVERNMENTAL ORGANIZATIONS**

### **M1. APPLICABILITY OF 2 CFR 200 and 2 CFR 700 (NOVEMBER 2020)**

- a. All provisions of 2 CFR 200 and 2 CFR 700 in effect on the date of this award, and all Standard Provisions attached to this agreement are applicable to the recipient and to subrecipients that meet the definition of “Non-Federal Entity” in part 2 CFR 200.1, unless a section specifically excludes a subrecipient from coverage. The recipient must assure that subrecipients have copies of all the attached standard provisions.
- b. For any subawards made with Non-U.S. subrecipients the recipient must include the applicable “Standard Provisions for Non-US Nongovernmental Organizations.” Recipients are required to ensure compliance with monitoring procedures in accordance with 2 CFR 200 and 2 CFR 700.

[END OF PROVISION]

### **M2. INELIGIBLE COUNTRIES (MAY 1986)**

Unless otherwise approved by the USAID Agreement Officer, funds will only be expended for assistance to countries eligible for assistance under the Foreign Assistance Act of 1961, as amended, or under acts appropriating funds for foreign assistance.

[END OF PROVISION]

### **M3. NONDISCRIMINATION (JUNE 2012)**

No U.S. citizen or legal resident shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination on the basis of race, color, national origin, age, disability, or sex under any program or activity funded by this award when work under the grant is performed in the U.S. or when employees are recruited from the U.S.

Additionally, USAID is committed to achieving and maintaining a diverse and representative workforce and a workplace free of discrimination. Based on law, Executive Order, and Agency policy, USAID prohibits discrimination, including harassment, in its own workplace on the basis of race, color, religion, sex (including pregnancy and gender identity), national origin, disability, age, veteran’s status, sexual

orientation, genetic information, marital status, parental status, political affiliation, and any other conduct that does not adversely affect the performance of the employee. In addition, the Agency strongly encourages its recipients and their subrecipients and vendors (at all tiers), performing both in the U.S. and overseas, to develop and enforce comprehensive nondiscrimination policies for their workplaces that include protection for all their employees on these expanded bases, subject to applicable law.

[END OF PROVISION]

#### **M4. AMENDMENT OF AWARD (JUNE 2012)**

This award may only be amended in writing, by formal amendment or letter, signed by the Agreement Officer (AO), and in the case of a bilateral amendment, by the AO and an authorized official of the recipient.

[END OF PROVISION]

#### **M5. NOTICES (JUNE 2012)**

Any notice given by USAID or the recipient is sufficient only if in writing and delivered in person, mailed or e-mailed as follows:

- (1) To the USAID Agreement Officer, at the address specified in this award;  
or
- (2) To the recipient, at the recipient's address shown in this award, or to such other address specified in this award.

[END OF PROVISION]

#### **M6. SUBAWARDS AND CONTRACTS (DECEMBER 2014)**

- a. Subawardees and contractors have no relationship with USAID under the terms of this award. All required USAID approvals must be directed through the recipient to USAID.
- b. Notwithstanding any other term of this award, subawardees and contractors have no right to submit claims directly to USAID and USAID assumes no liability for any third party claims against the recipient.

[END OF PROVISION]

## **M7. OMB APPROVAL UNDER THE PAPERWORK REDUCTION ACT (DECEMBER 2014)**

Information collection requirements imposed by this award are covered by OMB approval number 0412-0510; the current expiration date is 04/30/2005. The Standard Provisions containing the requirement and an estimate of the public reporting burden (including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information) are

<u>Standard Provision</u>	<u>Burden Estimate</u>
Air Travel and Transportation	1 (hour)
Ocean Shipment of Goods	.5
Patent Rights	.5
Publications	.5
Negotiated Indirect Cost Rates - (Predetermined and Provisional)	1
Voluntary Population Planning	.5
Protection of the Individual as a Research Subject	1
<u>22 CFR 200</u>	<u>Burden Estimate</u>
2 CFR 200.318-326, Procurement Standards	1
2 CFR 200.310-315, Property Standards	1.5

Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, may be sent to the Bureau for Management, Office of Acquisition and Assistance, Policy Division (M/OAA/P), U.S. Agency for International Development, Washington, DC 20523 and to the Office of Management and Budget, Paperwork Reduction Project (0412-0510), Washington, DC 20503.

[END OF PROVISION]

## **M8. USAID ELIGIBILITY RULES FOR GOODS AND SERVICES (MAY 2020)**

- a. This provision is not applicable to commodities or services that the recipient provides with private funds as part of a cost-sharing requirement, or with Program Income generated under this award.
- b. Ineligible and Restricted Commodities and Services:

- (1) Ineligible Commodities and Services. The recipient must not, under any circumstances, procure any of the following under this award:
  - (i) Military equipment,
  - (ii) Surveillance equipment,
  - (iii) Commodities and services for support of police or other law enforcement activities,
  - (iv) Abortion equipment and services,
  - (v) Luxury goods and gambling equipment, or
  - (vi) Weather modification equipment.
  
- (2) Ineligible Suppliers. Any firms or individuals that do not comply with the requirements in Standard Provision, “Debarment, Suspension and Other Responsibility Matters” and Standard Provision, “Preventing Transactions with, or the Provision of Resources or Support to, Sanctioned Groups and Individuals” must not be used to provide any commodities or services funded under this award.
  
- (3) Restricted Commodities. The recipient must obtain prior written approval of the Agreement Officer (AO) or comply with required procedures under an applicable waiver, as provided by the AO when procuring any of the following commodities:
  - (i) Agricultural commodities,
  - (ii) Motor vehicles,
  - (iii) Pharmaceuticals,
  - (iv) Pesticides,
  - (v) Used equipment,
  - (vi) U.S. Government-owned excess property, or
  - (vii) Fertilizer.

c. Source and Nationality:

Except as may be specifically approved in advance by the AO, all commodities and services that will be reimbursed by USAID under this award must be from the authorized geographic code specified in this award and must meet the source and nationality requirements set forth in 22 CFR 228. If the geographic code is not specified, the authorized geographic code is 937. When the total value of procurement for commodities and services during the life of this award is valued at \$250,000 or less, the authorized geographic code for procurement of all goods and services to be reimbursed under this award is code 935. For a current list of countries within each geographic code, see: <http://www.usaid.gov/ads/policy/300/310>.



- d. Guidance on the eligibility of specific commodities and services may be obtained from the AO. If USAID determines that the recipient has procured any commodities or services under this award contrary to the requirements of this provision, and has received payment for such purposes, the AO may require the recipient to refund the entire amount of the purchase.
- e. This provision must be included in all subawards and contracts which include procurement of commodities or services.

[END OF PROVISION]

## **M9. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (JUNE 2012)**

- a. The recipient agrees to notify the Agreement Officer (AO) immediately upon learning that it or any of its principals:
  - (1) Are presently excluded or disqualified from covered transactions by any Federal department or agency;
  - (2) Have been convicted within the preceding three-year period preceding this proposal; been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;
  - (3) Are presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph a.(2); and
  - (4) Have had one or more public transactions (Federal, State, or local) terminated for cause or default within the preceding three years.
- b. The recipient agrees that, unless authorized by the AO, it will not knowingly enter into any subawards or contracts under this award with a person or entity that has an active exclusion on the System for Award Management (SAM) ([www.sam.gov](http://www.sam.gov)). The recipient further agrees to include the following provision in any subawards or contracts entered into under this award:

**DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION**

(JUNE 2012)

The recipient/contractor certifies that neither it nor its principals is presently excluded or disqualified from participation in this transaction by any Federal department or agency.

- c. The policies and procedures applicable to debarment, suspension, and ineligibility under USAID-financed transactions are set forth in Subpart C of 2 CFR Section 180, as supplemented by 2 CFR 780.

[END OF PROVISION]

### **M10. DRUG-FREE WORKPLACE (JUNE 2012)**

The recipient must comply with drug-free workplace requirements in subpart B (or subpart C, if the recipient is an individual) of 2 CFR 782, which adopts the Government-wide implementation (2 CFR part 182) of sec. 5152–5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701–707).

[END OF PROVISION]

### **M11. EQUAL PARTICIPATION BY FAITH-BASED ORGANIZATIONS (JUNE 2016)**

#### **a. Faith-Based Organizations Encouraged**

Faith-based organizations are eligible, on the same basis as any other organization, to participate in any USAID program for which they are otherwise eligible. Neither USAID nor entities that make and administer subawards of USAID funds shall discriminate for or against an organization on the basis of the organization's religious character or affiliation. Additionally, religious organizations shall not be disqualified from participating in USAID programs because such organizations are motivated or influenced by religious faith to provide social services, or because of their religious character or affiliation.

Decisions about awards of USAID financial assistance must be free from political interference or even the appearance of such interference. Awards must be made on the basis of merit, not the basis of the religious affiliation of an applicant, or lack thereof. A faith-based organization may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, within the limits contained in this provision. For more information, see the [USAID Faith-Based and Community Initiatives Web site](#) and [22 CFR 205.1](#).

**b. Explicitly Religious Activities Prohibited.**

- (1)** Explicitly religious activities include activities that involve overt religious content such as worship, religious instruction, prayer, or proselytization.
- (2)** The recipient must not engage in explicitly religious activities as part of the programs or services directly funded with financial assistance from USAID. If the recipient engages in explicitly religious activities, the activities must be offered separately, in time or location, from any programs or services directly funded by this award, and participation must be voluntary for beneficiaries of the programs or services funded with USAID assistance.
- (3)** These restrictions apply equally to religious and secular organizations. All organizations that participate in USAID programs, as recipients or subawardees, including religious ones, must carry out eligible activities in accordance with all program requirements and other applicable requirements governing USAID-funded activities.
- (4)** Notwithstanding the restrictions of b.(1) and (2), a religious organization that participates in USAID-funded programs or services:
  - (i) May retain its independence and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, provided that it does not use direct financial assistance from USAID to support or engage in any explicitly religious activities or in any other manner prohibited by law;
  - (ii) May use space in its facilities, without removing religious art, icons, scriptures, or other religious symbols; and
  - (iii) May retain its authority over its internal governance, and may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

- c.** Implementation in accordance with the Establishment Clause: Nothing in this provision shall be construed as authorizing the use of USAID funds for activities that are not permitted by Establishment Clause jurisprudence or otherwise by law.
- d.** Discrimination Based on Religion Prohibited: The recipient must not, in providing services, discriminate against a program beneficiary or potential program beneficiary on the basis of religion or religious belief, refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.
- e.** A religious organization's exemption from the Federal prohibition on employment discrimination on the basis of religion, set forth in Sec. 702(a) of the Civil Rights Act

of 1964, 42 U.S.C. 2000e–1 is not forfeited when the organization receives financial assistance from USAID.

- f. The Secretary of State may waive the requirements of this section in whole or in part, on a case-by-case basis, where the Secretary determines that such waiver is necessary to further the national security or foreign policy interests of the United States.
- g. This provision must be included in all subawards under this award.

[END OF PROVISION]

## **M12. PREVENTING TRANSACTIONS WITH, OR THE PROVISION OF RESOURCES OR SUPPORT TO, SANCTIONED GROUPS AND INDIVIDUALS (MAY 2020)**

- a. In carrying out activities under this award, except as authorized by a license issued by the Office of Foreign Assets Control (OFAC) of the U.S. Department of Treasury, the recipient will not engage in transactions with, or provide resources or support to, any individual or entity that is subject to sanctions administered by OFAC or the United Nations (UN), including any individual or entity that is included on the Specially Designated Nationals and Blocked Persons List maintained by OFAC (<https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>) or on the UN Security Council consolidated list (<https://www.un.org/securitycouncil/content/un-sc-consolidated-list>).
- b. Any violation of the above will be grounds for unilateral termination of the agreement by USAID.
- c. The Recipient must include this provision in all subawards and contracts issued under this award.

[END OF PROVISION]

## **M13. MARKING AND PUBLIC COMMUNICATIONS UNDER USAID-FUNDED ASSISTANCE (DECEMBER 2014)**

- a. The USAID Identity is the official marking for USAID, comprised of the USAID logo and landmark with the tagline “from the American people,” unless amended by USAID to include additional or substitute use of a logo or seal and tagline representing a presidential initiative or other high level interagency initiative. The USAID Identity (including any required presidential initiative or related identity) is on the USAID Web site at [www.usaid.gov/branding](http://www.usaid.gov/branding). Recipients must use the USAID Identity, of a size

and prominence equivalent to or greater than any other identity or logo displayed, to mark the following:

- (1) Programs, projects, activities, public communications, and commodities partially or fully funded by USAID;
  - (2) Program, project, or activity sites funded by USAID, including visible infrastructure projects or other physical sites;
  - (3) Technical assistance, studies, reports, papers, publications, audio-visual productions, public service announcements, Web sites/Internet activities, promotional, informational, media, or communications products funded by USAID;
  - (4) Commodities, equipment, supplies, and other materials funded by USAID, including commodities or equipment provided under humanitarian assistance or disaster relief programs; and
  - (5) Events financed by USAID, such as training courses, conferences, seminars, exhibitions, fairs, workshops, press conferences and other public activities. If the USAID Identity cannot be displayed, the recipient is encouraged to otherwise acknowledge USAID and the support of the American people.
- b. The recipient must implement the requirements of this provision following the approved Marking Plan in the award.
- c. The AO may require a preproduction review of program materials and “public communications” (documents and messages intended for external distribution, including but not limited to correspondence; publications; studies; reports; audio visual productions; applications; forms; press; and promotional materials) used in connection with USAID-funded programs, projects or activities, for compliance with an approved Marking Plan.
- d. The recipient is encouraged to give public notice of the receipt of this award and announce progress and accomplishments. The recipient must provide copies of notices or announcements to the Agreement Officer’s Representative (AOR) and to USAID’s Office of Legislative and Public Affairs in advance of release, as practicable. Press releases or other public notices must include a statement substantially as follows:
- ”The U.S. Agency for International Development administers the U.S. foreign assistance program providing economic and humanitarian assistance in more than 80 countries worldwide.”*
- e. Any “public communication” in which the content has not been approved by

USAID must contain the following disclaimer:

*“This study/report/audio/visual/other information/media product (specify) is made possible by the generous support of the American people through the United States Agency for International Development (USAID). The contents are the responsibility of [insert recipient name] and do not necessarily reflect the views of USAID or the United States Government.”*

- f. The recipient must provide the USAID AOR with two copies of all program and communications materials produced under this award.
- g. The recipient may request an exception from USAID marking requirements when USAID marking requirements would:
  - (1) Compromise the intrinsic independence or neutrality of a program or materials where independence or neutrality is an inherent aspect of the program and materials;
  - (2) Diminish the credibility of audits, reports, analyses, studies, or policy recommendations whose data or findings must be seen as independent;
  - (3) Undercut host-country government “ownership” of constitutions, laws, regulations, policies, studies, assessments, reports, publications, surveys or audits, public service announcements, or other communications;
  - (4) Impair the functionality of an item;
  - (5) Incur substantial costs or be impractical;
  - (6) Offend local cultural or social norms, or be considered inappropriate; or
  - (7) Conflict with international law.
- h. The recipient may submit a waiver request of the marking requirements of this provision or the Marking Plan, through the AOR, when USAID-required marking would pose compelling political, safety, or security concerns, or have an adverse impact in the cooperating country.
  - (1) Approved waivers “flow down” to subawards and contracts unless specified otherwise. The waiver may also include the removal of USAID markings already affixed, if circumstances warrant.
  - (2) USAID determinations regarding waiver requests are subject to appeal by the recipient, by submitting a written request to reconsider the determination to the cognizant Assistant Administrator.

