

EFFECTIVE DATE: April 3, 1995.

FOR FURTHER INFORMATION CONTACT: M/OP/P, Ms. Frances Maki or Ms. Kathleen O'Hara concerning the release of proposals outside the Government, Room 1600I, U.S. Agency for International Development, Washington, D.C. 20523-1435. Telephone: (703) 875-1534.

SUPPLEMENTARY INFORMATION: The AIDAR is being amended to change the salary approval requirement from the maximum for an FS-1 to the maximum for a Senior Executive, Level 6. The approval authority for salaries above the ES-6 is the Procurement Executive rather than AA or Mission Director. Coverage is added on the use of non-Government evaluators and evaluation assistance contractors including certification requirements from such non-Government evaluators or evaluation assistance contractors before they can release information outside the government.

The changes being made by this document are editorial and administrative and are not considered significant rules under FAR Section 1.301 or Subpart 1.5, nor economically significant rules as defined in Executive Order 12866. This document will not have an impact on a substantial number of small entities, nor does it establish any collection of information as contemplated by the Regulatory Flexibility Act and Paperwork Reduction Act. Because of the nature of this document, use of the proposed rule/public comments approach was not considered necessary. USAID has decided to issue this document as a final rule; however, we welcome public comment on the material covered by this document or any part of the AIDAR at any time. Comments or questions may be addressed as specified in the **FOR FURTHER INFORMATION CONTACT** section of the preamble.

List of Subjects in 48 CFR Parts 701, 703, 715, 724, 731, 752 and Appendix G

Government procurement.

Accordingly for the reasons set out in the Preamble, 48 CFR Chapter 7 is amended as follows:

1. The authority citations in Parts 701, 703, 715, 724, 731 and 752 and continue to read as follows:

Authority: Sec. 621, Pub. L. 87-195, Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673, 3 CFR 1979 Comp., 435.

PART 701—FEDERAL ACQUISITION REGULATION SYSTEM

701.601 [Amended]

2. Section 701.601(b)(4) is amended by removing "Director, Office of International Training" and replacing it with "Director, Office of Field Support and Technical Assistance (G/HCD/FSTA)."

PART 703—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

3. A new subpart 703.1 is added to read as follows:

Subpart 703.1—Safeguards

703.104-5 Disclosure, protection, and marking of proprietary and source selection information.

A Contracting Officer may authorize release of proprietary and/or source selection information outside the Government for evaluation purposes pursuant to (FAR) 48 CFR 15.413-2, Alternative II, as implemented by (AIDAR) 48 CFR 715.413-2, Alternate II.

Subpart 703.4—Contingent Fees

703.403 [Amended]

4. Section 703.403 is amended by removing "FAR 3.404(B)(4)" and replacing it with "(FAR) 48 CFR 3.404(b)(4)."

PART 715—CONTRACTING BY NEGOTIATION

5. A new subpart 715.4 is added to read as follows:

Subpart 715.4—Solicitation and Receipt of Proposals and Quotations

715.413-2 Alternate II.

(a) A contracting officer may, subject to the requirements of this section and (FAR) 48 CFR 15.413-2, authorize release of proposals outside the Government for evaluation:

(1) When an evaluation assistance contractor (EAC) is required to provide technical advisory or other services relating to the evaluation of proposals; or

(2) When an individual other than a Government employee, known as a non-Government evaluator (NGE), is selected to serve as a member of an AID technical evaluation committee.

(b) Prior to releasing proposals outside the Government for evaluation, the contracting officer shall obtain a signed and dated copy of a certification

and agreement from each NGE and EAC. See paragraph (c).

(c) A certification and agreement substantially as follows:

Certification and Agreement for the Use and Disclosure of Proposals

With respect to proposals submitted in response to AID solicitation no. _____, the undersigned hereby agrees, and/or certifies, to the following:

1. I will use the proposals, and all information therein other than information otherwise available without restriction, for evaluation purposes only. I will safeguard the proposals, and will not remove them from the site at which the evaluation is conducted unless authorized by the Contracting Officer. In addition, I will not disclose them, or any information contained in them (other than information otherwise available without restriction), except as directed or approved by the Contracting Officer.

2. I will ensure that any authorized restrictive legends placed on the proposals by prospective contractors or subcontractors, or AID, will be applied to any reproduction, or abstract of information, made by me.

3. Upon completing the evaluation, I will return all copies of the proposals, and any abstracts thereof, to the AID office which initially furnished them to me.

4. Unless authorized by the contracting officer in advance in writing, I will not,—whether before, during, or after the evaluation—contact any prospective contractor or subcontractor, or their employees, representatives or agents, concerning any aspect of the proposal.

5. I have carefully reviewed my employment (past, present and under consideration) and financial interests, as well as those of my household family members. Based on this review, I certify, to the best of my knowledge and belief as of the date indicated below, that I either (1) have no actual or potential conflict of interest, personal or organizational, that could diminish my capacity to perform an impartial and objective evaluation of the proposals, or that might otherwise result in an unfair competitive advantage to one or more prospective contractors or subcontractors, or (2) have fully disclosed all such conflicts to the contracting officer, and will comply fully, subject to termination of my evaluation services, with any instructions by the contracting officer to mitigate, avoid, or neutralize conflicts(s). I understand that I will also be under a continuing obligation to disclose, and act as instructed concerning, such conflicts discovered at any time prior to the completion of the evaluation.

Signature: _____

Name Typed or Printed: _____

Date: _____

(2) An Optional form 333, Procurement Integrity Certification for Procurement Officials, as required by FAR 15.413-2(f)(6). The words "leave the Government" in the fourth sentence of that form mean "cease to function as a procurement official."