

1 (888) 496-9455; August 3, 1999

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[FR Doc. 99-20103 Filed 7-30-99; 4:50 pm]

BILLING CODE 6325-01-P

AGENCY FOR INTERNATIONAL DEVELOPMENT

48 CFR Parts 701, 702, 703, 705, 706, 709, 714, 716, 719, 726, 732, 733, 734, 749, 750 and 752

[AIDAR Circular 99-1]

RIN 042-AA42

Realignment of Contracting Responsibilities and Authorities From the Procurement Executive to the Director, Office of Procurement, and Other Miscellaneous Amendments to Acquisition Regulations

AGENCY: U.S. Agency for International Development.

ACTION: Final rule.

SUMMARY: Authorities previously delegated to the Agency Procurement Executive have been redelegated to the Director of the Office of Procurement. Many of these authorities are identified in the USAID Acquisition Regulation (AIDAR), 48 CFR Chapter 7, which consequently must be amended to reflect the redelegation. Other administrative amendments are being made concurrently.

EFFECTIVE DATE: September 2, 1999.

FOR FURTHER INFORMATION CONTACT: M/OP/POL, Ms. Diane M. Howard, Room 7.08-082U, 1300 Pennsylvania Ave., NW., U.S. Agency for International Development, Washington, DC 20523-7801. Telephone (202) 712-0206; internet: dhoward@usaid.gov.

SUPPLEMENTARY INFORMATION: In conjunction with the reassignment of the Agency Procurement Executive and the naming of a new Director of the Office of Procurement ("M/OP Director"), authorities and responsibilities previously delegated to the Procurement Executive have been redelegated to the M/OP Director. Many of these authorities and responsibilities are specified in the USAID Acquisition Regulation (AIDAR), and consequently the AIDAR is being amended to reflect this realignment and to appropriately relocate and more concisely state these authorities and responsibilities in (48 CFR) AIDAR 701. Amendments 2 through 8, 11, 13, 14, 18, 20, and 22 make changes resulting from this redelegation. In addition, amendments 4 and 5 amend the organization of AIDAR administrative policy and contracting

authorities in the AIDAR itself to more closely parallel the FAR, including instituting the use of the term "AIDAR Circular" rather than "AIDAR Notice" as the title of the document used to revise the AIDAR.

Administrative matters are effected through Amendments 9, 10, 12, 15, 16, 17, 19, 21, 23, and 24, summarized as follows:

1. Amendment 9 amends section 702.170-17 to update USAID's definition of its Automated Directives System;
 2. Amendment 10 removes a redundant section;
 3. Amendments 12, 15, and 17 correct references that were overlooked in AIDAR Notice 98-1, which amended the AIDAR to be consistent with the FAR Part 15 Rewrite (FAC 97-2);
 4. Amendment 16 amends the heading for Part 719 to be consistent with FAR Part 19;
 5. Amendment 19 removes invalid language;
 6. Amendment 21 removes the references to the International Development Cooperation Agency in section 750.7101, since this agency was abolished in the Foreign Affairs Reform and Restructuring Act of 1998, Public Law 105-277;
 7. Amendment 23 updates the name of the referenced office; and
 8. Amendment 24 removes the clause in section 752.2026, because replacement regulatory coverage for periodic reporting is being handled separately through the Proposed rule published on November 4, 1998, as AIDAR Notice 98-2 (63 FR 59501), and the continued inclusion of this clause in the AIDAR is confusing.
- The changes being made by this Circular are not considered "significant" under FAR 1.301 or FAR 1.501, and public comments have not been solicited. This Circular will not have an impact on a substantial number of small entities nor does it establish a new collection of information as contemplated by the Regulatory Flexibility Act and the Paperwork Reduction Act. Because of the nature and subject matter of this Circular, use of the proposed rule/public comment approach was not considered necessary. We decided to issue as a Final Rule; however, we welcome public comment on the material covered by this Circular or any other 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, 702, 703, 705, 706, 709, 714, 716, 719, 726, 732, 733, 734, 749, 750 and 752

Government procurement.

