PART 727—PATENTS, DATA, AND COPYRIGHTS

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.

Source: 72 FR 53163, Sept. 18, 2007, unless otherwise noted.

Subpart 727.3—Patent Rights under Government Contracts

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Parent topic: SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

Subpart 727.3—Patent Rights under Government Contracts

727.303 Contract clause.

Contracting officers must insert the clause at 752.227-70, Patent Reporting Procedures, in all solicitations and contracts that contain the clause at (48 CFR) FAR 52.227-11, Patent Rights—Ownership by the Contractor.

Subpart 727.4—Rights in Data and Copyrights

727.404 Basic rights in data clause.

(a) through (f) [Reserved]

(g) When the contract includes a requirement for the contractor to assign copyright to the Government or another party, the contracting officer must insert (48 CFR) 752.227-14 and/or

include an express limitation or restriction in the contract. USAID contracting officers will assert such a right in limited circumstances in accordance with the principles as stated in (48 CFR) 27.402.

727.409 Solicitation provisions and contract clauses.

(a) When the contracting officer inserts (48 CFR) FAR 52.227-14, and if the release or publication of data first produced in the performance of the contract may be sensitive to U.S. Government relations with the cooperating country, the contracting officer must use the clause at (48 CFR) AIDAR 752.227-14.

(b) through (m) [Reserved]

(n) The prescriptions for provisions and clauses in (48 CFR) FAR 27.409 apply to all USAID contracts regardless of place of performance.

Subpart 727.70—Digital Information Planning, Collection, and Submission Requirements

Source: 89 FR 37960, May 6, 2024, unless otherwise noted.

727.7000 Scope of subpart.

(a) This part prescribes the policies, procedures, and a contract clause pertaining to data and digital information management. It implements the following requirements:

(1) Digital Accountability and Transparency (DATA) Act of 2014;

(2) Foundations for Evidence-Based Policymaking Act (“Evidence Act”) of 2018;

(3) 21st Century Integrated Digital Experience Act (21st Century IDEA Act);

(4) Foreign Aid Transparency and Accountability (FATAA) Act of 2016;

(5) Geospatial Data Act of 2018;

(6) OMB Circular A-130.

(b) [Reserved]

727.7001 Definitions.

As used in this subpart—

Data means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or

management information.

Data asset is a collection of data elements or data sets that may be grouped together.

Data inventory is the first component of a Data Management Plan (DMP). The data inventory is a list of high-value data assets that the contractor anticipates producing during the period of award performance.

Data management plan (DMP) is a tool that guides the identification of anticipated data assets and outlines tasks needed to manage these assets across a full data lifecycle.

Data set is an organized collection of structured data, including data contained in spreadsheets, whether presented in tabular or non-tabular form. For example, a data set may represent a single spreadsheet, an extensible mark-up language (XML) file, a geospatial data file, or an organized collection of these. A data set does not include unstructured data, such as email or instant messages, PDF files, PowerPoint presentations, word processing documents, images, audio files, or collaboration software.

Digital means the coding scheme generally used in computer technology to represent data.

Digital data means quantitative and qualitative programmatic measurements that are entered directly into a computer. Examples include numeric targets established during activity design or implementation; baseline, mid-line, or final measurements created or obtained via field assessments; surveys or interviews; performance monitoring indicators as specified in the Contractor's approved Activity Monitoring, Evaluation, and Learning (AMELP) (see 752.242-71); evaluation results; or perception metrics collected from beneficiaries on the quality and relevance of International Disaster Assistance and Development Assistance.

Digital information is a subset of data and means:

(1) Digital text;

(2) Digital data;

(3) Digital objects; and

(4) Metadata created or obtained with USAID funding supported by this award that are represented, stored, or transmitted in such a way that they are available to a computer program.

Digital method is a means of using computer technology to gather, process, analyze, transmit, store, or otherwise use data and other forms of information.

Digital object includes digital or computer files that are available to a computer program. Examples include digital word processing or PDF documents or forms related to activity design, assessment reports, periodic progress and performance reports, academic research documents, publication manuscripts, evaluations, technical documentation and reports, and other reports, articles and papers prepared by the contractor, whether published or not. Other examples include data sets, spreadsheets, presentations, publication-quality images, audio and video files, communication materials, information products, extensible mark-up language (XML) files, and software, scripts, source code, and algorithms that can be processed by a computer program.

Digital text includes text-based descriptions of programmatic efforts that are entered directly into a

computer, rather than submitted as a digital object.

727.7002 Policy.

(a) It is the policy of USAID to manage data as a strategic asset to inform the planning, design, implementation, monitoring, and evaluation of the Agency's foreign assistance programs. To achieve this, it is also USAID's policy to manage data and digital information across a full life cycle. This life cycle includes the following stages: Govern, Plan, Acquire, Process, Analyze, Curate, and Publish/Share. For more information about the USAID Development Data policy, see ADS Chapter 579 at *https://www.usaid.gov/about-us/agency-policy/series-500/579*. For more information about USAID's Program Cycle policy, see ADS Chapter 201 at *https://www.usaid.gov/about-us/agency-policy/series-200/201*.

(b) In furtherance of this policy, USAID requires that contractors:

(1) Engage in digital information planning, including creating a Data Management Plan (DMP) to identify and plan for the management of data assets that will be produced, furnished, acquired, or collected in a USAID-funded activity.

(2) Use only digital methods and USAID-approved standards, to the extent practicable, to produce, furnish, acquire, or collect information necessary to implement the contract requirements.

(3) Provide documentation of informed consent the contractor receives when obtaining information on individuals.

(4) Submit to USAID digital information produced, furnished, acquired, or collected in performance of a USAID contract at the finest level of granularity employed during contract implementation.

(c) As specified in ADS Chapter 579, USAID implements appropriate controls to restrict data access in a way that balances the potential benefits with any underlying risks to its beneficiaries and contractors.

727.7003 Contract clause.

(a) Insert the clause 752.227-71 in Section H of solicitations and contracts fully or partially funded with program funds exceeding the simplified acquisition threshold. The contracting officer may insert this clause in other USAID contracts if the contracting officer, in consultation with the requiring office, determines that doing so is in the best interest of the Agency.

(b) Insert the clause at 752.227-71, with its Alternate I when the anticipated contract:

(1) Does not collect data;

(2) Implements emergency food assistance under the Food for Peace Act or section 491 of the Foreign Assistance Act of 1961, including for the procurement, transportation, storage, handling and/or distribution of such assistance;

(3) Implements international disaster assistance under section 491 of the Foreign Assistance Act of 1961 or other authorities administered by the Bureau for Humanitarian Assistance; or

(4) Implements activities managed by the Bureau for Conflict Prevention and Stabilization's Office of Transition Initiatives, or is fully or partially funded with the Complex Crises Fund.