

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
Aluminum Company of America	750 Norcold Ave., Sidney, Ohio 45365.	<p>Wastewater treatment plant (WWTP) sludges generated from the chemical conversion coating of aluminum (EPA Hazardous Waste No. F019) and WWTP sludges generated from electroplating operations (EPA Hazardous Waste No. F006) and stored in an on-site landfill. This is an exclusion for approximately 16,772 cubic yards of landfilled WWTP filter cake. This exclusion applies only if the waste filter cake remains in place or, if excavated, is disposed of in a Subtitle D landfill which is permitted, licensed, or registered by a state to manage industrial solid waste. This exclusion was published on April 6, 1999.</p> <ol style="list-style-type: none"> 1. The constituent concentrations measured in the TCLP extract may not exceed the following levels (mg/L): Arsenic—5; Barium—100; Chromium—5; Cobalt—210; Copper—130; Nickel—70; Vanadium—30; Zinc—1000; Fluoride—400; Acetone—400; Methylene Chloride—0.5; Bis(2-ethylhexyl)phthalate—0.6. 2. (a) If, anytime after disposal of the delisted waste, Alcoa possesses or is otherwise made aware of any environmental data (including but not limited to leachate data or groundwater monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified in Condition (1) is at a level in the leachate higher than the delisting level established in Condition (1), or is at a level in the ground water or soil higher than the health based level, then Alcoa must report such data, in writing, to the Regional Administrator within 10 days of first possessing or being made aware of that data. (b) Based on the information described in paragraph (a) and any other information received from any source, the Regional Administrator will make a preliminary determination as to whether the reported information requires Agency action to protect human health or the environment. Further action may include suspending or revoking this exclusion, or other appropriate response necessary to protect human health and the environment. (c) If the Regional Administrator determines that the reported information does require Agency action, the Regional Administrator will notify the facility in writing of the actions the Regional Administrator believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing the facility with an opportunity to present information as to why the proposed Agency action is not necessary or to suggest an alternative action. The facility shall have 10 days from the date of the Regional Administrator's notice to present such information. (d) Following the receipt of information from the facility described in paragraph (c) or (if no information is presented under paragraph (c) the initial receipt of information described in paragraph (a), the Regional Administrator will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment. Any required action described in the Regional Administrator's determination shall become effective immediately, unless the Regional Administrator provides otherwise.
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**AGENCY FOR INTERNATIONAL
DEVELOPMENT**

**48 CFR Parts 701, 703, 715, 731, and
752**

[AIDAR Notice 98-1]

**Miscellaneous Amendments to
Acquisition Regulations**

AGENCY: Internatinal Development
Cooperation Agency, United States
Agency for International Development.
ACTION: Final rule.

SUMMARY: The U.S. Agency for International Development (USAID) is amending the USAID Acquisition Regulation (AIDAR) to make various administrative modifications in accordance with the changes to Part 15 of the Federal Acquisition Regulation published in Federal Acquisition Circular 97-02, to designate an additional level for concurrence before the Contracting Officer confers with the Head of Contracting Activity on matters concerning procurement integrity violations or other possible violations, and to add coverage on payment of

salary supplements for Host Government employees.

EFFECTIVE DATE: May 6, 1999.

FOR FURTHER INFORMATION CONTACT: M/OP/P, Ms. Kathleen O'Hara, Room 7.08-92, 1300 Pennsylvania Ave., N.W., U.S. Agency for International Development, Washington, D.C. 20523-7801. Telephone: (202) 712-4759.

SUPPLEMENTARY INFORMATION: The AIDAR is being amended to make various administrative changes to conform with revised Part 15 of the Federal Acquisition Regulation published in Federal Acquisition Circular 97-02. This Notice updates the expiration dates of the Office of Management and Budget (OMB) approval under the Paperwork Reduction Act. This Notice also adds an additional level for concurrence before the Contracting Officer confers with the Head of Contracting Activity on matters concerning procurement integrity violations or other possible violations. Allowing for concurrence by the person who is one above the Contracting Officer simplifies the procedure to release information. Finally, this Notice adds coverage in Part 731 and a clause which, in accordance with USAID policy, provides that salary supplements for host government employees are not allowable costs without approval. This implements long standing Agency policy.

