

# What USAID Contractors Need to Know About the June 2018 Amendment to AIDAR 752.7013 to Prevent Sexual Exploitation and Abuse

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The past several years have seen increased focus on combating all forms of exploitation and trafficking of persons. Contractors, particularly those doing business with the State Department and USAID, have an especially important role in addressing this issue.

By now, contractors are certainly well-aware of the FAR requirements addressing human trafficking (FAR Subpart 22.17). Originally adopted in 2006, these anti-trafficking provisions were expanded significantly in early 2015. The FAR prohibits a wide array of actions including human trafficking, forced labor, commercial sex acts, withholding employee documentation, engaging in misleading or fraudulent recruiting practices, providing substandard housing and so on. Contractors doing business overseas are required to certify, prior to award of a covered contract, that they have implemented a compliance plan addressing these requirements.

Within this broader context, there has been a specific focus on preventing sexual misconduct in the context of foreign assistance. USAID has announced a zero-tolerance policy for sexual misconduct, including harassment, exploitation or abuse of any kind among USAID staff or implementing partners (*i.e.*, contractors and assistance recipients). In March 2018, USAID Administrator Mark Green established an intra-agency group—the Action Alliance for Preventing Sexual Misconduct (AAPSM)—which is charged with leading USAID’s work on addressing sexual misconduct in all forms, including harassment, exploitation and abuse. The AAPSM’s approach is multi-faceted, but one of its key pillars is the establishment of new standards for contracts, grants and cooperative agreements. This article focuses on the new requirements for contractors, added via amendments to USAID’s FAR Supplement (AIDAR) clause 752.7013.

### AIDAR 752.7013 and its Requirements

Since 1989, AIDAR clause 752.7013 has provided USAID a role in dealing with contractor employees who fail to comply with the following standard of conduct: carrying out operations “in such a manner as to be fully commensurate with the responsibility [of supporting U.S. Foreign Assistance Programs].” AIDAR 752.7013 includes a contractor disclosure obligation. When a contractor determines that the conduct of any employee is not in accordance with the standard of conduct, the Contractor’s Chief of Party “must consult with the USAID contracting officer and the Mission Director and the employee involved.” The Mission Director then “recommends to the Contractor a course of action with regard to such employee.” AIDAR 752.7013 acknowledges that the U.S. Ambassador may direct the removal/discharge of any individual from the contract if the Ambassador determines that doing so is required to protect U.S. interests. When an employee is terminated under these circumstances, the termination of the employee and replacement by acceptable substitute must be at no cost to USAID.

As part of the broader initiative discussed above, in June 2018, USAID amended AIDAR 752.7013 (through a “deviation” found [here](#)) to clarify that this standard of conduct includes “ensuring that employees act in a manner consistent with the standards for United Nations (UN) employees in Section 3 of the UN Secretary-General’s Bulletin – Special Measures for Protection from Sexual Exploitation and Sexual Abuse.” Section 3 of the UN’s Standards for Protection from Sexual Exploitation and Sexual Abuse include six standards that prohibit a range of sexual activity, including:

- » “exchange of money, employment, goods or services for sex, including sexual favors,”
- » sexual relationships between UN staff and beneficiaries of assistance (whether or not money is exchanged), and
- » sexual activity with persons under the age of 18, regardless of the local law regarding age of consent.

Section 3 of the UN’s standards also require UN staff members who develop concerns or suspicions regarding sexual exploitation or sexual abuse by a fellow worker to report such concerns via established reporting mechanisms. In addition, UN staff are “obliged to create and maintain an environment that prevents sexual exploitation and sexual abuse.” Managers “at all levels” have a responsibility to support and develop systems that maintain this environment.

### What Should Contractors Do in Light of Revised AIDAR 752.7013?

First and foremost, contractors should ensure that they are in compliance with the broader FAR requirements pertaining to anti-human trafficking, discussed briefly above. Contractors also should take the following actions to comply with revised AIDAR 752.7013 to prevent sexual abuse and sexual exploitation by employees working abroad:

- » **Update Employee Standards of Conduct:** USAID contractors should **update employee standards of conduct** to confirm to the U.N. Standards for Protection from Sexual Exploitation and Sexual Abuse.
- » **Inform Managers of Responsibility:** USAID contractors should inform their employees who manage USAID programs of the responsibility to support and develop systems that prevents sexual exploitation and sexual abuse.
- » **Employee Training:** USAID contractors should provide training to all employees stationed abroad on the U.N. Standards for Protection from Sexual Exploitation and Sexual Abuse, including the obligation to report any concerns or suspicions of such conduct by fellow employees.
- » **Review Established Internal Reporting Mechanism:** USAID contractors should review their existing internal compliance reporting mechanism to ensure it is appropriate to handle internal reporting by employees of concerns about sexual exploitation or sexual abuse. Contractors should promptly make any necessary adjustments to the established reporting mechanism. A contractor’s Chief of Party must also consult with the USAID Mission Director regarding any potential violation, which may also trigger reporting to USAID’s Office of Inspector General.
- » **Ensure All Subcontractors Take the Foregoing Actions:** USAID contractors should unilaterally amend subcontracts to insert revised AIDAR 752.7013 (and the FAR provisions on trafficking, if they have not already). USAID contractors should request that subcontractors take the actions listed above to ensure awareness, training, and an appropriate employee reporting mechanism are in place.

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