

SUPPORTING STATEMENT FOR REQUEST FOR APPROVAL UNDER
THE PAPERWORK REDUCTION ACT AND 5 CFR 1320
USAID Acquisition Regulation: United States Agency for International Development (USAID)
Acquisition Regulation (AIDAR): Foreign Tax Reporting, Conference Planning, and Trade and
Investment Activities
RIN#0412-AB04

SECTION A. JUSTIFICATION

1. Need for the information collection.

Section 635(b) of the Foreign Assistance Act (FAA) authorizes USAID to make grants (including cooperative agreements) to or contract with any corporation, international organization, or other body or persons in or outside of the United States in furtherance of the purposes and within the limitations of the FAA. Section 579 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 2003 (FY 2003 FOAA), (Division E, P.L. 108-7), as amended, and similar provisions in subsequent annual appropriations acts, requires the U.S. government to take certain actions to prevent taxation of assistance provided with funds appropriated in the SFOAA or to obtain full reimbursement of all taxes paid. *See also* Section 7013, Department of State, Foreign Operations, and Related Programs Appropriations Act, 2020 (Div. F, P.L. 116-94) (FY 2020 SFOAA).

If taxes or customs duties are assessed by a foreign government or entity against funds appropriated by the relevant SFOAA or prior-year appropriations acts, the Department of State must withhold 200% of unreimbursed taxes or customs duties from funds appropriated for assistance for the following fiscal year or for prior fiscal years and allocated for that country's central government. Appropriations since 2004 have continued to impose these requirements. The laws require the Secretary of State to issue rules, regulations or policy guidance addressed to U.S. embassies, USAID, other USG agencies, non-governmental organizations, contractors, grantees, subcontractors/subgrantees, and any other recipients responsible for implementing foreign assistance programs or activities. The Department of State's guidance to USAID was to require its contractors and recipients to report whether a country receiving U.S. foreign assistance imposed an applicable tax and whether that country reimbursed the program if taxes were assessed.

The first information collection is an element of a proposed rule that implements Section 7013 in the annual Department of State, Foreign Operations, and Related Programs Appropriations Act (SFOAA). An AIDAR clause (752.229-71) requiring this collection is currently in use without an OMB control number. However, the SFOAA for 2018 (P.L. 115-141) §7013, made changes to the previous requirements; so, USAID is revising the AIDAR clause through the rule-making process to bring it into compliance (RIN#0412-AB04), and a copy of the proposed text is available there.

The second collection is in 48 CFR 752.231-72 and requires contractors to submit specific documentation to obtain Agency approval for conferences. It was issued to implement the Agency's response to OMB Memorandum M-11-35 "Eliminating Excess Conference Spending and Promoting Efficiency in Government," issued September 21, 2011. The Agency issued

internal policy on conference approval and attendance that is applicable to contractor employees and consultants as well as employees; the policy is in ADS Chapter 580 Conference Planning and Attendance. USAID's policy has evolved since 2011 to reflect periodic revisions to U.S. government policy and procedures on conference attendance and approval; ADS 580's Mandatory External Reference section 580.4.1 lists the OMB Memoranda and Federal Travel Regulations that are the source of our policy, which was revised as recently as February 2021. For conference costs to be allowable under the contract, the contractor must comply with the Agency's policy; so, when incorporating this requirement into the AIDAR, USAID made it a supplement to the relevant cost principle in the Federal Acquisition Regulation (FAR), 48 CFR 31.205-43 "Trade, business, technical and professional activity costs." This AIDAR clause is also currently in use without an OMB control number, but it is outdated and must be revised to comply with current requirements. The revisions to the AIDAR are in process through rulemaking (RIN#0412-AB04), and a copy of the proposed text is available there.

