

From: EXECUTIVE MESSAGE (AID.ES) (USAID)

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To: ALL WASHINGTON USERS Mail List (USAID); MISSION NOTICES Mail List (USAID); F All Staff

Subject: Award Provisions Encouraging More Comprehensive Nondiscrimination Policies by USAID Contractors and Recipients

USAID/General Notice

INFORMATION

A/AID

10/11/2011

SUBJECT: Award Provisions Encouraging More Comprehensive Nondiscrimination Policies by USAID Contractors and Recipients

USAID is committed to achieving and maintaining a diverse and representative workforce and a workplace free of discrimination. Based on law, Executive Order, and Agency policy, USAID prohibits discrimination in the workplace on the basis of race, color, religion, sex (including pregnancy and gender identity), national origin, disability, age, veteran's status, sexual orientation, genetic information, marital status, parental status, political affiliation, and any other conduct that does not adversely affect the performance of the employee. USAID does not tolerate any type of harassment, either sexual or nonsexual, of any employee or applicant for employment.

Most federal contractors and recipients are prohibited by law and regulation from discrimination with regard to race, color, religion, sex, national origin, disability, age, genetic information, or veteran status when work under their contract is performed in the U.S. or employees are recruited from the U.S. However, while many of them have chosen to do so, contractors and recipients are not required to implement the same comprehensive nondiscrimination policies required by the Agency for its own employment practices.

In order to encourage all USAID contractors and recipients, including those performing solely overseas, to apply comprehensive nondiscrimination policies that include sexual orientation, gender identity, pregnancy, marital status, parental status, political affiliation, and any other conduct that does not adversely affect performance, USAID is adding the attached award provisions to all of its contracts and grants.

Any questions concerning this notice may be directed to Jennifer Norling, M/OAA/P, (202) 567-4674 or jnorling@usaid.gov.

Attachments

Tab 1 – Revisions to ADS Chapter 302

Tab 2 – Revisions to ADS Chapter 303

The following language will be added to ADS 302.3.5, Solicitation Requirements and Provisions:

302.3.5.9 Prohibition against discrimination

Most federal contractors are prohibited by law and regulation from discrimination with regard to race, color, religion, sex, national origin, disability, age, genetic information, or veteran status when work under their contract is performed in the U.S. or employees are recruited from the U.S. The requirements applicable to federal contracts are found in FAR PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS and the clauses in FAR Part 52.227. Additionally, while not a mandatory requirement, the Agency encourages all organizations performing under USAID contracts, including those performed solely overseas, to apply these same standards of nondiscrimination to other bases, including sexual orientation, gender identity, pregnancy, and any other conduct that does not adversely affect performance.

Contracting officers must include the provision “Prohibition Against Discrimination” in all solicitations and contracts. This provision contains non-mandatory language that encourages contractors to establish comprehensive nondiscrimination policies for their workplaces.

The following Special Provision will be added to the Mandatory Reference “Special Provisions for Acquisitions” in ADS 302:

4. Prohibition Against Discrimination

(Please refer to ADS 302, section 302.3.5.9, “Prohibition Against Discrimination”)

302.3.5.9 PROHIBITION AGAINST DISCRIMINATION (Oct 2011)

FAR Part 27 and the clauses prescribed in that part prohibit contractors performing in or recruiting from the U.S. from engaging in certain discriminatory practices.

USAID is committed to achieving and maintaining a diverse and representative workforce and a workplace free of discrimination. Based on law, Executive Order, and Agency policy, USAID prohibits discrimination in its own workplace on the basis of race, color, religion, sex (including pregnancy and gender identity), national origin, disability, age, veteran’s status, sexual orientation, genetic information, marital status, parental status, political affiliation, and any other conduct that does not adversely affect the performance of the employee. USAID does not tolerate any type of harassment, either sexual or nonsexual, of any employee or applicant for employment. Contractors are required to comply with the nondiscrimination requirements of the FAR and in addition, the Agency strongly encourages all its contractors (at all tiers) to develop and enforce comprehensive nondiscrimination policies for their workplaces that include protection on these expanded bases.

Existing Mandatory Standard Provision for U.S. Nongovernmental Recipients:

NONDISCRIMINATION (May 1986)

(This provision is applicable when work under the grant is performed in the U.S. or when employees are recruited in the U.S.)

No U.S. citizen or legal resident shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity funded by this award on the basis of race, color, national origin, age, handicap, or sex.

Existing Required As Applicable Standard Provision for non-U.S. NGOs:

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS (MAY 1986)

APPLICABILITY: *This provision is applicable when work under the award is performed in the United States or when employees are recruited in the United States.*

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS (MAY 1986)

No U.S. citizen or legal resident shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity funded by this award on the basis of race, color, national origin, age, handicap, or sex.

The following provision will replace the provisions above as a Mandatory Standard Provision for both U.S. and Non-U.S. Nongovernmental Recipients. It will be included in all assistance awards:

PROHIBITION AGAINST DISCRIMINATION (Oct 2011)

No U.S. citizen or legal resident shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination on the basis of race, color, national origin, age, disability, or sex under any program or activity funded by this award when work under the grant is performed in the U.S. or when employees are recruited from the U.S.

Additionally, USAID is committed to achieving and maintaining a diverse and representative workforce and a workplace free of discrimination. Based on law, Executive Order, and Agency policy, USAID prohibits discrimination, including harassment, in its own workplace on the basis of race, color, religion, sex (including pregnancy and gender identity), national origin, disability, age, veteran's status, sexual orientation, genetic information, marital status, parental status, political affiliation, and any other conduct that does not adversely affect the performance of the employee.

Recipients must comply with the requirements of the first paragraph of this provision and in addition, the Agency strongly encourages its recipients and their subrecipients and vendors (at all tiers), performing both in the U.S. and overseas, to develop and enforce comprehensive nondiscrimination policies for their workplaces that include protection for all their employees on these expanded bases.