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Acquisition & Assistance Policy Directive (AAPD)

From the Director, Office of Acquisition & Assistance Issued: June 15, 2016

AAPD 16-03

Expanded Incentive Awards for Personal Services Contracts with Individuals

Subject Category: Personal Services Contracts
Type: POLICY

AAPDs provide information of significance to all agency personnel and partners involved in the Acquisition and Assistance process. Information includes (but is not limited to): advance notification of changes in acquisition or assistance regulations; reminders; procedures; and general information. Also, AAPDs may be used to implement new requirements on short-notice, pending formal amendment of acquisition or assistance regulations.

AAPDs are EFFECTIVE AS OF THE ISSUED DATE unless otherwise noted in the guidance below; the directives remain in effect until this office issues a notice of cancellation.

This AAPD: Is New Replaces/ Amends AAPD **04-15** and **AAPD 04-15 Amendment 1**

Applicable to:

- Existing awards; Modification required
 - No later than
 - As noted in guidance below*
- RFPs/RFAs issued on or after the effective date of this AAPD; all other Pending Awards, i.e., 8(a), sole source, IQC
- Other

Precedes change to:

- FAR Part(s)
- AIDAR Part(s) Appendices **D and J**
- USAID Automated Directives System (ADS) Chapter **309**
- Other Code of Federal Regulations
- Other
- No change to regulations

New Provision/Clause Provided Herein: : If checked, date scheduled for upload to Mission Systems: when issued Appendix J, contract clause 19

/s/
Roy Plucknett

I. PURPOSE:

The purpose of this AAPD is to implement an Agency incentive awards program for individual personal services contractors (PSCs), pursuant to approvals by the Head of Agency in 2004 and 2015, under deviation no. **M-OAA-DEV-AIDAR-16-3c** that revises **AIDAR Appendices D and J** (see **Attachment 1**.)

II. REQUIRED ACTION:

1. Under **AIDAR Appendix D**, section 4 (**Attachment 1**), USPSCs are now eligible for an expanded Agency incentive awards program. Contracting Officers (COs, including warranted Executive Officers) must execute administrative modifications in accordance with this AAPD and policies in **ADS 309mab**, Incentive Awards for Personal Services Contracts with Individuals in order to track compensation for tax withholding and other financial monitoring purposes.
2. Under **AIDAR Appendix J**, COs are required to incorporate the revised AIDAR Appendix J, section 12, **General Provision 19 (GP19 – Attachment 1)**, Incentive Awards, into all new solicitations and awards for CCN and TCN PSC contracts paid under local compensation plans. COs/EXOs will also be required to incorporate the revised GP into existing CCN and TCN PSC awards when they next modify the award, or earlier.
3. **In all cases**, PSC monetary awards must be funded separately from USAID direct-hire awards using the operating expense or program funding appropriation corresponding to the individual PSC's contract. However, at the time of execution of the personal service contract, the award budget must not include any incentive award amount, and all incentive award payments will be made outside the contract under a separate "miscellaneous obligation document."

III. BACKGROUND:

On May 14, 2004, Administrator Andrew Natsios utilized the Agency's discretionary authority to announce a monetary and non-monetary awards program for PSCs, separately from the Agency's awards program for direct hires authorized by OPM (see 5 U.S.C. 4501 et seq. regarding incentive awards programs for "superior accomplishment" by employees within the definition of 5 U.S.C. 2105; and 5 CFR 451). By deviation from existing incentive awards rules under **AIDAR Appendix D**, and implemented under **AAPD 04-15**, USAID authorized USPSCs, and certain TCNPSCs on an exceptional basis, to be eligible for limited monetary awards such as "On The Spot" cash; Special Act; and Time-Off awards.

On December 22, 2015, Acting Agency Administrator Alfonso Lernhardt approved a further expansion of PSC incentive awards to include additional types of monetary and non-monetary awards, similar to those provided to USAID's direct-hire employees, at the Agency-wide level.

To institute the expanded PSC incentive awards program until the formal AIDAR rule-making process can be completed, the Director of

M/OAA approved a class deviation from **AIDAR Appendices D and J** on **June 13, 2016** in accordance with **AIDAR 701.470(b)(1)**. Unless otherwise rescinded by the Director of M/OAA, the authority under the class deviation will remain in effect for two years from the date of approval, or until the AIDAR is formally revised, whichever occurs first.

USAID is therefore issuing the internal policies and procedures to implement this incentive awards program in mandatory reference **ADS 309mab**. This AAPD replaces **AAPD 04-15**, and **04-15 Amendment 1**, in their entirety.

IV. GUIDANCE:

Specific policy, including eligibility criteria and the required documentation and approvals are contained in **ADS 309mab**, “Incentive Awards for PSCs.” COs/EXOs and PSC supervisors must adhere to the instructions, internal policies, and procedures of **ADS 309mab** for nominating, funding and processing PSC incentive awards.

USAID/Washington, Missions, Bureaus and Independent Offices must ensure that funding is available from the appropriate operating expense or program appropriation when nominating a PSC for an incentive award.

V. POINT OF CONTACT:

USAID Contracting Officers may direct their questions about this AAPD to psepolycymailbox@usaid.gov.

Attachments:

Attachment 1 – Revised AIDAR Appendices D and J sections on incentive awards

ATTACHMENT 1 – Revised AIDAR Appendices D and J sections on incentive awards (indicated in highlighted text) pursuant to class deviation #M/OAA-DEV-AIDAR-16-3c, in effect June 13, 2016 through **June 12, 2018**.