- i. The recipient must include the following marking provision in any subawards entered into under this award:

*“As a condition of receipt of this subaward, marking with the USAID Identity of a size and prominence equivalent to or greater than the recipient’s, subrecipient’s, other donor’s, or third party’s is required. In the event the recipient chooses not to require marking with its own identity or logo by the subrecipient, USAID may, at its discretion, require marking by the subrecipient with the USAID Identity.”*

[END OF PROVISION]

#### **M14. REGULATIONS GOVERNING EMPLOYEES (JUNE 2018)**

- a. While working overseas, the recipient's employees who are not citizens of the cooperating country must maintain private status, and may not rely on local U.S. Government offices or facilities for support while under this award.
- b. The sale of personal property or automobiles by the recipient’s non-cooperating country citizen employees and their dependents in the foreign country to which they are assigned, are subject to the same limitations and prohibitions that apply to direct-hire USAID personnel employed by the Mission, including the rules contained in 22 CFR 136, except as this may conflict with host government regulations.
- c. Other than work to be performed under this award for which an employee is assigned by the recipient, employees of the recipient who are not citizens of the cooperating country must not engage directly or indirectly, either in the individual's own name or in the name or through an agency of another person, in any business, profession, or occupation in the foreign countries to which the individual is assigned. In addition, the individual must not make loans or investments to or in any business, profession, or occupation in the foreign countries to which the individual is assigned.
- d. The recipient's employees who are not citizens of the cooperating country, while in a foreign country, are expected to show respect for its conventions, customs, and institutions, to abide by its applicable laws and regulations, and not to interfere in its internal political affairs.
- e. In accordance with the internal control requirements in 2 CFR 200.303, which require the recipient to establish standards of conduct for its employees, the recipient must ensure that all its employees adhere to these standards of conduct in a manner consistent with the standards for United Nations (UN) employees in Section 3 of the UN Secretary-General’s Bulletin - Special Measures for Protection from Sexual Exploitation and Sexual Abuse (ST/SGB/2003/13).

- f. If the recipient determines that the conduct of any recipient employee is not in accordance with the preceding paragraphs, the recipient's Chief of Party must consult with the Agreement Officer and the USAID Mission Director, and the employee involved, and must recommend to the recipient a course of action with regard to such employee.
- g. The parties recognize the rights of the U.S. Ambassador to direct the removal from a country of any U.S. citizen, or the discharge from this award of any individual (U.S., third-country, or cooperating-country national) when, in the discretion of the Ambassador, the interests of the United States so require.
- h. If it is determined, under paragraph (f) or (g) above, that the services of such employee should be terminated, the recipient must use its best efforts to cause the return of such employee to the United States, or third-country point of origin, as appropriate, and replace the employee with an acceptable substitute at no cost to USAID.
- i. Any matters relating to subrecipients, including the employees of subrecipients, must be coordinated through the recipient's Chief of Party.

[END OF PROVISION]

#### **M15. CONVERSION OF UNITED STATES DOLLARS TO LOCAL CURRENCY (NOVEMBER 1985)**

(This provision applies when activities are undertaken outside the United States.)

Upon arrival in the cooperating country, and from time to time as appropriate, the recipient's chief of party must consult with the Mission Director who must provide, in writing, the procedure the recipient and its employees must follow in the conversion of United States dollars to local currency. This may include, but is not limited to, the conversion of currency through the cognizant United States Disbursing Officer or Mission Controller, as appropriate.

[END OF PROVISION]

#### **M16. USE OF POUCH FACILITIES (AUGUST 1992)**

(This provision applies when activities are undertaken outside the United States.)

- a. Use of diplomatic pouch is controlled by the Department of State. The Department of State has authorized the use of pouch facilities for USAID



recipients and their employees as a general policy, as detailed in items (1) through (6) below. However, the final decision regarding use of pouch facilities rest with the Embassy or USAID Mission. In consideration of the use of pouch facilities, the recipient and its employees agree to indemnify and hold harmless, the Department of State and USAID for loss or damage occurring in pouch transmission:

- (1) Recipients and their employees are authorized use of the pouch for transmission and receipt of up to a maximum of .9 kgs per shipment of correspondence and documents needed in the administration of assistance programs.
- (2) U.S. citizen employees are authorized use of the pouch for personal mail up to a maximum of .45 kgs per shipment (but see a.(3) below).
- (3) Merchandise, parcels, magazines, or newspapers are not considered to be personal mail for purposes of this standard provision and are not authorized to be sent or received by pouch.
- (4) Official and personal mail pursuant to a.(1) and (2) above sent by pouch should be addressed as follows:

Name of individual or organization (followed by  
letter symbol "G")  
City Name of post (USAID/\_\_\_\_\_)  
Agency for International Development  
Washington, DC 20523-0001

- (5) Mail sent via the diplomatic pouch may not be in violation of U.S. Postal laws and may not contain material ineligible for pouch transmission.
  - (6) Recipient personnel are NOT authorized use of military postal facilities (APO/FPO). This is an Adjutant General's decision based on existing laws and regulations governing military postal facilities and is being enforced worldwide.
- b. The recipient is responsible for advising its employees of this authorization, these guidelines, and limitations on use of pouch facilities.
  - c. Specific additional guidance on grantee use of pouch facilities in accordance with this standard provision is available from the Post Communication Center at the Embassy or USAID Mission.

[END OF PROVISION]

## **M17. TRAVEL AND INTERNATIONAL AIR TRANSPORTATION (DECEMBER 2014)**

### **a. TRAVEL COSTS**

All travel costs must comply with the applicable cost principles and must be consistent with those normally allowed in like circumstances in the recipient's non-USAID-funded activities. Costs incurred by employees and officers for travel, including air fare, costs of lodging, other subsistence, and incidental expenses, may be considered reasonable and allowable only to the extent such costs do not exceed reasonable charges normally allowed by the recipient in its regular operations as the result of the recipient organization's written travel policy and are within the limits established by the applicable cost principles.

In the absence of a reasonable written policy regarding international travel costs, the standard for determining the reasonableness of reimbursement for international travel costs will be the Standardized Regulations (Government Civilians, Foreign Areas), published by the U.S. Department of State, as from time to time amended. The most current Standardized Regulations on international travel costs may be obtained from the AO. In the event that the cost for air fare exceeds the customary standard commercial airfare (coach or equivalent) or the lowest commercial discount airfare, the recipient must document one of the allowable exceptions from the applicable cost principles.

### **b. FLY AMERICA ACT RESTRICTIONS**

- (1) The recipient must use U.S. Flag Air Carriers for all international air transportation (including personal effects) funded by this award pursuant to the Fly America Act and its implementing regulations to the extent service by such carriers is available.
- (2) In the event that the recipient selects a carrier other than a U.S. Flag Air Carrier for international air transportation, in order for the costs of such international air transportation to be allowable, the recipient must document such transportation in accordance with this provision and maintain such documentation pursuant to the Standard Provision, "Accounting, Audit and Records." The documentation must use one of the following reasons or other exception under the Fly America Act:
  - (i) The recipient uses a European Union (EU) flag air carrier, which is an airline operating from an EU country that has signed the US-EU "Open Skies" agreement (<http://www.state.gov/e/eb/rls/othr/ata/i/ic/170684.htm>).
  - (ii) Travel to or from one of the following countries on an airline of that country when no city pair fare is in effect for that leg (see <http://apps.fas.gsa.gov/citypairs/search/>):

- a. Australia on an Australian airline,
  - b. Switzerland on a Swiss airline, or
  - c. Japan on a Japanese airline;
- (iii) Only for a particular leg of a route on which no US Flag Air Carrier provides service on that route;
- (iv) For a trip of 3 hours or less, the use of a US Flag Air Carrier at least doubles the travel time;
- (v) If the US Flag Air Carrier offers direct service, use of the US Flag Air Carrier would increase the travel time by more than 24 hours; or
- (vi) If the US Flag Air Carrier does not offer direct service,
- a. Use of the US Flag Air Carrier increases the number of aircraft changes by 2 or more,
  - b. Use of the US Flag Air Carrier extends travel time by 6 hours or more, or
  - c. Use of the US Flag Air Carrier requires a layover at an overseas interchange of 4 hours or more.

**c. DEFINITIONS**

The terms used in this provision have the following meanings:

- (1) "Travel costs" means expenses for transportation, lodging, subsistence (meals and incidentals), and related expenses incurred by employees who are on travel status on official business of the recipient for any travel outside the country in which the organization is located. "Travel costs" do not include expenses incurred by employees who are not on official business of the recipient, such as rest and recuperation (R&R) travel offered as part of an employee's benefits package that are consistent with the recipient's personnel and travel policies and procedures.
- (2) "International air transportation" means international air travel by individuals (and their personal effects) or transportation of cargo by air between a place in the United States and a place outside thereof, or between two places both of which are outside the United States.
- (3) "U.S. Flag Air Carrier" means an air carrier on the list issued by the U.S. Department of Transportation at

<http://ostpxweb.dot.gov/aviation/certific/certlist.htm>. U.S. Flag Air Carrier service also includes service provided under a code share agreement with another air carrier when the ticket, or documentation for an electronic ticket, identifies the U.S. flag air carrier's designator code and flight number.

- (4) For this provision, the term "United States" includes the fifty states, Commonwealth of Puerto Rico, possessions of the United States, and the District of Columbia.

**d. SUBAWARDS AND CONTRACTS**

This provision must be included in all subawards and contracts under which this award will finance international air transportation.

[END OF PROVISION]

**M18. OCEAN SHIPMENT OF GOODS (JUNE 2012)**

**APPLICABILITY:** *This provision is applicable for awards and subawards for which the recipient contracts for ocean transportation for goods purchased or financed with USAID funds. In accordance with 22 CFR 228.21, ocean transportation shipments are subject to the provisions of 46 CFR Part 381.*

**OCEAN SHIPMENT OF GOODS (JUNE 2012)**

- a. Prior to contracting for ocean transportation to ship goods purchased or financed with USAID funds under this award, the recipient must contact the office below to determine the flag and class of vessel to be used for shipment:

U.S. Agency for International Development,  
Bureau for Management  
Office of Acquisition and Assistance, Transportation Division  
1300 Pennsylvania Avenue, NW  
USAID Annex  
Washington, DC 20523  
Email: **oceantransportation@usaid.gov**

- b. This provision must be included in all subawards and contracts.

[END OF PROVISION]

**M19. VOLUNTARY POPULATION PLANNING ACTIVITIES –**

## **MANDATORY REQUIREMENTS (MAY 2006)**

### Requirements for Voluntary Sterilization Programs

- (1) Funds made available under this award must not be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any individual to practice sterilization.

### Prohibition on Abortion-Related Activities:

- (1) No funds made available under this award will be used to finance, support, or be attributed to the following activities: (i) procurement or distribution of equipment intended to be used for the purpose of inducing abortions as a method of family planning; (ii) special fees or incentives to any person to coerce or motivate them to have abortions; (iii) payments to persons to perform abortions or to solicit persons to undergo abortions; (iv) information, education, training, or communication programs that seek to promote abortion as a method of family planning; and (v) lobbying for or against abortion. The term “motivate,” as it relates to family planning assistance, must not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options.
- (2) No funds made available under this award will be used to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilizations as a means of family planning. Epidemiologic or descriptive research to assess the incidence, extent or consequences of abortions is not precluded.

[END OF PROVISION]

## **M20. TRAFFICKING IN PERSONS (April 2016)**

- a. The recipient, subawardee, or contractor, at any tier, or their employees, labor recruiters, brokers or other agents, must not engage in:
  - (1) Trafficking in persons (as defined in the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime) during the period of this award;
  - (2) Procurement of a commercial sex act during the period of this award;
  - (3) Use of forced labor in the performance of this award;
  - (4) Acts that directly support or advance trafficking in persons, including the following acts:

- i. Destroying, concealing, confiscating, or otherwise denying an employee access to that employee's identity or immigration documents;
  - ii. Failing to provide return transportation or pay for return transportation costs to an employee from a country outside the United States to the country from which the employee was recruited upon the end of employment if requested by the employee, unless:
    - a) exempted from the requirement to provide or pay for such return transportation by USAID under this award; or
    - b) the employee is a victim of human trafficking seeking victim services or legal redress in the country of employment or a witness in a human trafficking enforcement action;
  - iii. Soliciting a person for the purpose of employment, or offering employment, by means of materially false or fraudulent pretenses, representations, or promises regarding that employment;
  - iv. Charging employees recruitment fees; or
  - v. Providing or arranging housing that fails to meet the host country housing and safety standards.
- b. In the event of a violation of section (a) of this provision, USAID is authorized to terminate this award, without penalty, and is also authorized to pursue any other remedial actions authorized as stated in section 1704(c) of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239, enacted January 2, 2013).
- c. If the estimated value of services required to be performed under the award outside the United States exceeds \$500,000, the recipient must submit to the Agreement Officer, the annual "Certification regarding Trafficking in Persons, Implementing Title XVII of the National Defense Authorization Act for Fiscal Year 2013" as required prior to this award, and must implement a compliance plan to prevent the activities described above in section (a) of this provision. The recipient must provide a copy of the compliance plan to the Agreement Officer upon request and must post the useful and relevant contents of the plan or related materials on its website (if one is maintained) and at the workplace.
- d. The recipient's compliance plan must be appropriate to the size and complexity of the award and to the nature and scope of the activities, including the number of non-United States citizens expected to be employed. The plan must include, at a minimum, the following:

- (1) An awareness program to inform employees about the trafficking related prohibitions included in this provision, the activities prohibited and the action that will be taken against the employee for violations.
  - (2) A reporting process for employees to report, without fear of retaliation, activity inconsistent with the policy prohibiting trafficking, including a means to make available to all employees the Global Human Trafficking Hotline at 1-844-888-FREE and its e-mail address at [help@befree.org](mailto:help@befree.org).
  - (3) A recruitment and wage plan that only permits the use of recruitment companies with trained employees, prohibits charging of recruitment fees to the employee, and ensures that wages meet applicable host-country legal requirements or explains any variance.
  - (4) A housing plan, if the recipient or any subawardee intends to provide or arrange housing. The housing plan is required to meet any host-country housing and safety standards.
  - (5) Procedures for the recipient to prevent any agents or subawardee at any tier and at any dollar value from engaging in trafficking in persons activities described in section a of this provision. The recipient must also have procedures to monitor, detect, and terminate any agents or subawardee or subawardee employees that have engaged in such activities.
- e. If the Recipient receives any credible information regarding a violation listed in section a(1)-(4) of this provision, the recipient must immediately notify the cognizant Agreement Officer and the USAID Office of the Inspector General; and must fully cooperate with any Federal agencies responsible for audits, investigations, or corrective actions relating to trafficking in persons.
  - f. The Agreement Officer may direct the Recipient to take specific steps to abate an alleged violation or enforce the requirements of a compliance plan.
  - g. For purposes of this provision, “employee” means an individual who is engaged in the performance of this award as a direct employee, consultant, or volunteer of the recipient or any subrecipient.
  - h. The recipient must include in all subawards and contracts a provision prohibiting the conduct described in section a(1)-(4) by the subrecipient, contractor, or any of their employees, or any agents. The recipient must also include a provision authorizing the recipient to terminate the award as described in section b of this provision.

