



# USAID Policy Guidance on Exceptions to Contract Reporting in the Federal Acquisition Regulation Part 4.6

A Mandatory Reference for ADS Chapter 302

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## USAID Policy Guidance on Exceptions to Contract Reporting in the Federal Acquisition Regulation Part 4.6

### **Requirements**

This mandatory reference outlines the three Federal Funding Accountability and Transparency Act (FFATA) requirements, as well as applicable exemptions. The three main requirements relating to FFATA as it relates to offerors, contractors, and subcontractors of USAID acquisition contracts are as follows:

1. **Unique Entity Identifier (FAR 52.204- 6; FAR 52-204-12)** - Prospective contractors must obtain a Unique Entity Identifier to be eligible to receive a contract.
2. **SAM Registration (FAR 52.204-7; FAR 52.204-13)** - Offerors must register in the System for Award Management (SAM) prior to submitting an offer for USAID's consideration. Contractors must maintain an active SAM registration while they have an active award. Subcontractors are not required to register in SAM.
3. **Reporting Executive Compensation Information and First-Tier Subcontract Awards (FAR 52.204-10)** - Contractors must report certain information to the [USASpending.gov Web site](http://USASpending.gov). Contractors must report their first tier subcontracts of \$30,000 or more. In addition, contractors must report the compensation they and their first-tier subcontractors pay to each organization's top five executives when the total federal funding authorized to date under its award is \$30,000 or more and all of the following apply (in the contractor's or subcontractor's preceding fiscal year):
  - The contractor or first-tier subcontractor received 80 percent or more of its annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance;
  - The contractor or first-tier subcontractor received \$25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance within the contractor's or subcontractor's previous year; and
  - The public does not have access to information about the compensation of the executives of the contractor or first-tier subcontractor through periodic reports.

### **Applicability on the Use of a Generic Entity Identifier**

Contract reporting for certain awards can use a generic entity identifier in lieu of the requirement for reporting using an organization's Unique Entity Identifier in the following cases:

Applicability	Unique Entity Identifier
<p>1. Contracts ≤\$30,000 to an individual outside the U.S. for work outside the U.S. (see <a href="#">FAR 4.605(c)(2)(i)</a>).</p>	<p>Authorized generic entity identifiers may be used to report contracts.</p>
<p>2. A contract action ≤\$30,000 to a student; a dependent of a veteran, FS officer, or military member assigned outside the U.S.; or located outside the U.S. for work outside the U.S. and the contractor does not have a unique entity identifier (see <a href="#">FAR 4.605(c)(2)(ii)</a>).</p>	<p>Authorized generic entity identifiers may be used to report contracts.</p>
<p>3. Safety/Security Concerns: Contracts when specific public identification of the contracted party could endanger the mission, contractor, or recipients of the acquired goods or services (safety/security concerns) (see <a href="#">FAR 4.605(c)(2)(iii)</a>).</p>	<p>Authorized generic entity identifiers may be used to report contracts.</p>

When a generic entity identifier is used in lieu of the requirement for reporting using an organization’s Unique Entity identifier, the Contracting Officer (CO) must insert the provision at [FAR 52.204-6](#), Unique Entity Identifier, as required by [FAR 4.607\(b\)](#).

**Requirement for SAM Registration**

As stated in [FAR 4.1102\(a\)](#), prospective contractors must be registered in the SAM database prior to award of a contract or agreement, except for:

- Purchases under the micro-purchase threshold that use a government-wide commercial purchase card as both the purchasing and payment mechanism, as opposed to using the purchase card for payment only;
- Classified contracts when registration in the SAM database, or use of SAM data, could compromise the safeguarding of classified information or national security;
- Contracts awarded by:
  - Deployed Contracting Officers in the course of military operations, including, but not limited to, contingency operations or humanitarian or peacekeeping operations;
  - Contracting Officers located outside the United States and its outlying areas for work to be performed in support of diplomatic or developmental operations, including those performed in support of foreign assistance programs overseas, in an area that has been designated by the Department of State as a danger pay post; or

- Contracting Officers in the conduct of emergency operations, such as responses to natural or environmental disasters or national or civil emergencies.
- Contracts with individuals for performance outside the U.S. and its outlying areas;
- Contracts to support unusual or compelling needs;
- Contract actions at or below \$30,000 awarded to foreign vendors for work performed outside the U.S., if it is impractical to obtain System for Award Management registration; and
- Micro-purchases that do not use the electronic funds transfer (EFT) method for payment and are not required to be reported.

