Subpart 701.6—Career Development, Contracting Authority, and Responsibilities

Parent topic: PART 701—FEDERAL ACQUISITION REGULATION SYSTEM

701.601 General.

(a) *M/OAA Director.*

(1) Pursuant to the delegations in USAID's Automated Directives System (ADS) Chapter 103, the M/OAA Director is authorized to act as the head of the agency for all purposes described in the Federal Acquisition Regulation (FAR, 48 CFR chapter 1), except for the authority in FAR 6.302-7, 17.602(a), 19.201(c), 27.306(a), and 30.201-5, or where the "head of the agency" authority is expressly not delegable under the FAR or AIDAR. Further, the M/OAA Director is responsible for implementing the procurement-related aspects of the Foreign Assistance Act, Executive Order 11223, the Office of Federal Procurement Policy Act, and other statutory and Executive Branch procurement policies and requirements applicable to USAID operations, including those authorities and responsibilities delegated to the Senior Procurement Executive as specified in the ADS.

(2) The M/OAA Director has specific authority to:

(i) Select and appoint contracting officers and terminate their appointments in accordance with FAR 1.603; and

(ii) Exercise or delegate the authorities identified in FAR subpart 1.4 with regard to deviations from FAR subpart 1.4.

(b) *Heads of contracting activities except the M/OAA Director.* Except as otherwise prescribed, the head of each contracting activity (as defined in 702.170) is responsible for the procurement of supplies and services within the contracting activity under their management authority. The heads of USAID contracting activities are vested with broad authority to carry out the programs and activities for which they are responsible. This includes authority to execute contracts and establish procurement guidance and standards (including delegations, assignments of responsibilities, work-flow procedures, and internal reporting requirements) for their programs and activities, subject to Government-wide and USAID requirements and limitations, such as those found in this section and particularly 701.603-70, the USAID policy regarding the direct-hire status of contracting officers.

(c) *Contracting activity procedures.* A contracting activity may establish procurement guidance, standards, strategies, practices, or procedures to implement its programs and activities. Such guidance, standards, strategies, practices, or procedures must be consistent with government-wide or agency-specific regulations and policies, or, if inconsistent, must be processed as a deviation in accordance with 701.470. A contracting activity may also establish procurement guidance, standards, strategies, practices, or procedures for its programs and activities, which are in the best interest of the Government and which are not specifically addressed in the government-wide or agency-specific regulations and policies, nor prohibited by law, Executive order, or other regulation.

(d) *Limitations.* The authority of heads of contracting activities to execute contracts is limited as follows:

(1) *The Assistant to the Administrator for the Bureau of Humanitarian Assistance (AtA/BHA).*

(i) Authority to execute and modify contracts for immediate disaster relief purposes, including personal services contracts up to $500,000 per transaction.

(ii) Authority to execute simplified acquisitions up to $50,000 for immediate disaster relief purposes, or delegate such authority to qualified individuals in BHA. Such individuals must be selected and appointed in accordance with the requirements in FAR 1.603 and AIDAR 701.603.

(2) *Overseas heads of contracting activities.*

(i) Authority to execute contracts and modifications where the total estimated cost of the contract, including any modifications, does not exceed $1,000,000 (or local currency equivalent) for personal services contracts.

(ii) Authority to execute simplified acquisitions within the threshold defined in FAR 2.101 (or local currency equivalent).

(iii) May delegate the authority for simplified acquisitions up to $50,000 to qualified individuals within that contracting activity. Such individuals must be selected and appointed in accordance with the requirements in FAR 1.603 and AIDAR 701.603.

701.602-1 Authority of contracting officers in resolving audit recommendations.

With the exception of termination settlements subject to part 749, contracting officers have the authority to negotiate and enter into settlements with contractors for costs questioned under audit reports, or to issue a contracting officer's final decision pursuant to applicable dispute resolution procedures (in the event that questioned costs are not settled by negotiated agreement) in accordance with USAID's internal policy. The negotiated settlement or final decision will be final, subject only to a contractor's appeal under the provisions of the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613), or other procedures, as applicable. Internal policy and procedures for resolving audit recommendations are found in ADS series 500 chapters for audits.

701.602-3 Ratification of unauthorized commitments.

(a) [Reserved]

(b) *Policy.*

(1) [Reserved]

(2) In order to maintain management oversight and controls on unauthorized commitments, authority to ratify unauthorized commitments within USAID is reserved to the M/OAA Director.

701.603 Selection, appointment, and termination of appointment of contracting officers.

701.603-70 Designation of contracting officers.

A contracting officer represents the U.S. Government through the exercise of his/her delegated authority to negotiate, sign, and administer contracts on behalf of the U.S. Government. The contracting officer's duties are sensitive, specialized, and responsible. To ensure proper accountability, and to preclude possible security, conflict of interest, or jurisdiction problems, USAID contracting officers must be U.S. citizen direct-hire employees of the U.S. Government. However, Director, Bureau for Management, Office of Acquisition and Assistance (M/OAA Director) may also designate a U.S. Personal Services Contractor (USPSC) or a Cooperating Country National Personal Services Contractor (CCNPSC) as a contracting officer with a specific level of warrant authority. To qualify for a designation as a contracting officer, an individual must meet the requirements in FAR subpart 1.6 and the Agency's applicable warrant program.