[END OF PROVISION]

## **M21. SUBMISSIONS TO THE DEVELOPMENT EXPERIENCE CLEARINGHOUSE AND PUBLICATIONS (JUNE 2012)**

- a. Submissions to the Development Experience Clearinghouse (DEC).
- 1) The recipient must provide the Agreement Officer's Representative one copy of any Intellectual Work that is published, and a list of any Intellectual Work that is not published.
  - 2) In addition, the recipient must submit Intellectual Work, whether published or not, to the DEC, either on-line (preferred) or by mail. The recipient must review the DEC Web site for submission instructions, including document formatting and the types of documents to submit. Submission instructions can be found at: <http://dec.usaid.gov>.
  - 3) For purposes of submissions to the DEC, Intellectual Work includes all works that document the implementation, 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 recipient under the award, whether published or not. The term does not include the recipient's information that is incidental to award administration, such as financial, administrative, cost or pricing, or management information.
  - 4) Each document submitted should contain essential bibliographic information, such as 1) descriptive title; 2) author(s) name; 3) award number; 4) sponsoring USAID office; 5) development objective; and 6) date of publication.
  - 5) The recipient must not submit to the DEC any financially sensitive information or personally identifiable information, such as social security numbers, home addresses and dates of birth. Such information must be removed prior to submission. The recipient must not submit classified documents to the DEC.
- b. In the event award funds are used to underwrite the cost of publishing, in lieu of the publisher assuming this cost as is the normal practice, any profits or royalties up to the amount of such cost must be credited to the award unless the schedule of the award has identified the profits or royalties as program income.

[END OF PROVISION]



## **M22. LIMITING CONSTRUCTION ACTIVITIES (AUGUST 2013)**

**APPLICABILITY:** *In accordance with the policy at ADS 303.3.30, AOs must include this provision in all solicitations and awards. When no construction activities are contemplated under the award, the AO must insert “Construction is not eligible for reimbursement under this award” in section d) of this provision. If the award permits construction activities based on the policy above (or as authorized by waiver), the AO must insert the description and location(s) of the specific construction activities in section d) of this provision. The AO must not make a general reference to the Program Description. The AO must also ensure that there is a specific line item for construction activities in the award budget.*

### **LIMITING CONSTRUCTION ACTIVITIES (AUGUST 2013)**

- a) Construction is not eligible for reimbursement under this award unless specifically identified in paragraph d) below.
- b) Construction means —construction, alteration, or repair (including dredging and excavation) of buildings, structures, or other real property and includes, without limitation, improvements, renovation, alteration and refurbishment. The term includes, without limitation, roads, power plants, buildings, bridges, water treatment facilities, and vertical structures.
- c) Agreement Officers will not approve any subawards or procurements by recipients for construction activities that are not listed in paragraph d) below. USAID will reimburse allowable costs for only the construction activities listed in this provision not to exceed the amount specified in the construction line item of the award budget. The recipient must receive prior written approval from the AO to transfer funds allotted for construction activities to other cost categories, or vice versa.
- d) Description  
[Type of construction and location(s)]
- e) The recipient must include this provision in all subawards and procurements and make vendors providing services under this award and subrecipients aware of the restrictions of this provision.

[END OF PROVISION]

## **M23. USAID IMPLEMENTING PARTNER NOTICES (IPN) PORTAL FOR ASSISTANCE (JULY 2014)**

**APPLICABILITY:** For use in all solicitations and resulting awards. Please refer to [ADS 303, Section 303.3.31, “USAID Implementing Partner Notices \(IPN\) Portal For Assistance”](#) for additional guidance.

## **USAID IMPLEMENTING PARTNER NOTICES (IPN) PORTAL FOR ASSISTANCE (JULY 2014)**

### **(a) Definitions**

“USAID Implementing Partner Notices (IPN) Portal for Assistance (“IPN Portal)” means the single point where USAID posts proposed universal bilateral amendments for USAID awards, which can be accessed electronically by registered USAID recipients. The IPN Portal is located at <https://sites.google.com/site/usaidipnforassistance/>. Universal amendments are those which affect all assistance awards or a designated class of awards as specified in each amendment by the IPN Portal Administrator.

“IPN Portal Administrator” means the USAID official designated by the Director, M/OAA, who has overall responsibility for managing the USAID Implementing Partner Notices Portal for Assistance.

“Universal bilateral amendment” means those amendments with revisions or new requirements or provisions that affect all awards or a designated class of awards, as specified in the Agency notification of such revisions or new requirements.

**(b)** By submission of an application and execution of an award, the Applicant/Recipient acknowledges the requirement to:

- (1)** Register with the IPN Portal if awarded an assistance award resulting from this solicitation, and
- (2)** Receive universal bilateral amendments to this award and general notices via the IPN Portal.

**(c)** Procedure to register for notifications.

Go to <https://sites.google.com/site/usaidipnforassistance/> and click the “Register” button at the top of the page. Recipient representatives must use their official organization email address when subscribing, not personal email addresses.

**(d)** Processing of IPN Portal Amendments

The Recipient may access the IPN Portal at any time to review all IPN Portal amendments; however, the system will also notify the Recipient by email when the USAID IPN Portal Administrator posts a universal bilateral amendment for Recipient’s

review and signature. Proposed USAID IPN Portal amendments distributed via the IPN Portal are applicable to all awards, unless otherwise noted in the proposed amendment.

Within 15 calendar days from receipt of the notification email from the IPN Portal, the Recipient must do one of the following:

- (1) (a) verify applicability of the proposed amendment for their award(s) per the instructions provided with each amendment; (b) download the amendment and incorporate the following information on the amendment form: award number, organization name, and organization mailing address as it appears in the basic award; (c) sign the hardcopy version; and (d) send the signed amendment (by email or hardcopy) to the AO for signature. The Recipient must not incorporate any other changes to the IPN Portal amendment. Bilateral amendments provided through the IPN Portal are not effective until the both the Recipient and the AO sign the amendment;
- (2) Notify the AO in writing if the amendment requires negotiation of additional changes to terms and conditions of the award; or
- (3) Notify the AO that the Recipient declines to sign the amendment.

Within 30 calendar days of receipt of a signed amendment from the Recipient, the AO must provide the fully executed amendment to the Recipient or initiate discussions with the Recipient.

[End of Provision]

## **M24. PILOT PROGRAM FOR ENHANCEMENT OF GRANTEE EMPLOYEE WHISTLEBLOWER PROTECTIONS (SEPTEMBER 2014)**

The requirement to comply with and inform all employees of the "Pilot Program for Enhancement of Contractor Employee Whistleblower Protections" is retroactively effective for all assistance awards and subawards (including subcontracts) issued beginning July 1, 2013.

The Grantee must:

1. Inform its employees working under this award in the predominant native language of the workforce that they are afforded the employee whistleblower rights and protections provided under 41 U.S.C. § 4712; and
2. Include such requirement in any subaward or subcontract made under this award.

41 U.S.C. § 4712 states that an employee of a Grantee may not be discharged, demoted, or otherwise discriminated against as a reprisal for "whistleblowing." In addition, whistleblower protections cannot be waived by any agreement, policy, form, or condition of employment.

Whistleblowing is defined as making a disclosure "that the employee reasonably believes" is evidence of any of the following:

- Gross mismanagement of a Federal contract or grant;
- A gross waste of Federal funds;
- An abuse of authority relating to a Federal contract or grant;
- A substantial and specific danger to public health or safety; or
- A violation of law, rule, or regulation related to a Federal contract or grant (including the competition for, or negotiation of, a contract or grant).

To qualify under the statute, the employee's disclosure must be made to:

- A Member of the U.S. Congress, or a representative of a U.S. Congressional Committee;
- A cognizant U.S. Inspector General;
- The U.S. Government Accountability Office;
- A Federal employee responsible for contract or grant oversight or management at the relevant agency;
- A U.S. court or grand jury; or,
- A management official or other employee of the Grantee who has the responsibility to investigate, discover, or address misconduct.

[End of Provision]

## **M25. SUBMISSION OF DATASETS TO THE DEVELOPMENT DATA LIBRARY (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 recipient 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 recipient'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 M21. SUBMISSIONS TO THE DEVELOPMENT EXPERIENCE CLEARINGHOUSE AND PUBLICATIONS (JUNE 2012)).

- (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 recipient under the award, whether published or not. The term does not include the recipient'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 recipient 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 subawardee or a contractor 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 Agreement Officer (AO) or the Agreement Officer Representative (AOR), the recipient must submit the Dataset and supporting documentation to the DDL 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 recipient 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 recipient must also provide to the AOR an itemized list of any and all DDL submissions.

The recipient 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 recipient 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 agreement officer representative, 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 recipient must submit the Datasets following the submission instructions and acceptable formats found at [www.usaid.gov/data](http://www.usaid.gov/data).
- (4) The recipient 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 recipient must not submit classified data to the DDL.

[End of Provision]

## **M26. PROHIBITION ON REQUIRING CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS OR STATEMENTS (MAY 2017)**

(a) Definitions.

“Contract” has the meaning given in 2 CFR Part 200.

“Contractor” means an entity that receives a contract as defined in 2 CFR Part 200.

“Internal confidentiality agreement or statement” means a confidentiality agreement or any other written statement that the recipient requires any of its employees or subrecipients to sign regarding nondisclosure of recipient information, except that it does not include confidentiality agreements arising out of civil litigation or confidentiality agreements that recipient employees or subrecipients sign at the behest of a Federal agency.

“Subaward” has the meaning given in 2 CFR Part 200.

“Subrecipient” has the meaning given in 2 CFR Part 200.

(b) The recipient must not require its employees, subrecipients, or contractors to sign or comply with internal confidentiality agreements or statements that prohibit or otherwise restrict employees, subrecipients, or contractors from lawfully reporting waste, fraud, or abuse related to the performance of a Federal award to

a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information (for example, the Agency Office of the Inspector General).

(c) The recipient must notify current employees and subrecipients that prohibitions and restrictions of any preexisting internal confidentiality agreements or statements covered by this provision, to the extent that such prohibitions and restrictions are inconsistent with the prohibitions of this provision, are no longer in effect.

(d) The prohibition in paragraph (b) of this provision does not contravene the requirements applicable to Standard Form 312 (Classified Information Nondisclosure Agreement), Form 4414 (Sensitive Compartmented Information Nondisclosure Agreement), or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

(e) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015, (Pub. L. 113-235), and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions) use of funds appropriated (or otherwise made available) is prohibited, if the Government determines that the recipient is not in compliance with the requirements of this provision.

(f) The recipient must include the substance of this provision, including this paragraph (f), in subawards and contracts under such awards.

(End of Provision)

## **M27. CHILD SAFEGUARDING (June 2015)**

(a) Because the activities to be funded under this award may involve children, or personnel engaged in the implementation of the award may come into contact with children, these activities could raise the risk of child abuse, exploitation, or neglect within USAID-funded programs. The organization agrees to abide by the following child safeguarding core principles:

- (1) Ensure compliance with host country and local child welfare and protection legislation or international standards, whichever gives greater protection, and with U.S. law where applicable;
- (2) Prohibit all personnel from engaging in child abuse, exploitation, or neglect;
- (3) Consider child safeguarding in project planning and implementation to determine potential risks to children that are associated with project activities and operations;

- (4) Apply measures to reduce the risk of child abuse, exploitation, or neglect, including, but not limited to, limiting unsupervised interactions with children; prohibiting exposure to pornography; and complying with applicable laws, regulations, or customs regarding the photographing, filming, or other image-generating activities of children;
  - (5) Promote child-safe screening procedures for personnel, particularly personnel whose work brings them in direct contact with children; and
  - (6) Have a procedure for ensuring that personnel and others recognize child abuse, exploitation, or neglect; mandating that personnel and others report allegations; investigating and managing allegations; and taking appropriate action in response to such allegations, including, but not limited to, dismissal of personnel.
- (b) The organization must also include in their code of conduct for all personnel implementing USAID-funded activities the child safeguarding principles in (a) (1) through (6).
- (c) The following definitions apply for purposes of this provision:
- (1) Child: A child or children are defined as persons who have not attained 18 years of age.
  - (2) Child abuse, exploitation, or neglect: Constitutes any form of physical abuse; emotional ill-treatment; sexual abuse; neglect or insufficient supervision; trafficking; or commercial, transactional, labor, or other exploitation resulting in actual or potential harm to the child's health, well-being, survival, development, or dignity. It includes, but is not limited to: any act or failure to act which results in death, serious physical or emotional harm to a child, or an act or failure to act which presents an imminent risk of serious harm to a child.
  - (3) Physical abuse: Constitutes acts or failures to act resulting in injury (not necessarily visible), unnecessary or unjustified pain or suffering without causing injury, harm or risk of harm to a child's health or welfare, or death. Such acts may include, but are not limited to: punching, beating, kicking, biting, shaking, throwing, stabbing, choking, or hitting (regardless of object used), or burning. These acts are considered abuse regardless of whether they were intended to hurt the child.
  - (4) Sexual Abuse: Constitutes fondling a child's genitals, penetration, incest, rape, sodomy, indecent exposure, and exploitation through prostitution or the production of pornographic materials.



- (5) Emotional abuse or ill treatment: Constitutes injury to the psychological capacity or emotional stability of the child caused by acts, threats of acts, or coercive tactics. Emotional abuse may include, but is not limited to: humiliation, control, isolation, withholding of information, or any other deliberate activity that makes the child feel diminished or embarrassed.
  - (6) Exploitation: Constitutes the abuse of a child where some form of remuneration is involved or whereby the perpetrators benefit in some manner. Exploitation represents a form of coercion and violence that is detrimental to the child's physical or mental health, development, education, or well-being.
  - (7) Neglect: Constitutes failure to provide for a child's basic needs within USAID-funded activities that are responsible for the care of a child in the absence of the child's parent or guardian.
- (d) The recipient must insert the provisions in (a) and (b) in all subawards under this award.