2. Use of the information.

The first collection (AIDAR 752.229-71) is required for the Department of State to comply with §7013 of the SFOAA. The Department of State must withhold from obligation an amount equivalent to 200% of the taxes assessed but unreimbursed from funds appropriated for assistance, either directly to the foreign government or through contracts, grants, or cooperative agreements. Paragraph (b) of §7013 requires the Secretary of State to report to the Congressional Committees on Appropriations on the foreign governments and entities that have not reimbursed the taxes that are the subject of the section. The only way for the Secretary to comply with these requirements is for contractors and recipients to provide the information on assessed and unreimbursed taxes, since a foreign government would impose a tax directly on the contractor or recipient and the U.S. government is not involved in the transaction. The clause in 752.229-71 requires contractors to submit the report to the office designated in paragraph (d) of the clause; typically, this is the USAID Mission Controller. That information is then forwarded to the Bureau for Foreign Affairs at the State Department, who then compiles the reported information into the report for the Secretary to submit to the Congressional committees.

The second collection (AIDAR 752.231-72) is used by the Agency to determine whether to approve a conference proposed by the contractor when it meets the threshold limits in ADS 580. Approval is required for conference costs to be allowable expenses under the contract. The contractor submits the information to the contracting officer (CO) or the contracting officer's representative (COR), who then forwards it to the appropriate approving official in accordance with the process in ADS 580. The approving official makes the determination and informs the CO or COR, who conveys the decision to the contractor.

3. Use of information technology. USAID encourages the use of email or other electronic technology, including facsimile. The information collection that is the subject of this clearance request can be and is submitted electronically. Respondents submit the information through narrative communications, typically via email. At this time, we are not considering developing a form for this purpose since it is an annual reporting requirement and developing the form is not cost-effective compared to a simple narrative email submission.

4. Non-duplication. We have reviewed these requirements to ensure that they are not duplicated by other agency-specific or Government-wide policies.
5. Burden on Small Business. The collections impact small businesses and other small entities, but the costs are reimbursable as either direct or indirect costs; so, there is no public cost burden associated with them. Reporting foreign government taxes is required only once a year by statute, and the effort contractors are expected to make is minimal. Contractors will only request approval for a conference when it is a logical component of contract performance, and the impact on contractors is consistent regardless of their size and represents the minimum needed to prudently manage US government funds.
6. Less frequent collection. The foreign tax reporting collection is required annually to enable the Secretary of State to report to Congress annually, as required by statute. The requirement to obtain approval to fund conferences at US government expense is the minimum needed to ensure fiscal accountability.
7. Explain any special circumstances. As stated, the foreign tax reporting information collection is only required annually and cannot be requested less frequently. The approval required for conferences only applies when the contractor plans a conference that meets the threshold requirements for Agency approval imposed by USAID to ensure that the conference is consistent with Agency and USG policy to promote fiscal accountability. Respondents are required to retain records only as required for contract and grant administration documentation.
8. Consultation and public comments. In this publication, USAID is soliciting public comments in a 60-day Federal Register Notice of Public Information Collections. USAID will respond to any comments it receives.
9. Gift to respondents, other than remuneration of contractors or grantees. Not applicable since any payments are in the form of remuneration to contractors.
10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. None of the information collections include a pledge of confidentiality. USAID shares or protects information as provided by law.
11. Additional justification for any questions of a sensitive nature. Information of a sensitive nature is not requested in these collections.
12. Estimation of Respondent Burden. The estimated hour burden for the information collections are as follows:

Foreign Tax Reporting

Number of Respondents	900
Frequency of Response	Annual
Annual Hour Burden/respondent	1 hour

Total Annual Burden 900 hours

Our estimate is based on the number of countries in which USAID has contractors conducting foreign assistance programs and the number of contractors in each of those countries. According to the Agency’s world-wide web-based acquisition system, the Global Acquisition and Assistance System (GLAAS), for fiscal year 2020, USAID had just over 900 contracts in approximately 112 countries. Contractors may submit a cumulative report for a single country if they are implementing more than one program in that country; so to determine the number of respondents, we need to determine how these contractors and recipients actually report, by individual contract or in a single cumulative report for the country. We contacted several of our overseas offices where there are multiple contracts with the same specific contractor to find out how these entities report; according to their responses, the entities respond separately by award, since they administer each award independently and maintain financial information on a per contract basis. The hour burden is estimated as one hour, based on our assumption that for any type of respondent, the report is prepared by a mid-level accountant and then reviewed and approved by a more senior manager who actually submits the report to the designated USG office.

