



**USAID**  
FROM THE AMERICAN PEOPLE

# Acquisition & Assistance Policy Directive (AAPD)

From the Director, Office of Acquisition & Assistance Issued: August 31, 2020

## AAPD 18-04 (Revision 02) Competition and Publicizing (Class deviation from the AIDAR)

Subject Category: Acquisition Management  
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 18-04

Applicable to:

- Existing awards;  Modification required
- No later than
- As noted in guidance below\*
- All applicable RFPs and new awards issued after the effective date of this AAPD.
- Other

Precedes change to:

- AIDAR Parts 705 and 706
- USAID Automated Directives System (ADS) Chapter
- Code of Federal Regulations
- Other
- No change to regulations

New or Revised Provision/Clause Provided Herein: If checked, scheduled update to GLAAS:

/s/

Mark Walther, Senior Procurement Executive

## 1. PURPOSE:

The purpose of this AAPD is to inform Acquisition and Assistance professionals of a class deviation (M/OAA-DEV-AIDAR-20-04c) that revises the regulatory text related to publicizing and competition in AIDAR 705 and 706.

### **Required Actions:**

- COs must continue to follow the guidance on publicizing and competition in Section 3 below for solicitations and awards issued under the exception in the AIDAR 706.302-70 or in accordance with FAR part 13.

## 2. BACKGROUND:

Previously this AAPD housed a class deviation from the FAR related to increased thresholds for Simplified Acquisitions, Micro-purchase, and for Certified Cost and Pricing Data. This deviation has been rescinded because each of those changes were formally incorporated into the FAR through rulemaking.

The publicizing revisions in AIDAR 705.102 and 705.202 were initially published in the original version of this AAPD 18-04 and is now being continued unchanged in this revised AAPD.

The revised AIDAR text in 706.302-70 relating to Impairment of foreign aid programs was previously approved and incorporated into the Mandatory Reference ADS 309mad. This approved AIDAR text is now being moved to this AAPD to maintain all AIDAR publicizing and competition requirements in one location.

## 3. GUIDANCE:

### Publicizing Requirements for Awards Issued Using Simplified Acquisition Procedures (SAP):

Even though acquisitions below the SAT conducted under AIDAR 705.202 or FAR part 13 are exempt from full and open competition requirements in FAR part 6, the requirement for public display and synopsis in FAR 5.101 and 5.203 for all actions above \$25,000 (see FAR 13.105) still applies. However, USAID has an exception to the publicizing requirements for procurements by an overseas contracting activity for \$250,000 or less. The class deviation from the AIDAR (No. M/OAA-DEV-AIDAR-20-04c), included in Attachment 1, will continue to provide overseas contracting activities with an exception from publicizing actions at or below \$250,000, when the award is issued under the authority in AIDAR 706.302-70(b)(2), or in accordance with FAR part 13. **This publicizing exception does not apply to awards issued by COs in the U.S.**

**Competition Requirements for Awards Issued Using Simplified Acquisition Procedures (SAP):**

With the increase of the SAT, COs must use the procedures in FAR part 13 when awarding contracts at or below \$250,000, to the maximum extent practicable. COs in a Mission (an overseas contracting activity) must also use AIDAR 705.202 or FAR part 13 when awarding procurements at or below \$250,000. When using the simplified acquisition procedures in FAR part 13 for procurements below the SAT, a Justification and Approval (J&A) per FAR part 6 is not required to limit competition. However, the CO must follow the procedures in FAR 13.104 and document the file accordingly.

However, if the CO does not use FAR part 13 and uses the exception in AIDAR 706.302-70(b)(2), then the CO must prepare a J&A following the requirements in FAR parts 6.303 and 6.304. The class J&A in [ADS 309mad](#) no longer covers procurements made using this AIDAR exception..

**Summary:**

The table below provides a summary of competition and publicizing actions COs must take when awarding contracts at or below the SAT:

<b>Question:</b>	<b>Overseas CO</b>	<b>CO in the U.S.</b>
Should I use the procedures in FAR part 13?	Yes, to the maximum extent practicable	Yes, to the maximum extent practicable
Can I use the exception in AIDAR 706-302-70(b)(2)?	Yes, but only when the use of FAR part 13 is not practicable	This exception cannot be used in the U.S.
Do I need to prepare a J&A if I follow the procedures in FAR 13.104?	No	No
Do I need to prepare a J&A if I use the exception in AIDAR 706-302-70(b)(2)?	Yes	This exception cannot be used in the U.S.
Can I use the class J&A in <a href="#">ADS 309mad</a> if I use the exception in AIDAR 706.302-70(b)(2)?	No	No
Do I need to publicly display awards between \$15,000 and \$25,000?	No	Yes
Do I need to publicize awards above \$25,000 in the GPE (FedBizOpps)?	No	Yes

**4. POINTS OF CONTACT:**

COs may direct their questions about this AAPD to the “[Ask M/OAA Policy](#)” Group at <https://pages.usaid.gov/M/OAA/aa-policy-mailbox>.