The changes made by this Notice are mostly administrative and not considered major rules as defined in E.O. 12866. This Notice will neither impact a substantial number of small entities, nor will it establish information collection as contemplated by the Regulatory Flexibility Act and the Paperwork Reduction Act. Because of the nature of this Notice, use of the proposed rule/public comment approach was not considered necessary. USAID decided to issue this Notice as a final rule; however, the Agency welcomes public comment on the material covered by this Notice 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, 731, and 752

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, 731, and 752 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, CFR 1979 Comp., p. 435.

PART 701—FEDERAL ACQUISITION REGULATION SYSTEM

Subpart 701.1—Purposes, Authority, Issuance

701.105 [Amended]

2. Section 701.105 is amended by removing "06/30/97" everywhere it appears in paragraph (a) and adding "08/31/2000" in its place and by revising paragraph (c) to read as follows:

701.105 OMB approval under the Paperwork Reduction Act.

* * * * *

(c) Public reporting burden for these collections of information is estimated as shown in paragraph (a) of this section. The estimated burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimates or any other aspects of these collections of information, including suggestions for reducing the burden, to: U.S. Agency for International (USAID), Office of Procurement, Policy Division (M/OP/P), Room 7.08-082U, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20523-7801; and Office of Management and Budget (OMB), Paperwork Reduction Project (0412-0520), Washington, D.C. 20503.

PART 703—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 703.1—Safeguards

703.104 [Amended]

3. Section 703.104-5 is revised to read as follows:

703.104 Disclosure, protection, and marking of proprietary and source information.

A Contracting Office may authorize release of proprietary and/or source selection information outside the Government for evaluation purposes pursuant to FAR 15.305(c) and (AIDAR) 48 CFR 715.305(c).

4. Section 703.104-10 is added to read as follows:

703.104-10.1 Violations or possible violations.

Requests for concurrence under paragraph (a)(1) of FAR 3.104-10 shall be forwarded to one level above the Contracting Officer.

PART 715—CONTRACTING BY NEGOTIATION

5. Part 715 is amended by removing Subpart 715.4, Solicitation and Receipt of Proposals and Quotations; by redesignating Subpart 715.6, Source Selections, as Subpart 715.3; and redesignating Subpart 715.5, Unsolicited Proposals, as Subpart 715.6; by redesignating 715.502 as 715.602, 715.504 as 715.604, 715.604-70 as 715.303-70, 716.613-70 as 715.370-, and 715.613-71 as 715.370-2; and by removing 715.506, 715.506-1, and 715.605.

6. In newly designated 715.303-70, paragraph (b)(3) is revised to read as follows:

715.303-70 Responsibilities of USAID evaluation committees.

* * * * *

(b) * * *

(3) The chair shall prepare and provide to the Contracting Officer written documentation summarizing the results of the evaluation of each proposal, including an assessment of past performance information in accordance with FAR 15.305(a)(2). The documentation shall include narrative justification of the evaluation results.

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715.305 [Added]

7. Section 715.305 is added to read as follows:

715.305 Proposal evaluation.

(a) [Reserved]

(b) A justification is to be written by the Contracting Officer and placed in the official file to support the decision to reject all proposals and to cancel the procurement.

(c) The Contracting Office may authorize release of proposals outside the Government for evaluation—

(1) When an Evaluation Assistance Contract (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 a USAID technical evaluation committee, the Contracting Officer shall obtain a signed and dated certification and agreement from each NGE and EAC that they will safeguard the proposals and information therein and that they perceive no actual or potential conflict of interests. (An acceptable certification appears under ADS Chapter 302).

715.370 [Added]

8. Section 715.370 is added to read as follows:

715.370 Alternative source selection procedures.

The following selection procedures may be used, when appropriate, for activities covered under Title XII of the Foreign Assistance Act of 1961, as amended.

9. Newly redesignated 715.602 is amended by revising paragraphs (b) and (c) to read as follows:

715.602 Policy.

* * * * *

(B) USAID's basic policies and procedures regarding unsolicited proposals are those established in FAR subpart 15.6 and this subpart.

(c) For detailed information on unsolicited proposals, see 715.604; for initial contact point within USAID, see 715.604(c).