[End of Provision]

## **M28. MANDATORY DISCLOSURES (NOVEMBER 2020)**

Consistent with 2 CFR §200.113, applicants and recipients must disclose, in a timely manner, in writing to the USAID Office of the Inspector General, with a copy to the cognizant Agreement Officer, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Subrecipients must disclose, in a timely manner, in writing to the USAID Office of the Inspector General and to the prime recipient (pass through entity) all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

Disclosures must be sent to:

U.S. Agency for International Development  
Office of the Inspector General  
P.O. Box 657  
Washington, DC 20044-0657

Phone: [1-800-230-6539](tel:1-800-230-6539) or [202-712-1023](tel:202-712-1023)

Email: [ig.hotline@usaid.gov](mailto:ig.hotline@usaid.gov)

URL: <https://oig.usaid.gov/content/usaid-contractor-reporting-form>.

Failure to make required disclosures can result in any of the remedies described in 2 CFR §200.339 Remedies for noncompliance, including suspension or debarment (See 2 CFR 180, 2 CFR 780 and 31 U.S.C. 3321).

The recipient must include this mandatory disclosure requirement in all subawards and contracts under this award.

[End of Provision]

## **M29. NONDISCRIMINATION AGAINST BENEFICIARIES (November 2016)**

(a) USAID policy requires that the recipient not discriminate against any beneficiaries in implementation of this award, such as, but not limited to, by withholding, adversely impacting, or denying equitable access to the benefits provided through this award on the basis of any factor not expressly stated in the award. This includes, for example, race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, disability, age, genetic information, marital status, parental status, political affiliation, or veteran's status. Nothing in this provision is intended to limit the ability of the recipient to target activities toward the assistance needs of certain populations as defined in the award.

(b) The recipient must insert this provision, including this paragraph, in all subawards and contracts under this award.

[End of Provision]

## **M30. CONFLICT OF INTEREST (August 2018)**

- a. A conflict of interest in the award, administration, or monitoring of subawards arises when an employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of these parties, has a financial or other interest in, or a tangible personal benefit from, a subrecipient considered for a subaward. The officers, employees, and agents of the recipient may neither solicit nor accept gratuities, favors, or anything of monetary value from subrecipients or parties to subawards. However, recipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value.
- b. The recipient must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of subawards. The standards must prohibit employees from using their positions for a purpose that constitutes or presents the appearance of a conflict of interest. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipient.

- c. The recipient must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means a situation in which the recipient is unable or appears to be unable to be impartial in conducting a subaward action involving a related organization because of relationships with a parent company, affiliate, or subsidiary organization.
- d. The recipient must have a system or systems in place to identify, address, resolve, and disclose to USAID any conflicts of interest as described in this provision that affect any subaward, regardless of the amount of funding.
- e. The recipient must disclose any conflict of interest, including organizational conflicts of interest, and the recipient's approach for resolving the conflict of interest to the cognizant Agreement Officer for the award within ten (10) calendar days of the discovery of the conflict of interest.
- f. Upon notice from the recipient of a potential conflict of interest and the approach for resolving it, the Agreement Officer will make a determination regarding the effectiveness of the recipient's actions to resolve the conflict of interest within thirty (30) calendar days of receipt of the recipient's notice, unless the Agreement Officer advises the recipient that a longer period is necessary.
- g. The recipient must not request payment from USAID for costs for transactions subject to the conflict of interest pending notification of USAID's determination. The recipient's failure to disclose a conflict of interest may result in cost disallowances by USAID.
- h. For conflicts of interest, including organizational conflicts of interest, involving contracts, the recipient must follow 2 CFR 200.318, general procurement standards.
- i. The recipient must insert the substance of this provision, including paragraph (i), in all subawards under this award, at any subaward tier.

[End of Provision]

**[END OF MANDATORY PROVISIONS]**

## **REQUIRED AS APPLICABLE STANDARD PROVISIONS FOR U.S. NONGOVERNMENTAL ORGANIZATIONS**

### **RAA1. NEGOTIATED INDIRECT COST RATES - PREDETERMINED (NOVEMBER 2020)**

**APPLICABILITY:** *This provision is applicable to educational or nonprofit institutions whose indirect cost rates under this award are on a predetermined basis. A predetermined rate may be used when the Bureau for Management, Office of Acquisition and Assistance, Overhead, Special Cost, and Closeout Branch (M/OAA/OSC) has made a determination that there is reasonable assurance that the rate is not likely to exceed a rate based on the organization's actual costs.*

#### **NEGOTIATED INDIRECT COST RATES - PREDETERMINED (NOVEMBER 2020)**

- a. The allowable indirect costs must be determined by applying the predetermined indirect cost rates to the bases specified in the schedule of this award.
- b. Except as otherwise provided in 2 CFR 200.414 Indirect (F&A) costs paragraph (e) and (f), a nonprofit organization which has not previously established an indirect cost rate with a Federal agency must submit its initial indirect cost proposal immediately after the organization is advised that a Federal award will be made and, in no event, later than three months after the effective date of the Federal award.

Organizations that have previously established indirect cost rates must submit a new indirect cost proposal to the cognizant agency for indirect costs within six months after the close of each fiscal year.

If USAID is the cognizant agency or no cognizant agency has been designated, the recipient must submit four copies of the audit report, the proposed predetermined indirect cost rates, and supporting cost data to the Overhead, Special Costs, and Closeout Branch, Management Bureau, Office of Acquisition and Assistance, USAID, Washington, DC 20523-7802. The proposed rates must be based on the recipient's actual cost experience during that fiscal year. Negotiations of predetermined indirect cost rates must begin soon after receipt of the recipient's proposal.

- c. Allowability of costs and acceptability of cost allocation methods must be determined in accordance with the applicable cost principles.
- d. The results of each negotiation must be set forth in an indirect cost rate agreement signed by both parties. Such agreement is automatically incorporated into this award and must specify (1) the agreed upon predetermined rates, (2) the bases to which the rates apply, and (3) the fiscal year for which the rates apply. The indirect cost rate agreement must not change any monetary ceiling, award obligation, or specific cost allowance or disallowance provided for in this award.

- e. Predetermined rate means an indirect cost rate, applicable to a specified current or future period, usually the organization's fiscal year. The rate is based on an estimate of the costs to be incurred during the period. **A predetermined rate is not subject to adjustment.**
- f. If a dispute arises in a negotiation of an indirect cost rate between the cognizant agency for indirect costs and the nonprofit organization, the dispute must be resolved in accordance with the appeals procedures of the cognizant agency for indirect costs.

[END OF PROVISION]

## **RAA2. NEGOTIATED INDIRECT COST RATES - PROVISIONAL (Nonprofit) (NOVEMBER 2020)**

**APPLICABILITY:** *This provision is applicable to any nonprofit organizations whose indirect cost rates under this award are on a provisional basis.*

### **NEGOTIATED INDIRECT COST RATES - PROVISIONAL (Nonprofit) (NOVEMBER 2020)**

- a. Provisional indirect cost rates must be established for each of the recipient's accounting periods during the term of this award. Pending establishment of revised provisional or final rates, allowable indirect costs must be reimbursed at the rates, on the bases, and for the periods shown in the schedule of the award .
- b. Organizations that have previously established indirect cost rates must submit a new indirect cost proposal to the cognizant agency for indirect costs within six months after the close of each fiscal year. Except as otherwise provided in §200.414 Indirect (F&A) costs paragraph (e) and (f) , a nonprofit organization which has not previously established an indirect cost rate with a Federal agency must submit its initial indirect cost proposal immediately after the organization is advised that a Federal award will be made and, in no event, later than three months after the effective date of the Federal award.

If USAID is the cognizant agency or no cognizant agency has been designated, the recipient must submit four copies of the audit report, along with the proposed final indirect cost rates and supporting cost data, to the Overhead, Special Costs, and Closeout Branch, Office of Acquisition and Assistance, USAID, Washington, DC 20523-7802. The proposed rates must be based on the recipient's actual cost experience during that fiscal year. Negotiations of final indirect cost rates must begin soon after receipt of the recipient's proposal. No proposal to establish indirect (F&A) cost rates will be acceptable unless such costs have been certified by the non-profit organization using the Certificate of Indirect (F&A) Costs set forth in 2 CFR 200, Appendix IV, Section j. The certificate must be signed on

behalf of the organization by an individual at a level no lower than vice president or chief financial officer for the organization.

- c. Allowability of costs and acceptability of cost allocation methods must be determined in accordance with the applicable cost principles.
- d. The results of each negotiation must be set forth in a written indirect cost rate agreement signed by both parties. Such agreement is automatically incorporated into this award and must specify (1) the agreed upon final rates, (2) the bases to which the rates apply, and (3) the fiscal year for which the rates apply. The agreement must not change any monetary ceiling, award obligation, or specific cost allowance or disallowance provided for in this award.
- e. Pending establishment of final indirect cost rate(s) for any fiscal year, the recipient must be reimbursed either at negotiated provisional rates or at billing rates acceptable to the Agreement Officer, subject to appropriate adjustment when the final rates for the fiscal year are established. To prevent substantial overpayment or underpayment, the provisional rate may be adjusted by the cognizant agency for indirect costs during the institution's fiscal year.
- f. If a dispute arises in a negotiation of an indirect cost rate between the cognizant agency for indirect costs and the nonprofit organization, the dispute must be resolved in accordance with the appeals procedures of the cognizant agency for indirect costs.

[END OF PROVISION]

### **RAA3. NEGOTIATED INDIRECT COST RATE - PROVISIONAL (Profit) (DECEMBER 2014)**

**APPLICABILITY:** *This provision applies to for-profit organizations whose indirect cost rates under this award are on a provisional basis.*

#### **NEGOTIATED INDIRECT COST RATE - PROVISIONAL (Profit) (DECEMBER 2014)**

- a. Provisional indirect cost rates must be established for the recipient's accounting periods during the term of this award. Pending establishment of revised provisional or final rates, allowable indirect costs must be reimbursed at the rates, on the bases, and for the periods shown in the schedule of this award. Indirect cost rates and the appropriate bases must be established in accordance with FAR Subpart 42.7.
- b. Within six months after the close of the recipient's fiscal year, the recipient must submit to the cognizant agency for audit the proposed final indirect cost rates and supporting cost data. If USAID is the cognizant agency or no cognizant agency

has been designated, the recipient must submit three copies of the proposed final indirect cost rates and supporting cost data, to the Overhead, Special Costs, and Closeout Branch, Bureau for Management, Office of Acquisition and Assistance, USAID, Washington, DC 20523-7802. The proposed rates must be based on the recipient's actual cost experience during that fiscal year. Negotiations of final indirect cost rates must begin soon after receipt of the recipient's proposal.

- c. Allowability of costs and acceptability of cost allocation methods must be determined in accordance with the applicable cost principles.
- d. The results of each negotiation must be set forth in an indirect cost rate agreement signed by both parties. Such agreement is automatically incorporated into this award and must specify (1) the agreed upon final rates, (2) the bases to which the rates apply, and (3) the fiscal year for which the rates apply. The agreement must not change any monetary ceiling, award obligation, or specific cost allowance or disallowance provided for in this award.
- e. Pending establishment of final indirect cost rates for any fiscal year, the recipient must be reimbursed either at negotiated provisional rates or at billing rates acceptable to the Agreement Officer, subject to appropriate adjustment when the final rates for the fiscal year are established. To prevent substantial overpayment or underpayment, the provisional or billing rates may be prospectively or retroactively revised by mutual agreement.
- f. If a dispute arises in a negotiation of an indirect cost rate between the cognizant agency for indirect costs and the nonprofit organization, the dispute must be resolved in accordance with the appeals procedures of the cognizant agency for indirect costs.

[END OF PROVISION]

#### **RAA4. INDIRECT COSTS – DE MINIMIS RATE (NOVEMBER 2020)**

**APPLICABILITY:** *This provision is applicable to awards where the recipient does not have a current negotiated indirect cost rate and has elected to charge a de minimis rate of 10% of modified total direct costs (MTDC). When using this provision, the award budget must reflect the de minimis rate of 10% if requested by the recipient. The award budget must not include direct costs that the recipient indicated were included in the indirect rate.*

#### **INDIRECT COSTS – DE MINIMIS RATE (NOVEMBER 2020)**

- a. The recipient will be paid a de minimis rate of 10% of its modified total direct costs (MTDC) to cover indirect costs, as provided below. Indirect costs are

common costs that benefit the day-to-day operations of the organization, including categories such as salaries and expenses of executive officers, personnel administration, and accounting, or that benefit and are identifiable to more than one program or activity, such as depreciation, rental costs, operations and maintenance of facilities, and telephone expenses. The actual rate will be established in the award budget.

- b. MTDC means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of \$25,000. Other items may only be excluded when necessary to avoid a serious inequity in the distribution of indirect costs, and with the prior written approval of the Agreement Officer.
- c. The recipient must consistently charge its costs as either indirect or direct costs but must not double charge or inconsistently charge the same cost or categories of costs as both.
- d. If chosen, once elected, this rate and methodology must be used consistently for all Federal awards until such time as the recipient has an approved Negotiated Indirect Cost Rate.

[END OF PROVISION]

## **RAA5. EXCHANGE VISITORS AND PARTICIPANT TRAINING (JUNE 2012)**

**APPLICABILITY:** *This provision applies to awards that contain funding for any exchange visitor activities or participant training, as defined in [ADS 252](#) and [253](#), respectively, conducted or paid for by the recipient with USAID funds under this award.*

### **EXCHANGE VISITORS AND PARTICIPANT TRAINING (JUNE 2012)**

For any Exchange Visitor, Participant Training or Invitational Travel activities, the recipient must comply with this provision.

#### **a. Definitions:**

- (1) An **Exchange Visitor** is any host-country or third-country national traveling to the U.S., for any purpose, including Participant Training and Invitational Travel, funded by USAID in whole or in part, directly or indirectly.