### **Guidance on the Use of a Unique Entity Identifier for Safety/Security Concerns**

#### **a. Process**

To invoke the authority to use a generic entity identifier based on safety or security concerns where identification of the contracting party could endanger a mission, contractor, or recipients of the acquired goods or services (see [FAR 4.605\(c\)\(2\)\(iii\)](#)), the Contracting Officer must include a written determination of the decision, approved by the Assistant Administrator (AA) or Mission Director (MD), in the award file. Independent Offices without an AA must obtain approval from the Head of the Independent Office or Operating Unit.

The Contracting Officer's Representative (COR) must complete the template for the CO's written determination, including the basis for the decision, citing specific examples or events, and the specific class of entities (for example, contractor principals, employees, beneficiaries, etc.) to whom the use of a generic entity identifier applies.

1. The following are examples of the types of awards that may require the use of generic entity identifier for safety/security concerns:
  - A. Where disclosure of information through a Unique Entity Identifier under a particular award or program in a specific country or countries is likely to expose those associated with the award or program to dangerous situations or bodily harm, including risk of assault, harassment, intimidation, jail, detainment, or any other material deprivation of essential human rights or dignity; or
  - B. Where security risks could potentially have a chilling effect on a potential contractors' willingness to work with at-risk or sensitive populations, beneficiaries, or other stakeholders or where publically identifying exactly where a program is performed and who the implementer and/or beneficiaries are could endanger the organization, its employees, or the beneficiaries. For example, in many countries, even the perception of being directly connected to the U.S.

Government presents a security risk to a contractor's principals, employees, or beneficiaries.

2. USAID must use a generic entity identifier when posting identifying information about the contractor when it will cause safety concerns to one of the following:
  - Contractor's employees,
  - Contractor's beneficiaries,
  - Subcontractors' employees, or
  - Subcontractors' beneficiaries,

Exemptions must not be approved any more broadly than is minimally necessary to alleviate the safety concerns for the individuals upon whom the exemption is justified.

**b. Solicitation and Award Statements**

1. When the exemption for the contractor is approved prior to the issuance of a solicitation, the solicitation must include the following statement:

*"The offeror must provide all required information when submitting a proposal, including a Unique Entity Identifier. However, based on safety and security concerns, contractor identifying information pertaining to this award will not be available to the public on [www.USASpending.gov](http://www.USASpending.gov). The Federal Acquisition Regulation states at FAR 4.1402(b): Contracts reported using the generic entity identifier allowed at FAR 4.605(c)(2) will interfere with the contractor's ability to comply with the FPDS reporting requirement, because the data will not pre-populate from FPDS."*

The CO must include the following statement in the Schedule in the resulting award:

*"The Federal Acquisition Regulation states at FAR 4.1402(b): Contracts reported using the generic entity identifier allowed at FAR 4.605(c)(2) will interfere with the contractor's ability to comply with the reporting requirement, because the data will not pre-populate from FPDS."*

2. When an exemption for some or all of the subcontractors, but not for the contractor, is approved prior to the issuance of a solicitation (for example, when there are country or region specific issues or concerns), the solicitation must include the following statement:

*"The offeror must provide all required information in submitting a proposal, including a Unique Entity Identifier. However, based on safety and security concerns, identifying information pertaining to all or some subcontractors, as*

*identified in the award, will not be available to the public on [www.USASpending.gov](http://www.USASpending.gov). The Federal Acquisition Regulation states at FAR 4.1402(b): Contracts reported using the generic entity identifier allowed at FAR 4.605(c)(2) will interfere with the contractor's ability to comply with this reporting requirement, because the data will not pre-populate from FPDS."*

