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Acquisition & Assistance Policy Directive (AAPD)

From the Director, Office of Acquisition & Assistance Issued: June 13, 2018

AAPD 16-03, REVISED

AIDAR Deviation from Appendices D and J for the continuation of 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/ Revision **AAPD 16-03, originally issued June 15, 2016**

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 M/OAA/PDT templates: **June 13, 2018 for Appendix J, contract clause 19, available in Attachment 1.**

/s/
Mark A. Walther

I. PURPOSE:

The purpose of this AAPD is to continue the PSC incentive awards program previously issued in [AAPD 16-03 on June 15, 2016](#). This AAPD implements the revisions made by deviation from the **AIDAR Appendix D**, section 4, and **Appendix J**, sections 4 and 12, including the **Incentive Awards General Provision contract clause** for CCN and TCN PSCs. See **Attachment 1** for the deviated text.

II. REQUIRED ACTION:

1. Contracting Officers (COs, including warranted Executive Officers) may continue to authorize incentive awards for USPSCs in accordance with this AAPD and [ADS 309mab](#), Incentive Awards for Personal Services Contracts with Individuals.
2. COs may continue to authorize incentive awards for CCN and TCN PSCs paid under a local compensation plan (LCP) in accordance with this AAPD and [ADS 309mab](#) by incorporating GP19 per this Revised AAPD (containing the updated deviation control number) into all new solicitations and awards for CCN and TCN PSC contracts. Also if the CO/EXO did not previously incorporate GP19 into an existing CCN and TCN PSC award on an LCP in accordance with the prior issued AAPD 16-03, the CO/EXO must include GP19 per this Revised AAPD when next modifying the award, if not sooner, to reflect the clause currently in effect.
3. **In all cases**, PSC monetary awards must be funded using the operating expense or program funding appropriation corresponding to the individual PSC, and are separate from USAID direct-hire incentive awards. At the time of execution of the personal service contract, the contract budget must not include any incentive award amount. Additionally, all PSC incentive award payments must be made outside the contract under a separate "miscellaneous obligation document."

III. BACKGROUND:

On May 14, 2004, Administrator Andrew Natsios used the Agency's discretionary authority to announce a monetary and non-monetary awards program for PSCs, separate 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, 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.

Based on the Administrator's approval, the Director of M/OAA approved a class deviation from **AIDAR Appendices D and J** number **M-OAA-DEV-AIDAR-16-3c** on **June 13, 2016**, to institute the expanded PSC incentive awards program until the formal AIDAR rule-making process can be completed. This awards program is being continued under deviation number **M-OAA-DEV-AIDAR-18-5c** in accordance with **AIDAR 701.470(b)(1) and (b)(5)**. Unless otherwise rescinded by the Director of M/OAA, the authority under **this 2018 class deviation will remain in effect for two years through June 12, 2020**, or until the AIDAR is formally revised, whichever occurs first.

USAID's internal policies and procedures to implement this incentive awards program are in **ADS 309** mandatory reference [309mab](#), "Incentive Awards for PSCs."

This Revised AAPD replaces AAPD 16-03 issued June 15, 2016, in its entirety.

IV. GUIDANCE:

USAID COs and PSC supervisors must adhere to the internal policies, procedures, and instructions regarding eligibility criteria, required documentation and approvals contained in [ADS 309mab](#) to nominate, fund and process 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 personal services contractor for an incentive award.

V. POINT OF CONTACT:

USAID COs may direct questions about this AAPD to pscmailbox@usaid.gov.

ATTACHMENT 1: Revised AIDAR Appendices D and J sections on incentive awards, including **Appendix J, Section 12, General Provision 19**, Incentive Awards

ATTACHMENT 1

Revised AIDAR Appendices D and J sections are *indicated in highlighted text*.

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) Incentive 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 2018)
(Pursuant to class deviation # M-OAA-DEV-AIDAR-18-5c)

[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]