- (2) A **Participant** is a host-country or third-country national sponsored by USAID for a Participant Training activity taking place in the U.S., a third country, or in the host country.
- (3) **Participant Training** is a learning activity conducted within the U.S., a third country, or in the host country for the purpose of furthering USAID development objectives. A learning activity takes place in a setting in which an individual (the Participant) interacts with a knowledgeable professional, predominantly for the purpose of acquiring knowledge or skills for the professional or technical enhancement of the individual. Learning activities may be formally structured, such as an academic program or a technical course, or they may be more informal, such as an observational study tour.
- (4) **Invitational Travel** is a type of travel that USAID funds for non-U.S. Government employees. This type of travel may be approved for both U.S. and foreign citizens who are not employed by the U.S. Government (USG), not receiving any type of compensation from the USG for such travel, and only when it is determined that the functions to be performed are essential to the interests of USAID.
- b. **Program Monitoring and Data Reporting:** The recipient must monitor Exchange Visitors' and Participants' progress during their program and ensure that problems are identified and resolved quickly.
- (1) For U.S.-based activities, the recipient must use USAID's official Exchange Visitor and Participant Training information system, currently called "Training Results and Information Network – TraiNet" (see <http://trainethelp.usaid.gov/>), to report and manage Exchange Visitor and Participant Training data. The recipient must also use the USAID Visa Compliance System – VCS (see <http://trainethelp.usaid.gov/>) to transfer required data for USAID Exchange Visitors to the Department of Homeland Security's Student and Exchange Visitor Information System (SEVIS).
- (2) For all third-country activities, and for host-country activities of two consecutive days or 16 contact hours or more in duration, the recipient must use USAID's official Exchange Visitor and Participant Training information system, currently called "Training Results and Information Network – TraiNet" (see <http://trainethelp.usaid.gov/>), to report and manage Participant Training data.
- c. **Health and Accident Insurance:**
- (1) For Exchange Visitors traveling to the United States, the recipient must enroll Exchange Visitors in health and accident insurance coverage that

meets or exceeds Department of State and USAID minimum coverage requirements as set forth in 22 CFR 62.14 and ADS 253.3.6.2. The requirements may be obtained from the Agreement Officer's Representative.

- (2) For Participants traveling to a third country, the recipient must obtain health and accident insurance coverage for all Participants.
- (3) For Participants traveling within the host country, the recipient must determine whether specific in-country participant training activities subject them to any risk of health and accident liability for medical costs. Participants may incur, and if so, take appropriate steps according to the local situation, including obtaining health and accident insurance coverage for Participants.

d. **Immigration Requirements:**

- (1) For Exchange Visitors traveling to the United States, the recipient must ensure that all USAID-sponsored Exchange Visitors obtain, use, and comply with the terms of the J-1 visa, issued in conjunction with a USAID-issued Certificate of Eligibility for J-1 Visa Status (DS-2019).
- (2) For Participants traveling to a third country or within the host country, the recipient must ensure that all Participants obtain, use, and comply with the terms of all applicable immigration, visa and other similar requirements.

e. **Language Proficiency:** The recipient must verify language proficiency. Exchange Visitors must possess sufficient English language proficiency to participate in a U.S.-based activity. Participants of third-country or host-country training must be proficient in the language of training at a sufficient level for participation, unless an interpreter has been arranged. Language competency can be verified through a variety of means including proficiency assessments of interviews, publications, presentations, education conducted in English, and formal testing.

f. **Pre-departure Orientation:** The recipient must conduct pre-departure orientation for U.S.-bound Exchange Visitors and Participants of third-country training programs. Pre-departure orientation covers: program objectives; administrative and policy review; cultural aspects; and training/learning methods

g. **Conditions of Sponsorship:** The recipient must ensure that all Exchange Visitors read and sign the Conditions of Sponsorship for U.S.-Based Activities form (AID 1381-6). The recipient must also ensure that all Participants of long-term (six months or longer) third-country training read and sign the form Conditions of Sponsorship for Third-Country Training form (AID 1381-7). The recipient must report to the Agreement Officer any known violations by Exchange

Visitors of visa or other immigration requirements or conditions.

- h. **Exchange Visitor Security Risk and Fraud Inquiry:** Each USAID Mission has an established process for conducting a Security Risk and Fraud Inquiry (SRFI) for Exchange Visitors. The recipient must be prepared to assist Missions in conducting the SRFI, if requested. However, the recipient's role is contributive, and the Mission is ultimately responsible for conducting the SRFI.
- i. **Fly America:** To the extent that participants travel by international air travel, the recipient must comply with the Standard Provision, "International Air Travel and Air Transportation of Property."
- j. **Use of Minority Serving Institutions:** For U.S.-based Participant Training, the recipient must, to the maximum extent possible, maintain their use of Historically Black Colleges and Universities (HBCUs) and other Minority Serving Institutions (MSIs), including Hispanic Serving Institutions and Tribal Colleges and Universities, as training or education providers.

[END OF PROVISION]

#### **RAA6. VOLUNTARY POPULATION PLANNING ACTIVITIES – SUPPLEMENTAL REQUIREMENTS (JANUARY 2009)**

***APPLICABILITY:** This provision is applicable to all awards involving any aspect of voluntary population planning activities.*

#### **VOLUNTARY POPULATION PLANNING ACTIVITIES – SUPPLEMENTAL REQUIREMENTS (JANUARY 2009)**

- a. Voluntary Participation and Family Planning Methods:
  - (1) The recipient agrees to take any steps necessary to ensure that funds made available under this award will not be used to coerce any individual to practice methods of family planning inconsistent with such individual's moral, philosophical, or religious beliefs. Further, the recipient agrees to conduct its activities in a manner which safeguards the rights, health, and welfare of all individuals who take part in the program.
  - (2) Activities which provide family planning services or information to individuals, financed in whole or in part under this agreement, must provide a broad range of family planning methods and services available in the country in which the activity is conducted or must provide information to such individuals regarding where such methods and services may be obtained.

b. Requirements for Voluntary Family Planning Projects

- (1) A family planning project must comply with the requirements of this paragraph.
- (2) A project is a discrete activity through which a governmental, nongovernmental, or public international organization provides family planning services to people and for which funds obligated under this award, or goods or services financed with such funds, are provided under this award, except funds solely for the participation of personnel in short-term, widely attended training conferences or programs.
- (3) Service providers and referral agents in the project must not implement or be subject to quotas or other numerical targets of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning. Quantitative estimates or indicators of the number of births, acceptors, and acceptors of a particular method that are used for the purpose of budgeting, planning, or reporting with respect to the project are not quotas or targets under this paragraph, unless service providers or referral agents in the project are required to achieve the estimates or indicators.
- (4) The project must not include the payment of incentives, bribes, gratuities or financial rewards to (i) any individual in exchange for becoming a family planning acceptor or (ii) any personnel performing functions under the project for achieving a numerical quota or target of total number of births, number of family planning acceptors, or acceptors of a particular method of contraception. This restriction applies to salaries or payments paid or made to personnel performing functions under the project if the amount of the salary or payment increases or decreases based on a predetermined number of births, number of family planning acceptors, or number of acceptors of a particular method of contraception that the personnel affect or achieve.
- (5) A person must not be denied any right or benefit, including the right of access to participate in any program of general welfare or health care, based on the person's decision not to accept family planning services offered by the project.
- (6) The project must provide family planning acceptors comprehensible information about the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method. This requirement may be satisfied by providing information in accordance with the medical practices and standards and health conditions in the country where the project is conducted through

counseling, brochures, posters, or package inserts.

- (7) The project must ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits.
- (8) With respect to projects for which USAID provides, or finances the contribution of, contraceptive commodities or technical services and for which there is no subaward or contract under this award, the organization implementing a project for which such assistance is provided must agree that the project will comply with the requirements of this paragraph while using such commodities or receiving such services.
- (9)
  - i) The recipient must notify USAID when it learns about an alleged violation in a project of the requirements of subparagraphs (3), (4), (5), or (7) of this paragraph.
  - ii) The recipient must investigate and take appropriate corrective action, if necessary, when it learns about an alleged violation in a project of subparagraph (6) of this paragraph and must notify USAID about violations in a project affecting a number of people over a period of time that indicate there is a systemic problem in the project.
  - iii) The recipient must provide USAID such additional information about violations as USAID may request.

c. Additional Requirements for Voluntary Sterilization Programs

- (1) Funds made available under this award must not be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any individual to practice sterilization.
- (2) The recipient must ensure that any surgical sterilization procedures supported, in whole or in part, by funds from this award are performed only after the individual has voluntarily appeared at the treatment facility and has given informed consent to the sterilization procedure. Informed consent means the voluntary, knowing assent from the individual after being advised of the surgical procedures to be followed, the attendant discomforts and risks, the benefits to be expected, the availability of alternative methods of family planning, the purpose of the operation and its irreversibility, and the option to withdraw consent any time prior to the operation. An individual's consent is considered voluntary if it is based

upon the exercise of free choice and is not obtained by any special inducement or any element of force, fraud, deceit, duress, or other forms of coercion or misrepresentation.

- (3) Further, the recipient must document the patient's informed consent by (i) a written consent document in a language the patient understands and speaks, which explains the basic elements of informed consent, as set out above, and which is signed by the individual and by the attending physician or by the authorized assistant of the attending physician; or, (ii) when a patient is unable to read adequately a written certification by the attending physician or by the authorized assistant of the attending physician that the basic elements of informed consent above were orally presented to the patient, and that the patient thereafter consented to the performance of the operation, the receipt of this oral explanation must be acknowledged by the patient's mark on the certification and by the signature or mark of a witness who speaks the same language as the patient.
- (4) The recipient must retain copies of informed consent forms and certification documents for each voluntary sterilization procedure for a period of three years after performance of the sterilization procedure.

d. Prohibition on Abortion-Related Activities:

- (1) No funds made available under this award will be used to finance, support, or be attributed to the following activities: (i) procurement or distribution of equipment intended to be used for the purpose of inducing abortions as a method of family planning; (ii) special fees or incentives to any person to coerce or motivate them to have abortions; (iii) payments to persons to perform abortions or to solicit persons to undergo abortions; (iv) information, education, training, or communication programs that seek to promote abortion as a method of family planning; and, (v) lobbying for or against abortion. The term "motivate," as it relates to family planning assistance, must not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options.
- (2) No funds made available under this award will be used to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilizations as a means of family planning. Epidemiologic or descriptive research to assess the incidence, extent, or consequences of abortions is not precluded.

- e. The recipient must insert this provision in all subsequent subawards and contracts involving family planning or population activities that will be supported, in whole or in part, from funds under this award.

[END OF PROVISION]

## **RAA7. PROTECTION OF THE INDIVIDUAL AS A RESEARCH SUBJECT (APRIL 1998)**

**APPLICABILITY:** *This provision is applicable when human subjects are involved in research financed by the award.*

### **PROTECTION OF THE INDIVIDUAL AS A RESEARCH SUBJECT (APRIL 1998)**

- a. Safeguarding the rights and welfare of human subjects involved in research supported by USAID is the responsibility of the organization to which support is awarded. USAID has adopted the Common Federal Policy for the Protection of Human Subjects, Part 225 of Title 22 of the Code of Federal Regulations (the "Policy"). Additional interpretation, procedures, and implementation guidance of the Policy are found in USAID General Notice entitled "Procedures for the Protection of Human Subjects in Research Supported by USAID," issued April 19, 1995, as amended. USAID's Cognizant Human Subjects Officer (CHSO) in USAID/W has oversight, guidance, and interpretation responsibility for the Policy.
- b. Recipient organizations must comply with USAID policy when humans are the subject of research, as defined in 22 CFR 225.102(d), funded by the grant and recipients must provide "assurance," as required by 22 CFR 225.103, that they follow and abide by the procedures in the Policy. See also Section 5 of the April 19, 1995, USAID General Notice which sets forth activities to which the Policy is applicable. The existence of a bona fide, applicable assurance approved by the Department of Health and Human Services (HHS) such as the "multiple project assurance" (MPA) will satisfy this requirement. Alternatively, organizations can provide an acceptable written assurance to USAID as described in 22 CFR 225.103. Such assurances must be determined by the CHSO to be acceptable prior to any applicable research being initiated or conducted under the award. In some limited instances outside the U.S., alternative systems for the protection of human subjects may be used provided they are deemed "at least equivalent" to those outlined in Part 225 (See 22 CFR 225.101[h]). Criteria and procedures for making this determination are described in the General Notice cited in the preceding paragraph.
- c. Since the welfare of the research subject is a matter of concern to USAID as well as to the organization, USAID staff consultants and advisory groups may independently review and inspect research and research processes and procedures involving human subjects, and based on such findings, the CHSO may prohibit research which presents unacceptable hazards or otherwise fails to comply with USAID procedures. Informed consent documents must include the stipulation that the subject's records may be subject to such review.

[END OF PROVISION]

**RAA8. CARE OF LABORATORY ANIMALS (MARCH 2004)**

**APPLICABILITY:** *This provision is applicable when laboratory animals are involved in research performed in the U.S. and financed by the award.*

**CARE OF LABORATORY ANIMALS (MARCH 2004)**

- a. Before undertaking performance of any grant involving the use of laboratory animals, the recipient must register with the Secretary of Agriculture of the United States in accordance with Section 6, Public Law 89-544, Laboratory Animal Welfare Act, August 24, 1966, as amended by Public Law 91-579, Animal Welfare Act of 1970, December 24, 1970. The recipient must furnish evidence of such registration to the Agreement Officer.
- b. The recipient must acquire animals used in research under this award only from dealers licensed by the Secretary of Agriculture, or from exempted sources in accordance with the Public Laws enumerated in a. above.
- c. In the care of any live animals used or intended for use in the performance of this grant, the recipient must adhere to the principles enunciated in the Guide for Care and Use of Laboratory Animals prepared by the Institute of Laboratory Animals Resources, National Academy of Sciences - National Research Council (NAS-NRC), and in the United States Department of Agriculture's (USDA) regulations and standards issued under the Public Laws enumerated in a. above. In case of conflict between standards, the higher standard must be used. The recipient's reports on portions of the award in which animals were used must contain a certificate stating that the animals were cared for in accordance with the principles enunciated in the Guide for Care and Use of Laboratory Animals prepared by the Institute of Laboratory Animal Resources, NAS-NRC, and/or in the regulations and standards as promulgated by the Agricultural Research Service, USDA, pursuant to the Laboratory Animal Welfare Act of 24 August 1966, as amended (P.L. 89-544 and P.L. 91-579). NOTE: The recipient may request registration of the recipient's facility and a current listing of licensed dealers from the Regional Office of the Animal and Plant Health Inspection Service (APHIS), USDA, for the region in which the recipient's research facility is located. The location of the appropriate APHIS Regional Office as well as information concerning this program may be obtained by contacting the Senior Staff Office, Animal Care Staff, USDA/APHIS, 4700 River Road, Unit 84, Riverdale, MD 20737-1234 and at [www.aphis.usda.gov/animal\\_welfare/index.shtml](http://www.aphis.usda.gov/animal_welfare/index.shtml).