For the reasons set out in the Preamble, 48 CFR Chapter 7 is amended as set forth below.

1. The authority citations in Parts 701, 702, 703, 705, 706, 709, 714, 716, 719, 726, 732, 733, 749, 750 and 752 continue 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; 3 CFR 1979 Comp., p. 435.

CHAPTER 7—[AMENDED]

2. Chapter 7 is amended by removing "Procurement Executive" wherever it appears in the following sections and adding "M/OP Director" in its place:

709.403
714.406-3
714.406-4
726.7005
733.103-71
733.103-72
733.103-73
734.002-70
749.111-70
749.111-71
750.7105
750.7110-2
750.7110-3
750.7110-4

Appendix D to Chapter 7, Section 4(e)(3)

3. Chapter 7 is amended by removing "USAID Procurement Executive" wherever it appears in the following sections and adding "M/OP Director" in its place:

701.602-3
706.501

PART 701—FEDERAL ACQUISITION REGULATION SYSTEM

4. Subpart 701.3 is revised to read as follows:

Subpart 701.3—U.S. Agency for International Development Acquisition Regulation

701.301 Policy.
701.303 Publication and codification.

701.301 Policy.

(a) *Responsibility.* Subject to the direction of the Administrator, the Director, Office of Procurement ("M/OP Director") is responsible for:

(1) Developing and maintaining necessary uniform procurement policies, procedures, and standards;

(2) Providing assistance to the contracting activities as appropriate;

(3) Keeping the Administrator and Executive Staff fully informed on procurement matters which should be brought to their attention; and

(4) All agency head duties and authorities stated in (48 CFR) FAR subpart 1.3, in accordance with (48 CFR) AIDAR 701.601. These responsibilities include but are not limited to developing, issuing, and maintaining the USAID Acquisition Regulation ("AIDAR", 48 CFR chapter 7), USAID's supplement to the Federal Acquisition Regulation (48 CFR Chapter 1), in coordination with the General Counsel and such other offices as may be appropriate.

(b) *Applicability.* (1) Unless a deviation is specifically authorized in accordance with subpart 701.4, or unless otherwise provided, the FAR and AIDAR apply to all contracts (regardless of currency of payment, or whether funds are appropriated or non-appropriated) to which USAID is a direct party.

(2) At Missions where joint administrative services are arranged, procuring offices may apply the Department of State Acquisition Regulation (48 CFR chapter 6) for all administrative and technical support contracts except in defined areas. The Office of Administrative Services will furnish the defined areas and administrative guidelines for procurement to the overseas Missions. Administrative and local support services include the procurement accountability, maintenance and disposal of all office and residential equipment and furnishings, vehicles and expendable supplies purchased with administrative and/or technical support funds, either dollars or local currency.

701.303 Publication and codification.

(a) The AIDAR is USAID's Acquisition Regulation supplementing the FAR (48 CFR chapter 1) and is published as chapter 7 of Title 48, Code of Federal Regulations. AIDAR Circulars shall be used to promulgate changes to the AIDAR and shall be published in compliance with (48 CFR) FAR part 1.

(b) *Appendices.* Significant procurement policies and procedures that do not correspond to or conveniently fit into the FAR system described in FAR 1.1 and 1.303 may be published as Appendices to the AIDAR. Appendices follow the main text of the AIDAR in a section entitled "Appendices to Chapter 7" and contain a table of contents and the individual

appendices identified by letter and subject title (e.g., "Appendix D—Direct USAID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad").

(c) Only the M/OP Director has the authority to issue internal agency guidance applicable to all agency contracts. The heads of the various USAID contracting activities (see subparts 701.6 and 702.10) may issue operating instructions and procedures consistent with the FAR, AIDAR, and other Agency regulations, policies, and procedures for application within their organizations. One copy of each such issuance shall be forwarded to the Office of Procurement, Policy Division (M/OP/POL). Insofar as possible, such material will be numerically keyed to the AIDAR.