Conference Planning and Required Approval

Our estimate for this collection is based on information provided by the USAID office that manages conference approval request submissions. The burden estimate is derived from fiscal years 2018 to 2020. During those years, the numbers of conferences that were subject to this approval requirement were twenty-seven, twenty-nine, and eleven, respectively. In fiscal year 2020 and 2021, the Agency adhered to travel restrictions due to COVID-19 that dramatically reduced the number of Agency conference sponsorships; in fact, there were no conferences subject to the approval requirement for the first portion of fiscal year 2021, and none are expected. The office commented that now that USAID and much of the world is successfully implementing virtual tools that support virtual conference attendance, USAID expects total conference costs to be driven downward (for example, virtual tools will reduce travel costs). This will likely reduce the number of conferences that meet the threshold requiring approval post-COVID. Since a contractor would have already obtained the information required for the conference approval request during the budgeting process, we estimate that it will take no more than two hours to complete each such request.

Therefore, based on experience and an anticipated reduction in the number of conferences likely to be subject to the approval requirement in the post-COVID future, our burden estimate is the following:

Number of Respondents	20
Frequency of Response	as needed (assume one per year)
Annual Hour Burden/respondent	2 hours
Total Annual Burden	40 hours

13. Respondent costs other than burden hour costs. There are no capital and start-up costs, or operation, maintenance, or purchase of services components associated with the information collections. The total annual cost burden to respondents is addressed in Item 14.

14. Cost to the Federal Government. The estimate of the annualized cost to the federal government is the sum of the cost of federal employee effort for each collection and the cost of the Annual Public Burden, which is a cost to the federal government since contractors are reimbursed by the government through contracts.

Foreign Tax Reporting:

For the federal cost burden, we used the following methodology:

Federal employee cost: There are two stages in this reporting that require federal employee effort. The first is after public respondents submit the reports to a designated point of contact at the overseas post, either at USAID or the US embassy; the second is when that office forwards the reported information to the Bureau for Foreign Assistance (FA) in the State Department, who then compiles the data reported from all overseas posts, prepares the report, and submits it to Congress.

USAID has approximately 112 overseas offices, but the number of respondents per office varies widely, from as few as just one to over 150. The federal employee hourly burden per respondent will also vary because the effort to process the reports depends on what is reported; some reports will simply say no tax was imposed, while others may report that a tax was imposed and whether it was reimbursed by the foreign government. Surveying even a few posts is unlikely to result in a reliable hourly federal employee burden, since the individuals responsible for serving as the point of contact at post are also collecting reports from non-USAID respondents, and some posts may have a higher proportion of non-USAID reports while others may have only USAID reports. We believe, however, that most reports submitted are from USAID-funded contracts.

For this justification, we estimate that each post is spending two hours to collect reports from USAID’s respondents and compile them into a single report to FA. Our assumptions are that the designated point of contact overseas is a relatively senior financial analyst or controller and is assisted by a mid-level financial analyst. The former spends a half hour on this task while the mid-level analyst spends an hour and a half. Using the 2021 Foreign Service salary table with an overseas locality payment of 20.32% and an indirect/overhead rate of 100%, we estimate this portion of the federal burden cost as follows:

Senior Financial Analyst/Controller - Foreign Service Class 2, Step 5: hourly rate is \$58.64
Mid-level financial analyst – Foreign Service Class 4, Step 4: hourly rate is \$37.38.