**Attachment 1 –AIDAR DEVIATION TEXT**

**705.102 Availability of solicitations.**

(M/OAA-DEV-AIDAR-20-04c)

In accordance with FAR 5.102(a)(5)(iii), the Senior Procurement Executive has determined that access through the GPE is not in the Government's interest for the following solicitations:

- (a) A locally hired personal services contractor (Resident Hire USPSC and Cooperating Country National or Third Country National personal services contractor paid under the local compensation plan) awarded under the authorities in 706.302-70(b)(1). This includes extensions and renewals with the same individual for the same services at the same mission.
- (b) A USPSC for six months or less in duration for services abroad awarded under the authorities in 706.302-70(b)(1). Such awards cannot be extended or renewed.
- (c) An award of \$250,000 or less by an overseas contracting activity issued under the authorities in 706.302-70(b)(2), or in accordance with the requirements in FAR part 13.
- (d) An extension or renewal of a USPSC with the same individual for the same services at the same mission or operating unit within a Bureau or Independent Office awarded under the authorities in 706.302-70(b)(5).

**705.202 Exceptions.**

(M/OAA-DEV-AIDAR-20-04c)

(a) [Reserved]

(b) The head of the U.S. Agency for International Development has determined after consultation with the Administrator of the Office of Management and Budget's Office of Federal Procurement Policy and the Administrator of the Small Business Administration, that advance notice is not appropriate or reasonable for the following:

(1) Contract actions described in 706.302-70(b)(1) through (b)(3); or

(2) an award of \$250,000 or less by an overseas contracting activity issued in accordance with the requirements in FAR part 13.

(c) [Reserved]

**706.302-70 Impairment of foreign aid programs.**

(M/OAA-DEV-AIDAR-20-XXc)

(a) *Authority.* (1) Citation: 40 U.S.C. 113.

(2) Full and open competition need not be obtained when it would impair or otherwise have an adverse effect on programs conducted for the purposes of foreign aid, relief, and rehabilitation.

(b) *Application.* This authority may be used for:

(1) An award under section 636(a)(3) of the Foreign Assistance Act of 1961, as amended, involving a personal services contractor serving abroad;

(2) An award of \$250,000 or less by an overseas contracting activity;

(3)(i) An award for which the Assistant Administrator responsible for the project or program makes a formal written Determination and Findings (D&F), that compliance with full and open competition procedures would impair foreign assistance objectives, and would be inconsistent with the fulfillment of the foreign assistance program; or

(ii) Awards for countries, regions, projects, or programs for which the Administrator of USAID makes a formal written Determination and Findings (D&F), that compliance with full and open competition procedures would impair foreign assistance objectives, and would be inconsistent with the fulfillment of the foreign assistance program.

(4) Awards under (48 CFR) AIDAR 715.370-1 (Title XII selection procedure—general) or 715.370-2 (Title XII selection procedure—collaborative assistance).

(5) An award for the continued provision of highly specialized services when award to another resource would result in substantial additional costs to the Government or would result in unacceptable delays.

(c) *Limitations.*

(1) A contract awarded using the authority in paragraph (a) of this section must be supported by the written justification and approval (J&As) described in (48 CFR) FAR 6.303 and 6.304, except that a determination made under 706.302-70(b)(3) will not be subject to the requirement for contracting officer certification or to approvals required in (48 CFR) FAR 6.304.

A class justification has been approved by the Senior Procurement Executive to meet the requirements in (48 CFR) FAR 6.303 and is available in internal agency policy at ADS chapter 309, for use under the following circumstances:

(i) When competition is limited based on the authorities in 706.302-70(b)(1) for the following categories of personal services contractors serving abroad:

(A) Resident Hire U.S. personal services contractors (USPSCs), as defined in (48 CFR) AIDAR Appendix D.

(B) Cooperating country national (CCN) or third country national (TCN) personal services contractors paid under a local compensation plan, as defined in (48 CFR) AIDAR Appendix J.

(ii) When using the class justification, the contracting officer must ensure that all conditions and file documentation requirements of the class justification have been met.

(2) Proposals must be requested from as many potential offerors as is practicable under the circumstances;

(3) When using the authorities in 706.302-70(b)(4) and 706.302-70(b)(5) the contracting officer must publicize the advance notice of proposed contract action as required in (48 CFR) FAR 5.201. However, when the authorities at 706.302-70(b)(1) through 706.302-70(b)(3) are used, advance notice of proposed contract action is not required in accordance with (48 CFR) AIDAR 705.202.

(4) The authority in 706.302-70(b)(3)(i) shall be used only when no other authority provided in (48 CFR) FAR 6.302 or (48 CFR) AIDAR 706.302 is suitable. The specific foreign assistance objective that would be impaired must be identified and explained in a written Determination and Finding (D&F). Prior consultation with the Agency Competition Advocate (see 706.501) is required before executing the written D&F, and this consultation must be reflected in the D&F. In addition, the contracting activity must prepare a J&A as required in paragraph (c) (1) of this section.

(5) Use of the authority in 706.302-70(b)(5) for proposed follow-on modifications and awards for the continued provision of highly specialized services in excess of one year or over \$250,000 is subject to the approval of the Agency Competition Advocate. For all other follow-on modifications and awards using this authority, the contracting officer's certification required in (48 CFR) FAR 6.303-2(b)(12) will serve as approval.