REVISIONS TO AIDAR APPENDIX D

Section 4 - Policy

(f) *Incentive awards.* U.S. PSCs are not eligible to participate in, or be funded under, the OPM-authorized incentive awards program for USAID direct-hire employees. U.S. PSCs are eligible to receive certain monetary and non-monetary incentive awards as authorized under this section. These awards will be funded from the authorizations used to fund the PSC contract. The list of incentive awards, eligibility, nomination and approval processes are specified in internal Agency policies in ADS chapter 309.

REVISIONS TO AIDAR APPENDIX J

Section 4 - Policy

(c) *Conditions of Employment.*

(1) *General.* For the purpose of any law administered by the U.S. Office of Personnel Management, USAID personal services contractors are not to be regarded as employees of the U.S. Government, are not included under any retirement or pension program of the U.S. Government, and are not eligible for the Incentive Awards Program covered by Uniform State/USAID/USIA regulations. Each USAID Mission is expected to participate in the Joint Special Embassy Incentive Awards Program. Additionally, CCN and TCN personal services contractors are eligible to receive certain USAID monetary and non-monetary incentive awards as authorized under this section. See paragraph (3) of this section for incentive awards.

(2) *Compensation.*

(i) It is USAID's general policy (see AIDAR 722.170) that PSC compensation may not, without the approval of the Mission Director or Assistant Administrator, exceed the prevailing compensation paid to personnel performing comparable work in the cooperating country. Compensation for CCN or TCN personal services contractors set in accordance with the provisions of 4(c)(2)(ii) below satisfies this requirement.

(ii) In accordance with Section 408(a)(1) of the Foreign Service Act of 1980, a local compensation plan forms the basis for all compensation payments to CCNs and TCNs. The plan is each post's official system of position classification and pay, consisting of the local salary schedule which includes salary rates, statements authorizing fringe benefit payments, and other pertinent facets of compensation for CCNs and TCNs. Compensation for PSCs will be in accordance with the local compensation plan, to the extent that it covers employees of the type or category being employed, unless the Mission Director determines otherwise. If the Mission

Director determines that compensation in accordance with the local plan would be inappropriate in a particular instance, then compensation will be set in accordance with (in order of preference):

(A) Any other Mission policies on **CCN or TCN personal services contractor** compensation;

or

(B) Paragraphs 4(c) (d), (e), (g), (h), and (i) of **Appendix D**. When compensation is set in accordance with this exception, the record shall be documented in writing with a justification prepared by the requesting office and approved by the Mission Director.

(iii) The earning of leave (annual and sick), allowances and differential (if applicable), salaries and all other related benefits cannot be enumerated in this appendix as they vary from Mission to Mission and are based upon the compensation plan for each.

(iv) Unless otherwise authorized, the currency in which compensation is paid to contractors shall be in accordance with the prevailing local compensation practice of the post.

(v) CCN and TCN personal services contractors are eligible for allowances and differentials as provided under the post's local compensation plan.

(vi) A USAID PSC who is a spouse of a current or retired U.S. Civil Service, U.S. Foreign Service, or U.S. military service member, and who is covered by their spouse's government health or life insurance policy, is ineligible for a contribution towards the costs of annual health and life insurance.

(vii) Retired CCNs and TCNs may be awarded personal services contracts without any reduction in or offset against their Government annuity.

(3) Incentives Awards.

(i) All CCN and TCN personal services contractors of the Foreign Affairs Community are eligible for the Joint Special Embassy Incentive Awards Program. The Joint Country Awards Committee administers each post's (Embassy) award program, including establishment of procedures for submission, review and approval of proposed awards.

(ii) CCN and TCN personal services contractors are also eligible to receive certain monetary and non-monetary USAID incentive awards. These awards will be funded from the authorizations used to fund the PSC contract, and not from funds allocated for the OPM-authorized awards program for USAID direct-hire employees. The list of incentive awards, eligibility, nomination and approval processes are specified in internal Agency policies in ADS chapter 309.

(iii) Meritorious Step Increases for USAID CCN and TCN personal services contractors may

be authorized provided the granting of such increases is the general practice locally.

(4) Training. CCN and TCN personal services contractors are eligible for most of the training courses offered in the Training Course Schedule. However, applications will be processed on a case-by-case basis and are required to be approved by the Contracting Officer.

APPENDIX J, Section 12. General Provisions for a Contract with a Cooperating Country National or with a Third Country National for Personal Services

19. Incentive Awards (JUN 2016)

(Pursuant to class deviation #M/OAA-DEV-AIDAR-16-3c)

[For CCN and TCN Contracts].

(a) Cooperating Country National (CCN) and Third Country National (TCN) personal services contractors of the Foreign Affairs Community are eligible for the Joint Special Embassy Incentive Awards Program. The program is administered by each post's (Embassy) Joint Country Awards Committee.

(b) CCN and TCN personal services contractors are also eligible to receive certain monetary and non-monetary USAID incentive awards in accordance with the AIDAR and internal USAID policies.

(c) Meritorious Step Increases. CCNs and TCN personal services contractors paid under the local compensation plan are eligible to receive meritorious step increases provided the granting of such increases is the general practice locally.

[END CLAUSE]