PART 704—ADMINISTRATIVE AND INFORMATION MATTERS

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

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Parent topic: SUBCHAPTER A—GENERAL

Subpart 704.4—Safeguarding Classified Information Within Industry

704.404 Contract clauses.

(a) When the contract includes a requirement for the contractor to access classified (“Confidential”, “Secret”, or “Top Secret”), or administratively controlled (“Sensitive But Unclassified”) information, the contracting officer must insert (48 CFR) FAR clause 52.204-2, Security Requirements and (48 CFR) AIDAR clause 752.204-2, Security Requirements, in the solicitation and award.

(b) [Reserved]

Subpart 704.5—Electronic Commerce in Contracting

704.502 Policy.

USAID encourages the use of electronic commerce through USAID's eSign Portal located at DocuSign. The agency head has determined that the eSign Portal is capable of ensuring authentication and confidentiality commensurate with the risk and magnitude of the harm from loss, misuse, or unauthorized access to or modification of the information. USAID uses Login.gov for secure sign in. USAID will accept electronic signatures in connection with contracts, modifications and any other documentation where digital signatures are authorized under the FAR.

Subpart 704.8—Contract Files [Reserved]

Subpart 704.13—Personal Identity Verification

§ 704.1303 Contract clause.

When contract performance requires the contractor—including its employees, volunteers, or subcontractor employees at any tier—to have routine physical access to USAID-controlled facilities or logical access to USAID's information systems, the contracting officer must insert the clause found at FAR 52.204-9 and AIDAR 752.204-72 (“Access to USAID Facilities and USAID's Information Systems”) in the solicitation and contract.

Subpart 704.21—Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment

704.2105 Solicitation provisions and contract clause.

(a)-(c) [Reserved]

(d) *Personal services contracts.* The requirements in paragraphs (a) through (c) of FAR 4.2105 do

not apply to solicitations and contracts for personal services with individuals issued in accordance with appendices D and J of this chapter.

Subpart 704.70—Partner Vetting

Source: 77 FR 8170, Feb. 14, 2012, unless otherwise noted.

704.7001 Scope of subpart.

This subpart prescribes the policies and procedures to apply partner vetting to USAID acquisitions.

704.7002 Definitions.

As used in this subpart—

Key individual means:

(1) Principal officers of the organization's governing body (e.g., chairman, vice chairman, treasurer and secretary of the board of directors or board of trustees);

(2) The principal officer and deputy principal officer of the organization (e.g., executive director, deputy director, president, vice president);

(3) The program manager or chief of party for the USG-financed program; and

(4) Any other person with significant responsibilities for administration of the USG-financed activities or resources, such as key personnel as described in Automated Directives System Chapter 302. Key personnel, whether or not they are employees of the prime contractor, must be vetted.

Vetting official means the USAID employee identified in the solicitation or contract as having responsibility for receiving vetting information, responding to questions about information to be included on the Partner Information Form, coordinating with the USAID Office of Security (SEC), and conveying the vetting determination to each offeror, potential subcontractors subject to vetting, and the contracting officer. The vetting official is not part of the contracting office and has no involvement in the source selection process.

704.7003 Policy.

In the interest of national security, USAID may determine that a particular acquisition is subject to vetting. In that case, USAID will require vetting of all key individuals of offerors, first tier subcontractors, and any other class of subcontracts if identified in the solicitation and resulting contract. When USAID conducts partner vetting, it will not award a contract to any offeror who does not pass vetting.

704.7004 Procedures.

704.7004-1 Preaward requirements.

(a) When USAID determines an acquisition to be subject to vetting, the contracting officer determines the appropriate stage of the acquisition cycle to require offerors to submit the completed USAID Partner Information Form, USAID Form 500-13, to the vetting official identified in the solicitation. The contracting officer must specify in the solicitation the stage at which the offerors will be required to submit the USAID Partner Information Form.

(b) For negotiated procurements using (48 CFR) FAR part 15, this stage will typically be when the contracting officer establishes the competitive range (48 CFR 15.306(c)). However, the contracting officer may determine that vetting is more appropriate at a different stage of the source selection process, such as immediately prior to award, and then require only the apparently successful offeror to submit the completed USAID Partner Information Form.

(c) For Indefinite Delivery contracts under (48 CFR) FAR subpart 16.5, vetting will occur prior to award of the basic contract if the contracting officer anticipates placing orders subject to vetting under that contract. Vetting will also occur before USAID places any orders subject to vetting. The contracting officer will notify awardees of the appropriate timing for vetting in the request for task or delivery order proposals. See (48 CFR) AIDAR subpart 716.5 for vetting procedures for task and delivery orders.

(d) For all other acquisitions, including those under (48 CFR) FAR parts 13 and 14, the contracting officer determines the appropriate time to require potential awardee(s) to submit the completed USAID Partner Information Form to the vetting official.

(e) Source selection proceeds separately from vetting. The source selection authority makes the source selection determination separately from the vetting process and without knowledge of vetting-related information other than that the apparently successful offeror has passed or not passed vetting.

(f) The contracting officer may only award to an offeror who has passed vetting.

704.7004-2 Post award requirements.

(a) For those contracts and task orders the Agency has determined are subject to vetting, the contractor must submit the completed USAID Partner Information Form any time it changes:

(1) Key individuals, and

(2) Subcontractors for which vetting is required.

(b) USAID may vet key individuals of the contractor and any required subcontractors periodically during contract performance using the information already submitted on the Form.

704.7004-3 Subcontracts.

(a) When the prime contract is subject to vetting, vetting is required for key individuals of all subcontracts under that contract for which consent is required under (48 CFR) FAR clause 52.244-2, Subcontracts.

(b) The contracting officer must not consent to a subcontract with any subcontractor subject to vetting until that subcontractor has passed vetting.

(c) Vetting may be required for key individuals of subcontracts at any tier for certain classes of items (supplies and services). The contracting officer must identify these classes of items in the solicitation.

(d) The contractor may instruct prospective subcontractors who are subject to vetting to submit the USAID Partner Information Form to the vetting official as soon as the contractor submits the USAID Partner Information Form for its key individuals.

704.7005 Solicitation provision and contract clause.

(a) The contracting officer will insert the provision at 752.204-70 Partner Vetting Pre-Award Requirements, in all solicitations USAID identifies as subject to vetting.

(b) Except for awards made under FAR part 16, the contracting officer will—

(1) Insert the clause at 752.204-71 Partner Vetting, in all solicitations and contracts USAID identifies as subject to vetting, or

(2) Use the clause with its Alternate I when USAID determines that subcontracts at any tier for certain classes of supplies or services are subject to vetting.

(c) For awards made under FAR part 16, see (48 CFR) AIDAR subpart 716.5.