Annual Cost for this part (overseas points of contact receiving reports from respondents):

	\$58.64 @ 25% = \$14.66
	\$37.38 @ 75% = <u>\$28.04</u>
Total hourly direct labor cost	\$ 42.70
Indirect/overhead @ 100%	+ <u>42.70</u>

Total burdened hourly cost	\$ 85.40
Cost for two hours	\$170.80
Total Annual Cost - \$170.80 x 112 (posts) = \$19,130 (rounded up)	

This value reflects the overall cost of both acquisition and assistance. For purposes of estimation, this total annual cost is multiplied by 30%, which is the approximate percentage of USAID funds used for Contracts this year. As such, the Annual Cost for this review for contracts is: \$5,739.

The second component of the federal employee cost burden is incurred when FA receives the information from all overseas posts and compiles the submissions into the report to Congress required by the statute. FA advised us that staff at the GS 14 -15 level spend approximately 120-140 hours per year preparing the report to Congress; since this effort is for all USG agencies subject to the reporting requirement but that most of the reports are from USAID contractors and recipients, we are using 130 hours and basing the hourly cost on a GS 15 Step 1 rate in the 2021 locality pay area of Washington-Baltimore, DC-MD-VA-WV. USAID added an indirect/overhead rate of 100%.

Annual Cost for FA to compile the report for Congress:

Hourly direct cost (GS 15, Step 1):	\$69.09
Indirect/overhead @ 100%	<u>\$69.09</u>
Total burdened hourly cost	\$138.18
Cost for 130 hours	\$17,963 (rounded down)

This value reflects the overall cost of both acquisition and assistance. For purposes of estimation, this total annual cost is multiplied by 30%, which is the approximate percentage of USAID funds used for Contracts this year. As such, the Annual Cost for this review for assistance awards is: \$5,389.

Because the public costs are reimbursed under USAID contracts, it is part of the federal cost burden. We estimate that each respondent is spending one hour to prepare and submit their foreign tax report to the designated POC, and that the effort is split 75% for a junior-mid level accountant to pull the information from the respondent's financial records and organize it into a draft report, and 25% for a senior level Financial Manager/Chief of Party to review, approve, and submit the report to the post POC. Although these are private sector positions, for estimating purposes we are using the average salary levels comparable to a GS 12 step 5 for the accountant and a GS 15 step 5 for the senior manager (from OPM's 2021 GS schedule for the rest of the United States). We used a slightly higher indirect/overhead rate, 110%, since the contractor portion of the burden includes for-profit entities and therefore allowable profit or fee is part of the rate. In addition, a majority of respondents are reporting from countries with additional hardship benefits over basic compensation; although the cost for federal employees also includes employees in the same hardship posts, there are significantly fewer of these employees than there are for the respondents, so increasing the indirect rates for the federal employee cost burden was not justified.

Senior Manager (comparable to GS 15 Step 5): hourly rate is \$69.55
 Junior-Mid level accountant (comparable to GS 12, Step 5): hourly rate is \$42.08.

Annual Cost for this part:

	\$69.55 @ 25% = \$17.39
	\$42.08 @ 75% = <u>\$31.56</u>
Total hourly direct labor cost	\$ 48.95
Indirect/overhead @ 110%	<u>53.85</u>
Total burdened hourly cost	\$102.80

Total Annual Cost - \$102.80 x 900 respondents = \$92,520

The total federal cost for Foreign Tax Reporting is therefore the sum of these separate components:

\$ 5,739
\$ 5,389
+ <u>\$ 92,520</u>
\$103,648

Conference Planning and Required Approval:

For the federal cost burden, we used the following methodology:

Federal employee cost: There are multiple criteria for required approvals, depending on the estimated cost of the conference or the number of employees in travel status expected to attend.

A. All required approvals

We estimated this component of the basic federal cost burden as follows:

For each response, the federal employee in each of the following roles is a GS 14 step 1, whose 2021 Washington DC locality pay hourly rate is \$58.71:

Conference Coordinator	4 hrs
Bureau or independent office Point of Contact role	5 hrs
Combined effort of the conference management team	<u>4 hours</u>
Total	13 hours

13 hours @ \$58.71	\$763
Indirect costs @ 100%	\$763
Total	\$1,526

The approval authority is an individual in the Senior Executive Service (SES) or comparable grade in the Foreign Service; our estimate for this position is \$79.50, calculated using the average of the minimum and maximum annual salaries for SES in an agency with a certified SES appraisal system, divided by 2087 hours (the number of hours in the federal work year).