[END OF PROVISION]



## **RAA9. TITLE TO AND CARE OF PROPERTY (COOPERATING COUNTRY TITLE) (NOVEMBER 1985)**

**APPLICABILITY:** *This provision is applicable to property titled in the name of the cooperating country or such public or private agency as the cooperating country government may designate.*

### **TITLE TO AND CARE OF PROPERTY (COOPERATING COUNTRY TITLE) (NOVEMBER 1985)**

- a. Except as modified by the schedule of this grant, title to all equipment, materials and supplies, the cost of which is reimbursable to the recipient by USAID or by the cooperating country, must at all times be in the name of the cooperating country or such public or private agency as the cooperating country may designate, unless title to specified types or classes of equipment is reserved to USAID under provisions set forth in the schedule of this award. All such property must be under the custody and control of recipient until the owner of title directs otherwise or completion of work under this award or its termination, at which time custody and control must be turned over to the owner of title or disposed of in accordance with its instructions. All performance guarantees and warranties obtained from suppliers must be taken in the name of the title owner.
- b. The recipient must maintain and administer in accordance with sound business practice a program for the maintenance, repair, protection, and preservation of Government property so as to assure its full availability and usefulness for the performance of this grant. The recipient must take all reasonable steps to comply with all appropriate directions or instructions which the Agreement Officer may prescribe as reasonably necessary for the protection of the Government property.
- c. The recipient must prepare and establish a program, to be approved by the appropriate USAID Mission, for the receipt, use, maintenance, protection, custody and care of equipment, materials and supplies for which it has custodial responsibility, including the establishment of reasonable controls to enforce such program. The recipient must be guided by the following requirements:
  - (1) **Property Control:** The property control system must include but not be limited to the following:
    - (i) Identification of each item of cooperating country property acquired or furnished under the award by a serially controlled identification number and by description of item. Each item must be clearly marked "Property of (insert name of cooperating country)."
    - (ii) The price of each item of property acquired or furnished under this award.

- (iii) The location of each item of property acquired or furnished under this award.
  - (iv) A record of any usable components which are permanently removed from items of cooperating country property as a result of modification or otherwise.
  - (v) A record of disposition of each item acquired or furnished under the award.
  - (vi) Date of order and receipt of any item acquired or furnished under the award.
  - (vii) The official property control records must be kept in such condition that at any stage of completion of the work under this award, the status of property acquired or furnished under this award may be readily ascertained. A report of current status of all items of property acquired or furnished under the award must be submitted yearly concurrently with the annual report.
- (2) Maintenance Program: The recipient's maintenance program must be consistent with sound business practice, the terms of the award, and provide for:
- (i) Disclosure of need for and the performance of preventive maintenance,
  - (ii) Disclosure and reporting of need for capital type rehabilitation, and
  - (iii) Recording of work accomplished under the program:
    - (A) Preventive maintenance - Preventive maintenance is maintenance generally performed on a regularly scheduled basis to prevent the occurrence of defects and to detect and correct minor defects before they result in serious consequences.
    - (B) Records of maintenance - The recipient's maintenance program must provide for records sufficient to disclose the maintenance actions performed and deficiencies discovered as a result of inspections.
    - (C) A report of status of maintenance of cooperating country property must be submitted annually concurrently with the annual report.

## d. Risk of Loss:

- (1) The recipient is not liable for any loss of or damage to the cooperating country property, or for expenses incidental to such loss or damage except that the recipient is responsible for any such loss or damage (including expenses incidental thereto):
- (i) Which results from willful misconduct or lack of good faith on the part of any of the recipient's directors or officers, or on the part of any of its managers, superintendents, or other equivalent representatives, who have supervision or direction of all or substantially all of the recipient's business, or all or substantially all of the recipient's operation at any one plant, laboratory, or separate location in which this award is being performed;
  - (ii) Which results from a failure on the part of the recipient, due to the willful misconduct or lack of good faith on the part of any of its directors, officers, or other representatives mentioned in (i) above:
    - (A) To maintain and administer, in accordance with sound business practice, the program for maintenance, repair, protection, and preservation of cooperating country property as required by (i) above; or
    - (B) To take all reasonable steps to comply with any appropriate written directions of the Agreement Officer under b. above;
  - (iii) For which the recipient is otherwise responsible under the express terms designated in the schedule of this award;
  - (iv) Which results from a risk expressly required to be insured under some other provision of this award, but only to the extent of the insurance so required to be procured and maintained, or to the extent of insurance actually procured and maintained, whichever is greater; or
  - (v) Which results from a risk which is in fact covered by insurance or for which the grantee is otherwise reimbursed, but only to the extent of such insurance or reimbursement;
  - (vi) Provided, that, if more than one of the above exceptions is applicable in any case, the recipient's liability under any one exception is not limited by any other exception.
- (2) The recipient must not be reimbursed for, and must not include as an item

of overhead, the cost of insurance, or any provision for a reserve, covering the risk of loss of or damage to the cooperating country property, except to the extent that USAID may have required the recipient to carry such insurance under any other provision of this award.

- (3) Upon the happening of loss or destruction of or damage to the cooperating country property, the recipient must notify the Agreement Officer thereof, must take all reasonable steps to protect the cooperating country property from further damage, separate the damaged and undamaged cooperating country property, put all the cooperating country property in the best possible order, and furnish to the Agreement Officer a statement of:
    - (i) The lost, destroyed, or damaged cooperating country property;
    - (ii) The time and origin of the loss, destruction, or damage;
    - (iii) All known interests in commingled property of which the cooperating country property is a part; and
    - (iv) The insurance, if any, covering any part of or interest in such commingled property.
  - (4) The recipient must make repairs and renovations of the damaged cooperating country property or take such other action as the Agreement Officer directs.
  - (5) In the event the recipient is indemnified, reimbursed, or otherwise compensated for any loss or destruction of or damage to the cooperating country property, it must use the proceeds to repair, renovate or replace the cooperating country property involved, or must credit such proceeds against the cost of the work covered by the award, or must otherwise reimburse USAID, as directed by the Agreement Officer. The recipient must do nothing to prejudice USAID's right to recover against third parties for any such loss, destruction, or damage, and upon the request of the Agreement Officer, must, at the Government's expense, furnish to USAID all reasonable assistance and cooperation (including assistance in the prosecution of suits and the execution of instruments or assignments in favor of the Government) in obtaining recovery.
- e. Access: USAID, and any persons designated by it, must at all reasonable times have access to the premises wherein any cooperating country property is located, for the purpose of inspecting the cooperating country property.
  - f. Final Accounting and Disposition of Cooperating Country Property: Within 90 days after completion of this award, or at such other date as may be fixed by the Agreement Officer, the recipient must submit to the Agreement Officer an

inventory schedule covering all items of equipment, materials and supplies under the recipient's custody, title to which is in the cooperating country or public or private agency designated by the cooperating country, which have not been consumed in the performance of this award. The recipient must also indicate what disposition has been made of such property.

- g. Communications: All communications issued pursuant to this provision must be in writing.

[END OF PROVISION]

## **RAA10. COST SHARING (MATCHING) (FEBRUARY 2012)**

**APPLICABILITY:** *This provision, along with 2 CFR 200 and 2 CFR 700, is applicable when the recipient has agreed or is required to cost share or provide a matching share.*

### **COST SHARING (MATCHING) (FEBRUARY 2012)**

- a. If at the end of any funding period, the recipient has expended an amount of non-Federal funds less than the agreed upon amount or percentage of total expenditures, the Agreement Officer may apply the difference to reduce the amount of USAID incremental funding in the following funding period. If the award has expired or has been terminated, the Agreement Officer may require the recipient to refund the difference to USAID.
- b. The source and nationality requirements and the restricted goods provision established in the Standard Provision entitled "USAID Eligibility Rules for Goods and Services" do not apply to cost sharing (matching) expenditures.

[END OF PROVISION]

## **RAA11. PROHIBITION OF ASSISTANCE TO DRUG TRAFFICKERS (JUNE 1999)**

**APPLICABILITY:** *This provision is applicable where performance of the award will take place in "Covered" Countries, as described in ADS 206.*

### **PROHIBITION OF ASSISTANCE TO DRUG TRAFFICKERS (JUNE 1999)**

- a. USAID reserves the right to terminate assistance to, or take other appropriate measures with respect to, any participant approved by USAID who is found to have been convicted of a narcotics offense or to have been engaged in drug trafficking as defined in 22 CFR 140.

- b.
- (1) For any loan over \$1,000 made under this agreement, the recipient must insert a clause in the loan agreement stating that the loan is subject to immediate cancellation, acceleration, recall, or refund by the recipient if the borrower or a key individual of a borrower is found to have been convicted of a narcotics offense or to have been engaged in drug trafficking as defined in 22 CFR 140.
  - (2) Upon notice by USAID of a determination under section (1) and at USAID's option, the recipient agrees to immediately cancel, accelerate, or recall the loan, including refund in full of the outstanding balance. USAID reserves the right to have the loan refund returned to USAID.
- c.
- (1) The recipient agrees not to disburse, or sign documents committing the recipient to disburse, funds to a subrecipient designated by USAID ("Designated Subrecipient") until advised by USAID that: (i) any United States Government review of the Designated Subrecipient and its key individuals has been completed; (ii) any related certifications have been obtained; and (iii) the assistance to the Designated Subrecipient has been approved. Designation means that the subrecipient has been unilaterally selected by USAID as the subrecipient. USAID approval of a subrecipient, selected by another party, or joint selection by USAID and another party is not designation.
  - (2) The recipient must insert the following clause, or its substance, in its agreement with the Designated Subrecipient:

*“The recipient reserves the right to terminate this [Agreement/Contract] or take other appropriate measures if the [Subrecipient] or a key individual of the [Subrecipient] is found to have been convicted of a narcotic offense or to have been engaged in drug trafficking as defined in 22 CFR 140.”*

[END OF PROVISION]

## **RAA12. INVESTMENT PROMOTION (NOVEMBER 2003)**

**APPLICABILITY:** *The following clause is required for grants and cooperative agreements when the program includes gray-area activities or investment-related activities where specific activities are not identified at the time of obligation but could be for investment-related activities, as described in ADS 225 (see 225.3.1.8).*

### **INVESTMENT PROMOTION (NOVEMBER 2003)**

- a. Except as specifically set forth in this award or otherwise authorized by USAID in

writing, no funds or other support provided hereunder may be used for any activity that involves investment promotion in a foreign country.

- b. In the event the recipient is requested or wishes to provide assistance in the above area or requires clarification from USAID as to whether the activity would be consistent with the limitation set forth above, the recipient must notify the Agreement Officer and provide a detailed description of the proposed activity. The recipient must not proceed with the activity until advised by USAID that it may do so.
- c. The recipient must ensure that its employees and subrecipients and contractors providing investment promotion services hereunder are made aware of the restrictions set forth in this clause and must include this clause in all contracts and other subawards and contracts entered into hereunder.

[END OF PROVISION]

### **RAA13. REPORTING HOST GOVERNMENT TAXES (DECEMBER 2014)**

**APPLICABILITY:** *This provision is applicable to all USAID agreements that obligate or subobligate FY 2003 or later funds except for agreements funded with Operating Expense, Pub. L. 480 funds, or trust funds, or agreements where there will be no commodity transactions in a foreign country over the amount of \$500. Please insert address and point of contact at the Embassy, Mission, or M/CFO/CMP as appropriate under section (b) of this provision.*

#### **REPORTING HOST GOVERNMENT TAXES (JUNE 2012)**

- a. By April 16 of each year, the recipient must submit a report containing:
  - (1) Contractor/recipient name.
  - (2) Contact name with phone, fax and e-mail.
  - (3) Agreement number(s).
  - (4) The total amount of value-added taxes and customs duties (but not sales taxes) assessed by the host government (or any entity thereof) on purchases in excess of \$500 per transaction of supplies, materials, goods or equipment, during the 12 months ending on the preceding September 30, using funds provided under this contract/agreement.
  - (5) Any reimbursements received by April 1 of the current year on value-added taxes and customs duties reported in (iv).

- (6) Reports are required even if the recipient did not pay any taxes or receive any reimbursements during the reporting period.
  - (7) Cumulative reports may be provided if the recipient is implementing more than one program in a foreign country.
- b. Submit the reports to: [insert address and point of contact at the Embassy, Mission, or M/CFO/CMP as appropriate, may include an optional “with a copy to”].
  - c. Host government taxes are not allowable where the Agreement Officer provides the necessary means to the recipient to obtain an exemption or refund of such taxes, and the recipient fails to take reasonable steps to obtain such exemption or refund. Otherwise, taxes are allowable in accordance with the Standard Provision, “Allowable Costs,” and must be reported as required in this provision.
  - d. The recipient must include this reporting requirement in all applicable subawards and contracts.

[END OF PROVISION]

#### **RAA14. FOREIGN GOVERNMENT DELEGATIONS TO INTERNATIONAL CONFERENCES (JUNE 2012)**

**APPLICABILITY:** *Include this provision in agreements funded from the following accounts:*

- *Development Assistance, including assistance for sub-Saharan Africa,*
- *Global Health Programs, and*
- *Micro and Small Enterprise Development Program Account.*

*Further information found in the Mandatory Reference for ADS 303, “Guidance on Funding Foreign Government Delegations to International Conferences,”*

*(<http://www.usaid.gov/ads/policy/300/350maa>).*

#### **FOREIGN GOVERNMENT DELEGATIONS TO INTERNATIONAL CONFERENCES (JUNE 2012)**

- a. U.S. Government funds under this award must not be used to finance the travel, per diem, hotel expenses, meals, conference fees or other conference costs for any member of a foreign government’s delegation to an international conference sponsored by a multilateral organization, as defined below, unless approved by the Agreement Officer in writing.
- b. Definitions:



- (1) A foreign government delegation is appointed by the national government (including ministries and agencies but excluding local, state and provincial entities) to act on behalf of the appointing authority at the international conference. A conference participant is a delegate for the purposes of this provision, only when there is an appointment or designation that the individual is authorized to officially represent the government or agency. A delegate may be a private citizen.
- (2) An international conference is a meeting where there is an agenda, an organizational structure, and delegations from countries other than the conference location, in which country delegations participate through discussion, votes, etc.
- (3) A multilateral organization is an organization established by international agreement and whose governing body is composed principally of foreign governments or other multilateral organizations.

[END OF PROVISION]

#### **RAA15. CONSCIENCE CLAUSE IMPLEMENTATION (ASSISTANCE) (FEBRUARY 2012)**

**APPLICABILITY:** *This provision must be included in any new assistance award or amendment to an existing award (if not already incorporated into the agreement) obligating FY04 or later funds made available for HIV/AIDS activities, regardless of the program account. Further guidance is found in AAPD 14-04, Section 2.D.*

#### **CONSCIENCE CLAUSE IMPLEMENTATION (ASSISTANCE) (FEBRUARY 2012)**

An organization, including a faith-based organization, that is otherwise eligible to receive funds under this agreement for HIV/AIDS prevention, treatment, or care—

- (a) Shall not be required, as a condition of receiving such assistance—
  - (1) To endorse or utilize a multisectoral or comprehensive approach to combating HIV/AIDS; or
  - (2) To endorse, utilize, make a referral to, become integrated with, or otherwise participate in any program or activity to which the organization has a religious or moral objection; and
- (b) Shall not be discriminated against in the solicitation or issuance of grants, contracts, or cooperative agreements for refusing to meet any requirement described in paragraph (a) above.

