PART 731—CONTRACT COST PRINCIPLES AND PROCEDURES

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; and 3 CFR 1979 Comp., p. 435.

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Parent topic: SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

Subpart 731.1—Applicability

731.109 Advance agreements.

Advance agreements on selected costs may be negotiated with USAID contractors by the Bureau for Management, Office of Acquisition and Assistance, Cost Audit Support Division, Overhead and Special Cost and Contract Close-Out Branch (M/OAA/CAS/OCC). Such advance understandings will be applicable to all USAID contracts with that contractor.

Subpart 731.2—Contracts With Commercial Organizations

731.205-6 Compensation for personal services.

(a) *General.* When establishing the workweek for employees overseas the contractor will take local and USAID Mission practice into account and will insure that the workweek is compatible with that of those USAID Mission and Cooperating Country employees with whom the contractor will be working.

(b) *Salaries and wages.* It is USAID policy that if an employee's base salary plus overseas recruitment incentive, if any (see (48 CFR) AIDAR 731.205-70) exceeds the USAID Contractor Salary Threshold (USAID CST), as stated in USAID's Automated Directives System (ADS) Chapter 302 USAID Direct Contracting (available at *http://www.usaid.gov/policy/ads/300/302.pdf*), it will be allowable only if approved in writing by the contracting officer. The contracting officer shall only provide such approval after internal Agency procedures for review/approval of salaries in excess of the USAID CST in ADS 302 have been followed. USAID policies on compensation of third country national or cooperating country national employees are set forth in (48 CFR) AIDAR 722.170.

(d)-(l) [Reserved]

(m) *Fringe benefits.* USAID's policies on certain fringe benefits related to overseas service, including but not limited to leave, holidays, differentials and allowances, etc. are set forth in the appropriate contract clauses in (48 CFR) AIDAR subpart 752.70.

731.205-43 Trade, business, technical and professional activity costs—USAID conference approval requirements.

(a) *Definitions.* As used in this section—

Conference means a seminar, meeting, retreat, symposium, workshop, training activity or other such event that is funded in whole or in part by USAID.

Net conference expense means the total conference expenses excluding: any fees or revenue received by the Agency through the conference, costs to ensure the safety of attending governmental officials, and salary of USAID employees and USAID personal services contractors.

Personal Services Contractor (PSC) means any individual who is awarded a personal services

contract in accordance with AIDAR appendix D or J of this chapter.

Temporary duty (TDY) travel means official travel at least fifty (50) miles from both the traveler's home and duty station for a period exceeding twelve (12) hours.

USAID employee means a USAID direct-hire employee or a direct-hire Federal employee from another U.S. government agency detailed to USAID.

(b) *Prior approval.* USAID policy requires contractors to obtain contracting officer approval of the following, unless an exception in paragraph (c) of the clause at 752.231-72 applies:

(1) A conference funded in whole, or in part, by USAID when ten (10) or more USAID employees or personal services contractors are required to travel on temporary duty status to attend the conference; or

(2) A conference funded in whole, or in part, by USAID when the net conference expense funded by USAID is expected to exceed $100,000, regardless of the number of USAID employees or USAID personal services contractors who will participate in the conference.

(c) *Allowability of cost.* Costs associated with a conference that meets the criteria above, incurred without USAID prior written approval, are unallowable.

(d) *Solicitation provision and contract clause.* Contracting officers must insert the clause at 752.231-72 in all USAID-funded solicitations and contracts anticipated to include a requirement for a USAID-funded conference.

731.205-46 Travel costs.

It is USAID policy to require prior written approval of international travel by the contracting officer, or the contracting officer's representative (COR) if delegated in the Contracting Officer's Representative Designation Letter. See (48 CFR) AIDAR 752.7032 for specific requirements and procedures.

731.205-70 Overseas recruitment incentive.

Note:

The term *employee* as used in this section means an employee who is a U.S. citizen or a U.S. resident alien.)

(a) If a contractor employee serving overseas under a contract does not qualify for the exemption for overseas income provided under section 911 of the U.S. Internal Revenue Code (26 U.S.C. 911), such employee is eligible to receive an overseas recruitment incentive (ORI), to the extent the ORI: Is authorized by the contractor's normal policy and practice; is deemed necessary by the contractor to recruit and retain qualified employees for overseas services; and does not exceed 10% of the base salary of the employee from date of arrival at overseas post to begin assignment to date of departure from post at the end of assignment. ORI is to be paid as a single payment at the end of the employee tour of duty overseas. The contractor shall take all reasonable and prudent steps to ensure that ORI is not paid to any employee who has received the IRS section 911 exemption.

(b) In the event that an employee subsequently receives a section 911 exclusion for any part of the base salary upon which this supplement has been paid, such supplement or appropriate portion thereof shall be reimbursed by the contractor to USAID with interest. The interest shall be calculated at the average U.S. Treasury rate in effect for the period that the contractor or his employee had the funds. Neither the contractor's nor the subcontractor's inability to collect refunds from eligible employees shall be used as a basis to excuse subsequent refunds by the contractor to USAID.

731.205-71 Salary supplements for Host Government employees.

