



AGENCY FOR INTERNATIONAL DEVELOPMENT

48 CFR Part 752

RIN 0412-AA85

USAID Acquisition Regulation (AIDAR) Regarding Government Property—USAID Reporting Requirements

AGENCY: U.S. Agency for International Development.

ACTION: Final rule.

SUMMARY: The U.S. Agency for International Development (USAID) is issuing a final rule to amend the USAID Acquisition Regulation (AIDAR) that clarifies accountability for all mobile Information Technology equipment.

DATES: *Effective date:* [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Carol Ketrick, Telephone: 202-567-4676 or E-mail: cketrick@usaid.gov.

SUPPLEMENTARY INFORMATION:

I. Background.

On November 29, 2016, USAID published a proposed rule at 81 FR 85916 revising the Agency for International Development Acquisition Regulation (AIDAR) to strengthen and clarify existing policy and procedures for accountability of all USAID mobile Information Technology (IT) equipment and access to agency facilities and information systems. This final rule clarifies the reporting requirements for all mobile IT equipment in the AIDAR clause section 752.245-70, Government Property - USAID reporting requirements. The clause is amended to clarify that all mobile Information Technology (IT) equipment is identified as accountable. This includes both mobile IT equipment that is USAID-owned and furnished to the contractor, as well as contractor acquired mobile IT equipment, title to which vests in the U.S. Government.

II. Discussion and Analysis.

One respondent submitted a comment on the proposed rule. USAID reviewed and considered the public comment in the development of this final rule. A discussion of the comment received is provided as follows:

Comment: The respondent suggested alternative clarifying revisions to the language in AIDAR section 752.245-70.

Specifically, the comment stated:

It would be clearer if the definition of "government property" in (a)(2) was updated to include contractor acquired mobile IT equipment. Either by updating the clause itself ("The term Government property, . . . , shall mean Government-furnished property, non-expendable personal property title to which vests in the U.S. Government, and all contractor acquired mobile IT equipment") or by updating the definition of non-expendable personal property to include mobile IT equipment regardless of service life or unit cost ("Non-expendable personal property, for purposes of this contract, is defined as personal property . . . and that has a unit cost of more than \$500. Non-expendable personal property includes mobile IT equipment regardless of expected service life or unit cost").

Response: The comment was considered and revisions have been made to this final AIDAR rule.

The format of the required Annual Report of Government Property in Contractor's Custody is corrected to read that all mobile IT equipment is accountable and must be reported. The format of the required Annual Report of Government Property in the Contractor's Custody is

corrected to read that all Contractor acquired mobile IT equipment must be reported.

III. Regulatory Planning and Review.

This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866 Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act.

The rule will not have an impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. Therefore, an Initial Regulatory Flexibility Analysis has not been performed.

V. Paperwork Reduction Act.

The rule clarifies but does not establish a new collection of information that requires the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 75
Government procurement.

For the reasons discussed in the preamble, USAID amends 48 CFR chapter 7 as set forth below:

PART 752 -- SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR part 752 continues to read as follows:

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; and 3 CFR 1979 Comp., p. 435.

2. Revise section 752.245-70 to read as follows:

752.245-70 Government property-USAID reporting requirements.

USAID contracts, except those for commercial items, must contain the following preface and reporting requirement as additions to the appropriate Government Property clause prescribed by (48 CFR) FAR 45.107, per a GAO audit recommendation.

Preface: to be inserted preceding the text of the FAR clause.

Government Property-USAID Reporting Requirements (OCT 2017)

(a)(1) The term Government-furnished property, wherever it appears in the following clause, shall mean (i) non-expendable personal property owned by or leased to the U.S. Government and furnished to the contractor, and (ii) personal property furnished either prior to or during the performance of this contract by any U.S. Government accountable officer to the contractor for use in connection

with performance of this contract and identified by such officer as accountable. All mobile Information Technology (IT) equipment, including but not limited to, mobile phones (e.g. smartphones), laptops, tablets, and encrypted devices provided as government furnished property, title to which vests in the U.S. Government, are considered accountable personal property.

(2) The term Government property, wherever it appears in the following clause, shall mean Government-furnished property, Contractor acquired mobile IT equipment and non-expendable personal property title to which vests in the U.S. Government under this contract.

(3) Non-expendable personal property, for purposes of this contract, is defined as personal property that is complete in itself, does not lose its identity or become a component part of another article when put into use; is durable, with an expected service life of two years or more; and that has a unit cost of more than \$500.

(b) Reporting Requirement: to be inserted following the text of the (48 CFR) FAR clause.

Reporting Requirements: The Contractor will submit an annual report on all Government property in a form and manner acceptable to USAID substantially as follows:

Annual Report of Government Property in Contractor's
Custody

[Name of Contractor as of (end of contract year), 20XX]

	Motor vehicles	Furniture and furnishings—		Other Govern- ment property
		Office	Living quarters	
A. Value of property as of last report				
B. Transactions during this reporting period				
1. Acquisitions (add):				
a. Contractor acquired property ¹				
b. Government furnished ²				
c. Transferred from others, without reimbursement ³				
2. Disposals (deduct):				
a. Returned to				

USAID				
b. Transferred to USAID- Contractor purchased				
c. Transferred to other Government agencies ³				
d. Other disposals ³				
C. Value of property as of reporting date				
D. Estimated average age of contractor held property				
	Years	Years	Years	Years

¹Non-expendable property and all mobile IT equipment.

²Government-furnished property listed in this contract as nonexpendable or accountable, including all mobile IT equipment.

³Explain if transactions were not processed through or otherwise authorized by USAID.

Property Inventory Verification

I attest that (1) physical inventories of Government property are taken not less frequently than annually; (2) the accountability records maintained for Government property in our possession are in agreement with such inventories; and (3) the total of the detailed accountability records maintained agrees with the property

value shown opposite line C above, and the estimated average age of each category of property is as cited opposite line D above.

Authorized Signature _____

Name _____

Title _____

Date _____

(End of clause)

Dated: February 15, 2018.

Mark Walther,

Acting Chief Acquisition Officer.

[FR Doc. 2018-04498 Filed: 3/6/2018 8:45 am; Publication Date: 3/7/2018]