Subpart 701.6—[Amended]

5. The head for subpart 701.6 is revised and section 701.601 is amended by redesignating paragraphs (a) and (b) as (b) and (c) respectively; by removing newly designated paragraph (c) (1) and redesignating paragraphs (c)(2), (c)(3), and (c)(4) as (c)(1), (c)(2), and (c)(3) respectively; and by adding a new paragraph (a), to read as follows:

Subpart 701.6—Career Development, Contracting Authority, and Responsibilities

701.601 General

(a) (1) Pursuant to the delegations in ADS 103.5.10, the M/OP Director is authorized to act as the Head of the Agency for all purposes described in the Federal Acquisition Regulation (FAR, 48 CFR Chapter 1), except for the authority in (48 CFR) FAR sections 6.302–7(a)(2), 6.302–7(c)(1), 17.602(a), 19.201(c), 27.306(a), 27.306(b), and 30.201–5, or where the "head of the agency" authority is expressly not delegable under the FAR or AIDAR. Further, the M/OP Director is responsible for implementing the procurement related aspects of the Foreign Assistance Act, Executive Order 11223, the Office of Federal Procurement Policy Act, and other statutory and Executive Branch procurement policies and requirements applicable to USAID operations, except for those authorities and responsibilities delegated to the Procurement Executive as specified in ADS 103.5.10f.

(2) The M/OP Director has specified authority to:

(i) Select and appoint contracting officers and terminate their appointments in accordance with section 1.603 of the Federal Acquisition Regulation; and

(ii) Exercise in person or by delegation the authorities stated in subpart 1.4 of the Federal Acquisition Regulation with regard to deviations from that regulation.

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PART 702—DEFINITIONS OF WORDS AND TERMS

702.170–9 [Amended]

6. Section 702.170–9 is amended by removing "702.170–13(c)(4), the Agency Procurement Executive" and adding "701.601(a)(1), the M/OP Director" in its place.

7. Section 702.170–13 is revised to read as follows:

702.170–13 Procurement Executive.

"Procurement Executive" is synonymous with "Senior Procurement Executive" as defined in FAR 2.101 and means the USAID official who is responsible for the management direction of USAID's assistance and acquisition ("A&A") system, as so delegated and more fully described in ADS 103.5.10f.

702.170–14 [Removed]

8. Section 702.170–14 is removed and reserved.

9. Section 702.170–17 is revised to read as follows:

702.170–17 Automated Directives System

"Automated Directives System" ("ADS") sets forth the Agency's policies and essential procedures, as well as supplementary informational references. It contains six functional series, interim policy updates, valid USAID handbook chapters, a resource library, and a glossary. References to "ADS" throughout this chapter 7 are references to the Automated Directives System. Procurement-related sections of this system are accessible to the general public at the following internet address: <http://www.info.usaid.gov/pubs/ads>. The entire ADS is available on the ADS Compact Disk (ADS CD), which may be purchased from the Agency at cost by submitting a completed ADS CD order form. To request a fax copy of the ADS CD order form, send an e-mail with your fax number to ADS@USAID.GOV.

PART 703—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

703.104–11 [Removed]

10. Section 703.104–11 is removed.

PART 705—PUBLICIZING CONTRACT ACTIONS

705.502 [Amended]

11. Section 705.502(a) is amended by removing "Procurement Executive" and "702.170-13(c)(4)" in the first sentence and adding "M/OP Director" and "701.601(a)(1)" in their places respectively.

PART 706—COMPETITION REQUIREMENTS

706.302-70 [Amended]

12. Paragraph (b)(4) of section 706.302-70 is amended by removing "715.613-70" and replacing it with "715.370-1" and by removing "715.613-71" and replacing it with "715.370-2".