Approving official 4 hrs

4 hours @ \$79.50	\$318
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Indirect costs @ 100% \$318
 Total \$636

The combined cost per response is \$2,162 (\$1,526 + \$636)
 For 20 annual submissions, the basic federal employee cost is \$43,240 (20 @ \$2,162).

B. Large conference approvals

We anticipate that 3 of the 20 annual submissions will require additional review and approval by the Agency Deputy Administrator (DA/AID) or Administrator (A/AID). For these submissions, we estimate the additional federal employee cost as follows:

The Agency Executive Secretariat controls approval requests to this level and the effort in this office is estimated at 4 hours, allocated as follows (again, using the 2021 OPM GS schedule and SES hourly rate described above). A GS 15 spends approximately .5 hour per response, GS 14s spend approximately 2.5 hours per response, and a Senior Executive Service manager spends 1 hour. We added an indirect/overhead rate of 100%.

GS 15	.5 hr (12.5%) @ \$69.09	\$ 8.63
GS 14	2.5 hrs (62.5%) @ \$58.71	36.69
SES	1 hr (25%) @ \$79.50	<u>19.88</u>
	Total hourly rate	\$65.20
	Indirect cost	<u>65.20</u>
	Total cost per hour	\$130.40
	Total cost for 4 hours	\$521.60

Each of these higher level approvals must also be cleared by the Assistant Administrator for Management, an SES position, who spends 4 hours on each request. We estimate this cost using the same rate for an SES position as above, \$79.50/hr, with 100% indirect cost (\$79.50):

$\$79.50 + 79.50 = \159 for 4 hours = \$636/submission.

The additional cost for each of these 3 submissions is $\$521.60 + \$636 = \$1,157.60$, rounded up to \$1,158. Therefore, the total additional cost for 3 higher level approval submissions is

3 @ \$1,158, or \$3,474.

C. Conferences costing less than \$100,000 but attended by ten or more employees in travel status

The Assistant Administrator for Management is the approving official for this category of conferences. We anticipate 3 of the 20 annual submissions will require this approval, and will also require 4 hours to review and approve. We estimate the cost for this approval using the same data as above:

$\$79.50 + 79.50 = \159 for 4 hours = \$636/submission.

Total cost for 3 annual submissions is \$1,908

The total federal employee cost is the sum of the totals in A, B, and C:

A.	\$43,240
B.	\$3,474
C.	<u>\$1,908</u>
Total	\$48,622

The public costs are reimbursed under USAID contracts, so they are part of the federal cost burden. A contractor would have already compiled the information required for the conference approval request during the contract budgeting process, so we estimate that it will take no more than two hours to complete each such request. We estimate that the salary level for contractor staff preparing the approval request is approximately \$50 per hour. We applied the same indirect cost rate we used in our estimate for Foreign Tax Reporting, 110%, and estimate the cost for respondents as follows:

Total hourly direct labor cost	\$ 50
Indirect/overhead @ 110%	<u>55</u>
Total cost per hour	\$105
Total cost for 2 hours	\$210

Total Annual Cost - \$210 x 20 respondents = \$4,200

The total federal cost for conference approval is therefore the sum of these separate components:

\$48,622
<u>+ \$4,200</u>
\$52,822

The total estimated cost for both Foreign Tax Reporting and Conference Planning and Required Approval is

\$103,648
<u>+ 52,822</u>
\$ 156,470

15. Reason for change in burden estimates from the previous approved clause. This submission requests OMB approval for a new information collection requirement.

16. For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions. This information collection will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate. Not applicable.

18. Explain each exception to the certification statement identified in item 19, "certification for paperwork reduction act submissions," on OMB Form 83-1. There are no exceptions to the certification statement identified in item 19.

SECTION B. Collections of Information Employing Statistical Methods.

The collection does not employ statistical methods.