[END OF PROVISION]

**RAA16. CONDOMS (ASSISTANCE) (SEPTEMBER 2014)**

**APPLICABILITY:** *This provision must be included in any new solicitations and any new assistance award or amendment to an existing award obligating or intending to obligate (in the case of solicitations) FY04 or later funds made available for HIV/AIDS activities, regardless of the program account.*

**CONDOMS (ASSISTANCE) (SEPTEMBER 2014)**

Information provided about the use of condoms as part of projects or activities that are funded under this agreement shall be medically accurate and shall include the public health benefits and failure rates of such use and shall be consistent with USAID's fact sheet entitled "USAID HIV/STI Prevention and Condoms". This fact sheet may be accessed at:

<http://www.usaid.gov/sites/default/files/documents/1864/CondomSTIIssueBrief.pdf>.

The prime recipient must flow this provision down in all subawards, procurement contracts, or subcontracts for HIV/AIDS activities.

[END OF PROVISION]

**RAA17. PROHIBITION ON THE PROMOTION OR ADVOCACY OF THE LEGALIZATION OR PRACTICE OF PROSTITUTION OR SEX TRAFFICKING (ASSISTANCE) (SEPTEMBER 2014)**

**APPLICABILITY:** *This provision must be included in any new solicitations and any new assistance award or amendment to an existing award obligating or intending to obligate (in the case of solicitations) FY04 or later funds made available for HIV/AIDS activities, regardless of the program account. Further guidance is found in AAPD 14-04, Section 2.E.*

**PROHIBITION ON THE PROMOTION OR ADVOCACY OF THE LEGALIZATION OR PRACTICE OF PROSTITUTION OR SEX TRAFFICKING (ASSISTANCE) (SEPTEMBER 2014)**

- (a) The U.S. Government is opposed to prostitution and related activities, which are inherently harmful and dehumanizing, and contribute to the phenomenon of trafficking in persons. None of the funds made available under this agreement may be used to promote or advocate the legalization or practice of prostitution or sex trafficking. Nothing in the preceding sentence shall be construed to preclude the provision to individuals of palliative care, treatment, or post-exposure

pharmaceutical prophylaxis, and necessary pharmaceuticals and commodities, including test kits, condoms, and, when proven effective, microbicides.

- (b)(1) Except as provided in (b)(2), by accepting this award or any subaward, a non-governmental organization or public international organization awardee/subawardee agrees that it is opposed to the practices of prostitution and sex trafficking.
- (b)(2) The following organizations are exempt from (b)(1):
- (i) the Global Fund to Fight AIDS, Tuberculosis and Malaria; the World Health Organization; the International AIDS Vaccine Initiative; and any United Nations agency.
  - (ii) U.S. non-governmental organization recipients/subrecipients and contractors/subcontractors.
  - (iii) Non-U.S. contractors and subcontractors if the contract or subcontract is for commercial items and services as defined in FAR 2.101, such as pharmaceuticals, medical supplies, logistics support, data management, and freight forwarding.
- (b)(3) Notwithstanding section (b)(2)(iii), not exempt from (b)(1) are non-U.S. recipients, subrecipients, contractors, and subcontractors that implement HIV/AIDS programs under this assistance award, any subaward, or procurement contract or subcontract by:
- (i) Providing supplies or services directly to the final populations receiving such supplies or services in host countries;
  - (ii) Providing technical assistance and training directly to host country individuals or entities on the provision of supplies or services to the final populations receiving such supplies and services; or
  - (iii) Providing the types of services listed in FAR 37.203(b)(1)-(6) that involve giving advice about substantive policies of a recipient, giving advice regarding the activities referenced in (i) and (ii), or making decisions or functioning in a recipient's chain of command (e.g., providing managerial or supervisory services approving financial transactions, personnel actions).

- (c) The following definitions apply for purposes of this provision:

“Commercial sex act” means any sex act on account of which anything of value is given to or received by any person.

“Prostitution” means procuring or providing any commercial sex act and the

“practice of prostitution” has the same meaning.

“Sex trafficking” means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act (22 U.S.C. 7102(9)).

- (d) The recipient must insert this provision, which is a standard provision, in all subawards, procurement contracts or subcontracts for HIV/AIDS activities.
- (e) This provision includes express terms and conditions of the award and any violation of it shall be grounds for unilateral termination of the award by USAID prior to the end of its term.

[End of Provision]

## **RAA18. USAID DISABILITY POLICY - ASSISTANCE (DECEMBER 2004)**

***APPLICABILITY:*** *This provision must be included in solicitations and in awards.*

### **USAID DISABILITY POLICY - ASSISTANCE (DECEMBER 2004)**

a. The objectives of the USAID Disability Policy are (1) to enhance the attainment of United States foreign assistance program goals by promoting the participation and equalization of opportunities of individuals with disabilities in USAID policy, country and sector strategies, activity designs and implementation; (2) to increase awareness of issues of people with disabilities both within USAID programs and in host countries; (3) 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; and (4) to support international advocacy for people with disabilities.

b. USAID therefore requires that the recipient not discriminate against people with disabilities in the implementation of USAID funded programs and that it make every effort to comply with the objectives of the USAID Disability Policy in performing the program under this grant or cooperative agreement. To that end and to the extent it can accomplish this goal within the scope of the program objectives, the recipient should demonstrate a comprehensive and consistent approach for including men, women, and children with disabilities.

[END OF PROVISION]

## **RAA19. STANDARDS FOR ACCESSIBILITY FOR THE DISABLED IN USAID ASSISTANCE AWARDS INVOLVING CONSTRUCTION**

**(SEPTEMBER 2004)**

**APPLICABILITY:** *This provision must be included in solicitations and in awards involving construction.*

**STANDARDS FOR ACCESSIBILITY FOR THE DISABLED IN USAID ASSISTANCE AWARDS INVOLVING CONSTRUCTION (SEPTEMBER 2004)**

- 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 Web site: [pdf.usaid.gov/pdf\\_docs/PDABQ631.pdf](http://pdf.usaid.gov/pdf_docs/PDABQ631.pdf).
- b. USAID requires the recipient 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 recipient 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 will 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 the usability of the structure will comply with the above standards for accessibility unless the recipient obtains the Agreement 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, reroofing, painting or wall papering, 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]

## **RAA20. STATEMENT FOR IMPLEMENTERS OF ANTI-TRAFFICKING ACTIVITIES ON LACK OF SUPPORT FOR PROSTITUTION (JUNE 2012)**

**Applicability:** *This provision must be included in any grant or cooperative agreement that*

- (1) *uses funds made available to carry out the Trafficking Victims Protection Act of 2000, Division A of P.L. 106-386; and*
- (2) *covers a program that targets victims of severe forms of trafficking in persons (as defined below) and provides services to individuals while they are still engaged in activities that resulted from such victims being trafficked.*

*“Severe forms of trafficking in persons” means*

- (1) *sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or*
- (2) *the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.*

## **STATEMENT FOR IMPLEMENTERS OF ANTI-TRAFFICKING ACTIVITIES ON LACK OF SUPPORT FOR PROSTITUTION (JUNE 2012)**

By accepting this award, the recipient hereby states that it does not promote, support, or advocate the legalization or practice of prostitution. This statement may be true by virtue of the organization’s lack of any policy regarding the issue.

[END OF PROVISION]

## **RAA21. ELIGIBILITY OF SUBRECIPIENTS OF ANTI-TRAFFICKING FUNDS (JUNE 2012)**

**APPLICABILITY:** *This provision must be included in any award that uses funds made available to carry out the Trafficking Victims Protection Act of 2000, Division A of P.L. 106-386, for a program that targets victims of severe forms of trafficking in persons. “Severe forms of trafficking in persons” means*

- (1) *sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or*
- (2) *the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.*

### **ELIGIBILITY OF SUBRECIPIENTS OF ANTI-TRAFFICKING FUNDS (JUNE 2012)**

The recipient must not provide funds made available to carry out this award to any organization that has not stated in either a grant application, a grant agreement, or both, that it does not promote, support, or advocate the legalization or practice of prostitution. Such a statement is not required, however, if the sub-recipient organization provides services to individuals solely after they are no longer engaged in activities that resulted from such victims being trafficked. If required, the sub-recipient organization’s statement may be true by virtue of the organization’s lack of any policy regarding the issue.

[END OF PROVISION]

## **RAA22. PROHIBITION ON THE USE OF ANTI-TRAFFICKING FUNDS TO PROMOTE, SUPPORT, OR ADVOCATE FOR THE LEGALIZATION OR PRACTICE OF PROSTITUTION (JUNE 2012)**

**APPLICABILITY:** *This provision must be included in any award that uses funds made available specifically under the Trafficking Victims Protection Act of 2000, Division A of P.L. 106-386.*

### **PROHIBITION ON THE USE OF ANTI-TRAFFICKING FUNDS TO PROMOTE, SUPPORT, OR ADVOCATE FOR THE LEGALIZATION OR PRACTICE OF PROSTITUTION (JUNE 2012)**

None of the funds made available under this award may be used to promote, support, or advocate the legalization or practice of prostitution. However, this prohibition does not preclude assistance designed to ameliorate the suffering of, or health risks to, victims while they are being trafficked or after they are out of the situation that resulted in such victims being trafficked. The recipient must insert this provision in all subawards under this award.

[END OF PROVISION]

## **RAA23. UNIVERSAL IDENTIFIER AND SYSTEM FOR AWARD MANAGEMENT (NOVEMBER 2020)**

**APPLICABILITY:** *This provision is required in accordance with 2 CFR 25, Universal Identifier and System for Award Management. Agreement Officers (AOs) must include this provision in all assistance solicitations and all awards, unless the AO exempts an organization from compliance with the provision under one of the following exceptions, from paragraph d. below:*

*Exceptions. The requirements of this provision to obtain a Unique Entity Identifier and maintain a current registration in the System for Award Management (SAM) do not apply, at the prime award or subaward level, to:*

*(1) Awards to individuals*

*(2) Awards less than \$25,000, with no anticipated subawards, to foreign organizations to be performed outside the United States (based on a USAID determination)*

*(3) Awards where the AO determines, in writing, that the Agency must protect entity information from disclosure due to national security or foreign policy interests of the United States or that these requirements would cause personal safety concerns.*

## **UNIVERSAL IDENTIFIER AND SYSTEM FOR AWARD MANAGEMENT (NOVEMBER 2020)**

- a. Requirement for System for Award Management (SAM).** Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain current information in the SAM. This includes information on your immediate and highest level owner and subsidiaries, as well as on all of your predecessors that have been awarded a Federal contract or Federal financial assistance within the last three years, if applicable, until you submit the final financial report required under this Federal award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently, if required by



changes in your information or another Federal award term.

**b. Requirement for Unique Entity Identifier.** If you are authorized to make subawards under this Federal award, you:

- (1) Must notify potential subrecipients that no entity (see definition in paragraph c. of this award term) may receive a subaward from you until the entity has provided its Unique Entity Identifier to you.
- (2) May not make a subaward to an entity unless the entity has provided its Unique Entity Identifier to you. Subrecipients are not required to obtain an active SAM registration but must obtain a Unique Entity Identifier.

**c. Definitions.** For purposes of this term:

- (1) System for Award Management (SAM) means the Federal repository into which a recipient must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM Internet site (currently at <https://www.sam.gov>).
- (2) Unique Entity Identifier means the identifier assigned by SAM to uniquely identify business entities.
- (3) Entity includes all non-Federal entities as defined in 2 CFR 200.1 and all of the following, for purposes of this part:
  - a. A foreign organization;
  - b. A foreign public entity;
  - c. A domestic for-profit organization;
  - d. A domestic or foreign for-profit organization; and
  - e. A Federal agency.
- (4) Subaward has the meaning given in 2 CFR 200.1.
- (5) Subrecipient has the meaning given in 2 CFR 200.1.

**ADDENDUM (NOVEMBER 2020):**

**d. Exceptions.** The requirements of this provision to obtain a Unique Entity Identifier and maintain a current registration in the SAM do not apply, at the prime award or subaward level, to:

- (1) Awards to individuals
- (2) Awards less than \$25,000, with no anticipated subawards, to foreign

organizations to be performed outside the United States (based on a USAID determination)

- (3) Awards where the Agreement Officer determines, in writing, that the Agency must protect entity information from disclosure due to national security or foreign policy interests of the United States or that these requirements would cause personal safety concerns.

e. This provision does not need to be included in subawards.

[END OF PROVISION]

## **RAA24. REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION (NOVEMBER 2020)**

**APPLICABILITY:** *This provision is required in accordance with 2 CFR 170, Award Term for Reporting Subawards and Executive Compensation. AOs must include this provision in all assistance solicitations and all awards expected to equal or exceed \$30,000, unless an exemption applies under paragraph d. of the provision or the exemptions listed below in this applicability statement. If the AO determines that an exemption applies, the AO must provide guidance to the recipient on reporting with generic information.*

### **Exemptions.**

(1) *The requirements to report under this provision do not apply to:*

- (i) *Awards to individuals*
- (ii) *Awards less than \$30,000*

(2) *When the AO determines, in writing, that these requirements would cause personal safety concerns, reporting under this provision can be accomplished using generic information.*

## **REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION (NOVEMBER 2020)**

### **a. Reporting of first-tier subawards.**

- (1) **Applicability.** Unless you are exempt as provided in paragraph d. of this award term, you must report each action that equals or exceeds \$30,000 in Federal funds for a subaward to a non-Federal entity or Federal agency (see definitions in paragraph e. of this award term).
- (2) **Where and when to report.**

- (i) The non-Federal entity or Federal agency must report each obligating action described in paragraph a.(1) of this award term to [www.fsrs.gov](http://www.fsrs.gov).
  - (ii) For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
- (3) What to report. You must report the information about each obligating action that the submission instructions posted at [www.fsrs.gov](http://www.fsrs.gov) specify.

**b. Reporting total compensation of recipient executives for non-Federal entities.**

- (1) Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if –
- (i) The total Federal funding authorized to date under this Federal award equals or exceeds \$30,000 as defined in 2 CFR 170.320;
  - (ii) In the preceding fiscal year, you received—
    - (A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
    - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
  - (iii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at [www.sec.gov/answers/execomp.htm](http://www.sec.gov/answers/execomp.htm).)
- (2) Where and when to report. You must report executive total compensation described in paragraph b.(1) of this award term:

- (i) As part of your registration profile at [www.sam.gov](http://www.sam.gov).
- (ii) By the end of the month following the month in which this award is made, and annually thereafter.