10. Newly redesignated 715.604 is amended by revising the section heading and paragraph (a) and adding paragraph (c) to read as follows:

715.604 Agency points of contact.

(a) Information concerning USAID's policies for unsolicited proposals is available from the U.S. Agency for International Development, Evaluation Division, Room 7.08-005, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20523-7803.

* * * * *

(c) Initial inquiries and subsequent unsolicited proposals should be submitted to the address specified in paragraph (a) of this section.

PART 731—CONTRACT COST PRINCIPLES AND PROCEDURES**Subpart 731.2—Contracts With Commercial Organizations****731.205-71 [Added]**

11. Section 731.205-71 is added as follows:

731.205-71 Salary supplements for Host Government employees.

(a) *Definitions.* (1) A Host Government (HG) employee is a person paid by the HG, occupying an established position, either temporary or permanent, part-time or full-time, within a HG institution.

(2) An HG institution is an organization in which the government owns at least a fifty percent share or receives at least fifty percent of its financial support from the government.

(b) *General.* Salary supplement occurs when payments are made that augment an HG employee's base salary or

premiums, overtime, extra payments, incentive payment and allowances for which the HG employee would qualify under HG rules or practices for the performance of his/hers regular duties or work performed during his/hers regular office hours. Per diem, invitational travel, honoraria and payment for work carried out outside of normal working hours are not considered to be salary supplements subject to the provisions in USAID policy referenced in paragraph (c) of this section.

(c) Salary supplements are eligible for USAID financing only when authorized in accordance with USAID policy established in the cable State 119780 dated April 15, 1988 (on ADS-CD under USAID Handbooks, Handbook 1). If salary supplements have been authorized in a particular case, the Contracting Officer shall provide written approval to the contractor in order for such costs to be eligible. Any specific requirements or limitations shall be specified in the approval.

(d) Contracting Officers shall insert the Clause at 752.231-71 in all contracts in which there is a possibility of the need of HG employees. It should also be inserted in all subsequent subcontracts.

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**Subpart 752.2—Texts of Provisions and Clauses**

12. Section 752.231-71 is added to read as follows:

752.231-71 Salary supplements for HG employees.

As prescribed in 731.205-71, for use in all contracts with a possible need or services of a HG employee. The clause should also be inserted in all subsequent sub-contracts.

SALARY SUPPLEMENTS FOR HG EMPLOYEES (OCT 1998)

(a) Salary supplements are payments made that augment an employee's base salary or premiums, overtime, extra payments, incentive payment and allowances for which the HG employee would qualify under HG rules or practice for the performance of his/hers regular duties or work performed during his/hers regular office hours. Per diem, invitational travel, honoraria and payment for work carried out outside of normal working hours are not considered to be salary supplements.

(b) Salary supplements to HG Employees are not allowable without the written approval of the Contracting Officer.

Dated: March 8, 1999.

Marcus L. Stevenson,

Procurement Executive.

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DEPARTMENT OF ENERGY**48 CFR Parts 909 and 970**

RIN 1991-AB44

Acquisition Regulations; Performance Guarantees

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is amending its acquisition regulations to formally require a performance guarantee under circumstances where a prospective awardee has been created solely for the performance of the instant contract and lacks sufficient financial or other resources to fulfill its obligations under the prospective contract. In circumstances where the newly created entity likely will be dependent upon the resources of the parent organization, this rule allows Contracting Officers to consider the resources of the parent in a determination of the newly created entity's responsibility only when the parent provides a performance guarantee or other undertaking satisfactory to the Contracting Officer. While this situation occurs most often in the award of contracts for the management and operation of DOE facilities, this rule makes a form of performance guarantee necessary whenever these circumstances are encountered.

EFFECTIVE DATE: This rule will take effect May 6, 1999.

FOR FURTHER INFORMATION CONTACT: Robert M. Webb, U.S. Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586-8264.

SUPPLEMENTARY INFORMATION:

I. Background.

II. Resolution of Comment.

III. Procedural Requirements.

A. Review Under Executive Order 12866.

B. Review Under Executive Order 12988.

C. Review Under the Regulatory Flexibility Act.

D. Review Under the Paperwork Reduction Act.

E. Review Under the National Environmental Policy Act.

F. Review Under Executive Order 12612.

G. Review Under Small Business Regulatory Enforcement Fairness Act of 1996.