(a) *Definitions.*

(1) A Host Government (HG) employee is a person paid by the HG, occupying an established position, either temporary or permanent, part-time or full-time, within a HG institution.

(2) An HG institution is an organization in which the government owns at least a fifty percent share or receives at least fifty percent of its financial support from the government.

(b) *General.* Salary supplement occurs when payments are made that augment an HG employee's base salary or premiums, overtime, extra payments, incentive payment and allowances for which the HG employee would qualify under HG rules or practices for the performance of his/hers regular duties or work performed during his/hers regular office hours. Per diem, invitational travel, honoraria and payment for work carried out outside of normal working hours are not considered to be salary supplements subject to the provisions in USAID policy referenced in paragraph (c) of this section.

(c) Salary supplements are eligible for USAID financing only when authorized in accordance with USAID policy established in the cable State 119780 dated April 15, 1988 in ADS Chapter 302. If salary supplements have been authorized in a particular case, the contracting officer shall provide written approval to the contractor in order for such costs to be eligible. Any specific requirements or limitations shall be specified in the approval.

(d) Contracting officers shall insert the Clause at 752.231-71 in all contracts in which there is a possibility of the need of HG employees. It should also be inserted in all subsequent subcontracts.

Subpart 731.3—Contracts With Educational Institutions

731.370 Predetermined fixed rates for indirect costs.

Section 635(k) of the Foreign Assistance Act of 1961, as amended, authorizes USAID to use predetermined fixed rates in determining the indirect costs applicable under contracts with educational institutions.

731.371 Compensation for personal services.

(a) *General.* When establishing the workweek for employees overseas the contractor will take local and USAID Mission practice into account and will ensure that the workweek is compatible with that

of those USAID Mission and Cooperating Country employees with whom the contractor will be working.

(b) *Salaries and wages.*

(1) The policies set forth in (48 CFR) AIDAR 731.205-6(b) are also applicable to contracts with a nonprofit organization.

(2) In considering consulting income as a factor when determining allowable salary for service under a contract:

(i) For faculty members working under annual appointments, salary for service under the contract may include the employee's on-campus salary plus “consulting income” (that is, income from employment other than the employee's regular on-campus appointment, excluding business or other activities not connected with the employee's profession) earned during the year preceding employment under the contract.

(ii) For faculty members working under academic year appointments, salary for service under the contract may include the employee's on-campus academic year salary plus “consulting income” as defined above earned during the year proceeding employment under the contract, or salary for service under the contract may be derived by annualizing the academic year salary (in which case “consulting income” may not be included).

(3) USAID policies and compensation of third country national or cooperating country national employees are set forth in (48 CFR) AIDAR 722.170.

731.372 Fringe benefits.

USAID's policies on certain fringe benefits related to overseas service, including but not limited to leave, holidays, differentials and allowances, etc. are set forth in the appropriate contract clauses in (48 CFR) AIDAR 752.70.

731.373 Overseas recruitment incentive.

USAID's policies regarding overseas recruitment incentives are set forth in (48 CFR) AIDAR 731.205-70. These policies are also applicable to contracts with an educational institution.

731.374 Conference approval requirements.

USAID's policies regarding conference approval requirements are set forth in (48 CFR) AIDAR 731.205-43. These policies are also applicable to contracts with educational institutions.

Subpart 731.7—Contracts With Nonprofit Organizations

731.770 Cost principles.

(a) The Bureau for Management, Office of Acquisition and Assistance, Cost Audit Support Division, Overhead and Special Cost and Contract Close-Out Branch (M/OAA/CAS/OCC) provides assistance to the M/OAA Director regarding the application of 2 CFR part 200, subpart E. M/OAA/CAS/OCC is responsible for liaising with other cognizant agencies; authorizing exemptions to subpart E coverage for a nonprofit organization pursuant to 2 CFR 200.401(c); and providing advice and assistance in applying the cost principles.

(b) Prior approval, as used in 2 CFR part 200, means securing the awarding agency's advance written permission to incur costs. Where an item of cost requiring prior approval is included in the award budget, approval of the budget constitutes prior approval of that cost, unless otherwise specified. Accordingly, contract budgets must include one of the following statements:

(1) “Inclusion of any cost in the line item budget of this award does not constitute prior approval of cost items pursuant to 2 CFR part 200”; or

(2) “In accordance with 2 CFR part 200, approval is granted to incur costs for (name specific item or items requiring prior written approval) which are included in the budget of this award.”

731.771 [Reserved]

731.772 Compensation for personal services.

The policies set for in (48 CFR) AIDAR 731.205-6 are also applicable to contracts with a nonprofit organization.

731.773 Independent research and development costs.

The cost principle at FAR 31.205-18 applies to independent research and development costs.

731.774 Overseas recruitment incentive.

USAID's policies regarding overseas recruitment incentives are set forth in (48 CFR) AIDAR 731.205-70. These policies are also applicable to contracts with a nonprofit organization.

731.775 Conference approval requirements.

USAID's policies regarding conference approval requirements are set forth in (48 CFR) AIDAR 731.205-43. These policies are also applicable to contracts with nonprofit organizations.