PART 709—CONTRACTOR QUALIFICATIONS

13. Section 709.503 is revised to read as follows:

709.503 Waiver.

For purposes of approving waivers or further delegating the authority to approve waivers pursuant to FAR 9.503, the M/OP Director is the Agency head (see AIDAR 701.601(a)(1)). The M/OP Director hereby delegates the authority to approve waivers pursuant to FAR 9.503 to the heads of USAID contracting activities, as defined in AIDAR 702.170-10.

PART 716—TYPES OF CONTRACTS

716.303 [Amended]

14. Section 716.303(c) is amended by removing "USAID Procurement Executive (see 702.170-13)" and replacing it with "M/OP Director (see 701.601(a)(1))".

716.306 [Removed]

15. Section 716.306 is removed and reserved.

16. The heading for Part 19 is revised to read as follows:

PART 719—SMALL BUSINESS PROGRAMS

719.271-6 [Amended]

17. Section 719.271-6 is amended by removing "715.613-71" in paragraph (a)(3) and replacing it with "715.370-2".

PART 732—CONTRACT FINANCING

18. Section 732.402 is amended by revising paragraph (e)(1) to read as follows:

732.402 General.

* * * * *

(e)(1) U.S. Dollar advances to for-profit organizations, including advances for disbursement to grantees, shall be processed and approved in accordance with ADS 583.5.6b.

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732.406-72 [Amended]

19. Section 732.406-72 is amended by removing "16 digit" from paragraph (b)(2).

PART 733—PROTESTS, DISPUTES AND APPEALS

733.101 [Amended]

20. Section 733.101 is amended by removing paragraph (a) and by redesignating paragraphs (b) and (c) as (a) and (b), respectively.

PART 750—EXTRAORDINARY CONTRACTUAL ACTIONS

750.7101 [Amended]

21. Section 750.7101 is amended by removing the designation "(a)" in front of the first paragraph and by removing paragraph (b) in its entirety. The first sentence of the remaining text is amended by adding "and" in front of "Executive Order 12163" and by removing "as amended; and International Development Cooperation Agency Delegation of Authority No. 1, dated October 1, 1979 (44 FR 57521)".

22. Section 750.7110-1 is amended by revising the last sentence to read as follows:

750.7110-1 Investigation

* * * The investigation shall establish the facts essential to meet the standards for deciding the particular case and shall address the limitations upon exercise of the authority of the M/OP Director to approve the request.

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

752.202-1 Alternate 71 [Amended]

23. The definition of the "Director" in section 752.202-1, Alternative 71, is amended by removing "Office of International Training" and replacing it with "Center for Human Capacity Development (G/HCD)".

752.7026 [Removed]

24. Section 752.7026 is removed and reserved.

Dated: July 8, 1999.

Rodney W. Johnson,

Director, Office of Procurement.

[FR Doc. 99-19648 Filed 8-2-99; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 990727204-9204-01; I.D. 072299A]

RIN 0648-AM87

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Gulf of Maine (GOM) Cod Landing Limit Adjustment

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interim final rule; request for comments.

SUMMARY: This rule adjusts the GOM cod landing limit by increasing it from 30 lb (13.6 kg) to 100 lb (45.4 kg) per day-at-sea (DAS) with a maximum GOM cod possession limit of 500 lb (226.8 kg) per trip and by revising the "running clock" provision. The intent of this adjustment is to address overfishing of GOM cod by reducing overall fishing mortality and discards that have been reportedly occurring on trips targeting other species managed under the Northeast Multispecies Fishery Management Plan (FMP). The intent is to allow the fishing industry to attain some economic benefit from their GOM cod incidental catch, yet to be sufficiently restrictive to discourage a directed fishery for GOM cod, which remains severely overfished. These interim measures will provide intermediate relief from overfishing due to excessive discards while permanent measures to remedy the problem are developed by the New England Fishery Management Council (Council).

DATES: Effective August 3, 1999 through January 30, 2000; comments must be received on or before September 2, 1999.

ADDRESSES: Copies of the documents supporting this action may be obtained from the Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298. Comments on the interim final rule may be sent to the Regional Administrator, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298. Mark the outside of the