**c. Reporting of Total Compensation of Subrecipient Executives.**

- (1) Applicability and what to report. Unless you are exempt as provided in paragraph d. of this award term, for each first-tier non-Federal entity subrecipient under this award, you must report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—
  - (i) In the subrecipient's preceding fiscal year, the subrecipient received—
    - (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
    - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
  - (ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at [www.sec.gov/answers/execomp.htm](http://www.sec.gov/answers/execomp.htm).)
- (2) Where and when to report. You must report subrecipient executive total compensation described in paragraph c.(1) of this award term:
  - (i) To the recipient.
  - (ii) By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (for example, between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of

that year.

**d. Exemptions.**

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

- (1) Subawards, and
- (2) The total compensation of the five most highly compensated executives of any subrecipient.

**e. Definitions.**

For purposes of this award term:

- (1) Federal Agency means a Federal agency as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f).
- (2) Non-Federal entity means all of the following, as defined in 2 CFR 25:
  - (i) A governmental organization, which is a State, local government, or Indian tribe;
  - (ii) A foreign public entity;
  - (iii) A domestic or foreign nonprofit organization; and
  - (iv) A domestic or foreign for-profit organization.
- (3) Executive means officers, managing partners, or any other employees in management positions.
- (4) Subaward:
  - (i) This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
  - (ii) The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200.331).
  - (iii) A subaward may be provided through any legal agreement,

including an agreement that you or a subrecipient considers a contract.

- (5) Subrecipient means a non-Federal entity or Federal agency that:
- (i) Receives a subaward from you (the recipient) under this award; and
  - (ii) Is accountable to you for the use of the Federal funds provided by the subaward.
- (6) Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
- (i) Salary and bonus.
  - (ii) Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
  - (iii) Earnings for services under nonequity incentive plans. This does not include group life, health, hospitalization, or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
  - (iv) Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
  - (v) Above-market earnings on deferred compensation which is not tax-qualified.
  - (vi) Other compensation, if the aggregate value of all such other compensation (for example, severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

[END OF PROVISION]

## **RAA25. PATENT REPORTING PROCEDURES (NOVEMBER 2020)**

**APPLICABILITY:** *This provision is applicable whenever the agreement finances*

*research activities, or patentable processes or practices.)*

### **PATENT REPORTING PROCEDURES ( NOVEMBER 2020)**

As incorporated by 2 CFR 200.315 and the standard provision “APPLICABILITY OF 2 CFR 200 and 2 CFR 700,” the clause at 37 CFR 401.14 (“Standard Patent Rights”) is incorporated by reference into this award as if set forth in full text. The recipient must use the National Institutes of Health EDISON Patent Reporting and Tracking system (<http://www.iedison.gov>) to fulfill its disclosure obligations under 37 CFR 401.14(c)(1). The recipient must also submit reports on utilization of subject inventions annually to the Agreement Officer’s Representative under 37 CFR 401.14(h), and the last report must be provided within 90 days of the expiration of the agreement.

[END OF PROVISION]

### **RAA26. ACCESS TO USAID FACILITIES AND USAID’S INFORMATION SYSTEMS (AUGUST 2013)**

**APPLICABILITY:** *This provision must be included in solicitations and awards that require the recipient (or recipient employees) to have routine physical access to USAID-controlled facilities in the U.S. (i.e., will need an ID for regular entry to USAID space), or have logical access to USAID’s information systems (i.e., access to AIDNet, Phoenix, GLAAS, etc). Only U.S citizen employees or consultants of a U.S.-based organization may request routine physical access to USAID-controlled facilities or logical access to USAID’s information systems.*

#### **ACCESS TO USAID FACILITIES AND USAID’S INFORMATION SYSTEMS (AUGUST 2013)**

- a. A U.S. citizen or resident alien engaged in the performance of this award as an employee, consultant, or volunteer of a U.S organization may obtain access to USAID facilities or logical access to USAID’s information systems only when and to the extent necessary to carry out this award and in accordance with this provision. The recipient’s employees, consultants, or volunteers who are not U.S. citizen as well as employees, consultants, or volunteers of non-U.S. organizations, irrespective of their citizenship, will not be granted logical access to U.S. Government information technology systems (such as Phoenix, GLAAS, etc.) and must be escorted to use U.S. Government facilities (such as office space).
- b. Before a U.S. citizen or resident alien engaged in the performance of this award as an employee, consultant, or volunteer of the recipient, subrecipient or contractor at any tier may obtain a USAID ID (new or replacement) authorizing the individual routine access to USAID facilities in the United States, or logical access to USAID’s information systems, the individual must provide two forms of

identity source documents in original form. One identity source document must be a valid Federal or State government-issued picture ID. The recipient must contact the USAID Office of Security to obtain the list of acceptable forms of documentation. Submission of these documents, and related background checks, are mandatory in order for the individual to receive a building access ID, and before access will be granted to any of USAID's information systems. All such individuals must physically present these two source documents for identity proofing at their Security Briefing. All individuals provided access under this provision must return any issued building access ID and remote authentication token to USAID custody upon termination of the individual's employment with the recipient or completion of the award, whichever occurs first.

- c. Individuals engaged in the performance of this award as an employee, consultant, or volunteer of the recipient must comply with all applicable Homeland Security Policy Directive-12 (HSPD-12) and Personal Identity Verification (PIV) procedures, as described above, as well as any subsequent USAID or government-wide HSPD-12 and PIV procedures/policies, including any HSPD-12 procedures established by the Office of Security in USAID/Washington.
- d. The recipient is required to include this provision in all subawards and contracts at any tier made to a U.S. organization/company, that require employees or consultants engaged in the performance of this award to have routine physical access to USAID facilities or logical access to USAID's information systems in order to perform this award.

[END OF PROVISION]

## **RAA27. CONTRACT PROVISION FOR DBA INSURANCE UNDER RECIPIENT PROCUREMENTS (DECEMBER 2014)**

**APPLICABILITY:** *The following provision is required when the recipient is expected to procure services to be performed overseas.*

### **DEFENSE BASE ACT (DBA) WORKERS' COMPENSATION INSURANCE FOR PROCUREMENT CONTRACT (DECEMBER 2014)**

All contracts made by the recipient under this award for services to be performed overseas must contain the following provision, as applicable.

Workers' Compensation Insurance (Defense Base Act)

(a) The Contractor must--

(1) Before commencing performance under this contract, establish provisions to provide for the payment of disability compensation and medical benefits to covered employees



and death benefits to their eligible survivors, by purchasing Defense Base Act (DBA) insurance pursuant to the terms of the contract between USAID and USAID's DBA insurance carrier unless the Contractor qualifies as a self-insurer under the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 932) as extended by the Defense Base Act (42 U.S.C. 1651, et seq.), or has an approved retrospective rating agreement for DBA. The Contractor must continue to maintain these provisions to provide such Defense Base Act benefits until contract performance is completed.

(2) If USAID or the Contractor has secured a waiver of DBA coverage in accordance with AIDAR 728.305-70(a) for contractor's employees who are not citizens of, residents of, or hired in the United States, the contractor agrees to provide such employees with worker's compensation benefits as required by the laws of the country in which the employees are working, or by the laws of the employee's native country, whichever offers greater benefits. The Department of Labor has granted partial blanket waivers of DBA coverage applicable to USAID-financed contracts performed in countries listed in the DEFENSE BASE ACT (DBA) WAIVER LIST.

(3) Within ten days of an employee's injury or death or from the date the Contractor has knowledge of the injury or death, submit Form LS-202 (Employee's First Report of Injury or Occupational Illness) to the Department of Labor in accordance with the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 930(a), 20 CFR 702.201 to 702.203).

(4) Pay all compensation due for disability or death within the timeframes required by the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 914, 20 CFR 702.231 and 703.232).

(5) Provide for medical care as required by the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 907, 20 CFR 702.402 and 702.419).

(6) If controverting the right to compensation, submit Form LS-207 (Notice of Controversion of Right to Compensation) to the Department of Labor in accordance with the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 914(d), 20 CFR 702.251).

(7) Immediately upon making the first payment of compensation in any case, submit Form LS-206 (Payment of Compensation Without Award) to the Department of Labor in accordance with the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 914(c), 20 CFR 702.234).

(8) When payments are suspended or when making the final payment, submit Form LS-208 (Notice of Final Payment or Suspension of Compensation Payments) to the Department of Labor in accordance with the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 914 (c) and (g), 20 CFR 702.234 and 702.235).

(9) Adhere to all other provisions of the Longshore and Harbor Workers' Compensation Act as extended by the Defense Base Act, and Department of Labor regulations at 20

CFR Parts 701 to 704.

For additional information on the Longshore and Harbor Workers' Compensation Act requirements see <http://www.dol.gov/owcp/dlhwc/lbdba.htm>.

The Contractor must insert the substance of this clause including this paragraph (c), in all subcontracts to which the Defense Base Act applies.

[END OF PROVISION]

## **RAA28. AWARD TERM AND CONDITION FOR RECIPIENT INTEGRITY AND PERFORMANCE MATTERS (April 2016)**

**APPLICABILITY:** *This provision must be incorporated into awards if the total federal share of the award may include more than \$500,000 over the period of performance.*

### **AWARD TERM AND CONDITION FOR RECIPIENT INTEGRITY AND PERFORMANCE MATTERS (APRIL 2016)**

#### A. Reporting of Matters Related to Recipient Integrity and Performance

##### 1. General Reporting Requirement

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of [Public Law 110-417](#), as amended ([41 U.S.C. 2313](#)). As required by section 3010 of [Public Law 111-212](#), all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

##### 2. Proceedings About Which You Must Report

Submit the information required about each proceeding that:

- a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;

- b. Reached its final disposition during the most recent five year period; and
- c. Is one of the following:
  - (1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
  - (2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
  - (3) An administrative proceeding, as defined in paragraph 5. of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
  - (4) Any other criminal, civil, or administrative proceeding if:
    - (i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;
    - (ii) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
    - (iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

### 3. Reporting Procedures

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

### 4. Reporting Frequency

During any period of time when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

### 5. Definitions

For purposes of this award term and condition:

- a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.
- b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.
- c. Total value of currently active grants, cooperative agreements, and procurement contracts includes—
  - (1) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and
  - (2) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

B. [Reserved]

[END OF PROVISION]

## **RAA29. RESERVED**

## **RAA30. PROGRAM INCOME (AUGUST 2020)**

*APPLICABILITY: This provision is applicable when program income is expected to be earned under this award. The AO must specify in the schedule of the award the approach for use of program income (for example, deduction, addition, or cost-sharing) (see [2 CFR 200.307](#) and [ADS 303.3.10.4](#)).*

### **PROGRAM INCOME (August 2020)**

- a. Program income is gross income earned by the recipient that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance. Program income includes, but is not limited to: income from fees for

services performed; the use or rental of real or personal property acquired under Federal awards; the sale of commodities or items fabricated under a Federal award; license fees and royalties on patents and copyrights; and principal and interest on loans made with Federal award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal statutes, regulations, or the terms and conditions of the Federal award, program income does not include rebates, credits, discounts, or interest earned on any of them.

b. Program income must be used for the purposes, and under the conditions, of the award, to further project objectives, program objectives, or award activities. Program income must be used only for allowable program costs. Interest earned on program income is subject to the same conditions as program income.

c. The recipient must apply the approach for use of program income as specified in the schedule of the award. This may include one of the three approaches listed below (see also [2 CFR 200.307](#)). The recipient must also follow the standards in this provision to account for gross income earned from Federally-supported activities under this award.

- 1) If the deduction approach is used, the recipient must use the program income for current costs, prior to drawdown of USAID funds under the award.
- 2) If the addition approach is used, the total award amount is increased by the amount of program income. If the award anticipates a specific program income amount, any program income in excess of such amount must be deducted from expenditures.
- 3) If the cost sharing approach is used, the amount of the award remains the same. If the award anticipates a specific program income amount, any program income in excess of such amount must be deducted from expenditures.

d. Costs subject to generating program income under this award may be deducted from gross income to calculate program income, provided these costs have not been charged to this award and comply with the standard provision, "Allowable Costs."

e. The recipient must report program income using the [Federal Financial Report, SF-425](#). Program income must be accounted for in the same ratio as USAID's participation in the program. For example, if USAID funded 75 percent of a recipient's program, then the recipient must report 75 percent of any program income earned under the award as "Federal program income earned" on the SF-425.

f. The recipient should continue to use program income earned after the period of the award to further award objectives, but is not subject to Federal requirements governing the disposition of program income earned after the end of the period of performance for the award.

[END OF PROVISION]

## **RAA31. NEVER CONTRACT WITH THE ENEMY (NOVEMBER 2020)**

**APPLICABILITY:** *This provision is required in accordance with 2 CFR 183, Never Contract with the Enemy. AOs must include this provision in all assistance solicitations and all awards expected to exceed \$50,000 and that are performed outside of the United States, including U.S. territories, and that are in support of a contingency operation as defined in 2 CFR 183.35 in which members of the Armed Forces are or may become actively engaged in hostilities.*

### **NEVER CONTRACT WITH THE ENEMY (NOVEMBER 2020)**

#### **1. Prohibition on Providing Funds to the Enemy**

(a) The recipient must—

(1) Exercise due diligence to ensure that none of the funds, including supplies and services, received under this grant or cooperative agreement are provided directly or indirectly (including through subawards or contracts) to a person or entity who is actively opposing the United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, which must be completed through 2 CFR 180.300 prior to issuing a subaward or contract and;

(2) Terminate or void in whole or in part any subaward or contract with a person or entity listed in SAM as a prohibited or restricted source pursuant to subtitle E of Title VIII of the NDAA for FY 2015, unless the Federal awarding agency provides written approval to continue the subaward or contract.

(b) The recipient may include the substance of this clause, including paragraph (a) of this clause, in subawards under this grant or cooperative agreement that have an estimated value over \$50,000 and will be performed outside the United States, including its outlying areas.

(c) The Federal awarding agency has the authority to terminate or void this grant or cooperative agreement, in whole or in part, if the Federal awarding agency becomes aware that the recipient failed to exercise due diligence as required by paragraph (a) of this clause or if the Federal awarding agency becomes aware that any funds received under this grant or cooperative agreement have been provided directly or indirectly to a person or entity who is actively opposing coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

#### **2. Additional Access to Recipient Records**

(a) In addition to any other existing examination-of-records authority, the Federal Government is authorized to examine any records of the recipient and its subawards or contracts to the extent necessary to ensure that funds, including supplies and services, available under this grant or cooperative agreement are not provided, directly or indirectly, to a person or entity that is actively opposing the United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, except for awards awarded by the Department of Defense on or before Dec 19, 2017 that will be performed in the United States Central Command (USCENTCOM) theater of operations.

(b) The substance of this clause, including this paragraph (b), is required to be included in subawards or contracts under this grant or cooperative agreement that have an estimated value over \$50,000 and will be performed outside the United States, including its outlying areas.

[END OF PROVISION]

**[END OF STANDARD PROVISIONS]**

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