3. When an exemption is not authorized by USAID prior to issuing a solicitation but is subsequently requested by a contractor, the CO/COR must consider the validity of the request and process the request accordingly.

c. **Exempting Information from [www.USASpending.gov](http://www.USASpending.gov)**

1. General

- A. The CO sends an email to the Systems Support and GLAAS division (SSG) Vendor Administrators at [vrequest@usaid.gov](mailto:vrequest@usaid.gov) to request use of the generic DUNS Number, due to safety and security concerns. The following information should be contained:
  - i. Vendor Name
  - ii. Vendor DUNS Number
- B. The CO must select "Yes" for the following field question in GLAAS:

"This award invokes the personal safety exemption, and I have requested a generic entity identifier for the contractor and any subcontractors, as applicable."
- C. SSG sends the Vendor Code and Vendor Address Line for the masked vendor to the CO.
- D. The CO selects the provided masked Vendor Code to add to their GLAAS award.
- E. The CO must enter sanitized language into the 'Project Title' field of the GLAAS requisition.
- F. The CO/COR must ensure that any entries into GLAAS do not contain any Personally Identifiable Information (PII) (as defined in OMB Memoranda M-13-13 and M-10-23) or other information that could jeopardize the personal safety of contractors or beneficiaries. See [ADS Chapter 579](#) for details on the process for preventing the release of sensitive information and PII on [www.ForeignAssistance.gov](http://www.ForeignAssistance.gov).
- G. Before final approval in GLAAS, the CO verifies and ensures all data appearing in FPDS-NG displays as desired, data specifically related to safety/security are double checked to ensure ALL information contained is generic.

- H. In particular situations, it is possible that requiring a Unique Entity Identifier and SAM registration for the prime, even if such information is not reported into [www.USASpending.gov](http://www.USASpending.gov), may be determined to constitute a personal safety concern. In such cases, the CO or COR may process an exemption to a prime contractor from obtaining a Unique Entity Identifier and registering in SAM by using the template in the Appendix.
2. For a Prime Award Exemption
- A. USAID M/OAA/SSG (Systems Support and GLAAS division) compiles a list of GLAAS awards using security masked address lines from Phoenix.
- Awards are added to the database “Security Table”. As a result, any subsequent modifications are automatically redacted.
  - Copy of the Security Table is sent to the FA.gov Team at the end of each quarter.
- B. The CO must not include the award term “Reporting Executive Compensation and First-Tier Subcontract Awards” in the prime award.
3. For Subcontractor Exemptions (where the Prime is not exempted):
- A. The CO must report the contractor’s information in FPDS-NG using the contractor’s Unique Entity Identifier.
- B. The CO must include a statement in the prime award that the contractor *must*:
- *Not require* its exempted subcontractors to obtain an Unique Entity Identifier; and
  - Report the contractor’s total compensation and names of its own top five executives at [www.FSRS.gov](http://www.FSRS.gov), as required in FAR 4.6.

**APPENDIX**

**Use of Generic Entity Identifier Template**

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1. Name of Contractor:	2. Prime Award No.:	3. Total Estimated Cost of Prime Award:
5. Period of Award:		
Entries into GLAAS do not contain any Personally Identifiable Information (PII) (as defined in OMB Memoranda M-13-13 and M-10-23) or information that could jeopardize the personal safety of contractors or beneficiaries. <input type="checkbox"/> Yes <input type="checkbox"/> No		

6. Exemption Approval:  Contracting Officer  <hr/> Name/Title  Assistant Administrator/Mission Director/Unit Head (only required for safety exemption):  <hr/> Name/Title	<hr/> Signature  <hr/> Signature	<hr/> Date  <hr/> Date
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**7. Basis for Exemption:**

**Rationale for Exemption:** *[Provide the basis for the exemption.]*

**8. Description and Project Title Field Sanitized Language to Be Submitted in GLAAS:**