related schedules. While the comments may apply to any tax form issued by IRS, the Service would particularly appreciate specific suggestion on ways to reduce paperwork on the tax forms. The hearings will be held in three separate cities on Wednesday, May 9, 1984, beginning at 10 A.M. local time. The hearings will be held in Jackson, Mississippi; Milwaukee, Wisconsin; and San Jose, California.

A person wishing to speak at one of these hearings should write or call the Internal Revenue Service at the address or phone number given below for the city of the particular hearing he or she plans to attend. If the Service is contacted by letter, the letter should be marked "Public Hearings on Forms" and should give both the return address and telephone number of the person desiring to speak.

The addresses and phone numbers to contact the Internal Revenue Service regarding the hearings, as well as the hearing locations, are listed below:

Jackson

Internal Revenue Service, Attn: Public Affairs Office, 100 West Capitol Street, Jackson, Mississippi 39269, Phone (601) 490–4520

Milwaukee

Internal Revenue Service, Attn: Public Affairs Office, P.O. Box 493, 517 E Wisconsin Avenue, Milwaukee, Wisconsin 53201, Phone (414) 362–3386

San Jose

Internal Revenue Service, Attn: Chief, Taxpayer Service, P.O. Box 100, San Jose, California 95103, Phone (408) 291–7148

Hearing Location: Rose Garden Public Library, Community Room, 1580 Naglee, San Jose, California

Although not required, it would be helpful to receive a copy of any written comments and suggestions a speaker may prepare. These should be sent to the appropriate mailing address listed above or may be left with the hearing panel on the day of the hearing.

In order to allow as many speakers as possible a chance to participate, each speaker's remarks will be limited to 10 minutes. Persons who have advised IRS that they wish to speak at the hearings will be notified in advance of the approximate time for their schedule appearance. The last date for submitting requests to speak is May 1. However, if there is time remaining after scheduled speakers have been heard, the remaining time will be offered to persons in attendance not previously scheduled who wish to speak.

The panel for each hearing will be made up of representatives from the District Director's Office concerned and the National Office in Washington, D.C.

Request for Written Forms Suggestions

In addition to receiving comments at the public hearings, the Service also desires to receive written comments and suggestions for improving its tax return forms, instructions, and related schedules from those persons unable to attend the hearings. Again, it should be emphasized that the comments may apply to any tax form issued by the Internal Revenue Service. The written submissions should be self-explanatory and in sufficient detail to communicate clearly what is being suggested. Careful consideration will be given to all comments and suggestions received. However, individual responses to the submissions will not be made because of the volume of correspondence expected.

In order to meet our work schedule and early printing deadlines, we request that written submissions be made on or before June 1, 1984.

Comments and suggestions should be sent to the Chairman, Tax Forms Coordinating Committee, Room 5577, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224. Further information concerning this notice may be obtained by calling (202) 566–4866.

Dated: March 20, 1984.

Approved:

Robert I. Brauer,

Director, Tax Forms and Publications Division.

[FR Doc. 84–8614 Filed 4–2–84; 8:45 am]

BILLING CODE 4830-01-M

UNITED STATES INFORMATION AGENCY

United States Advisory Commission on Public Diplomacy; Meeting

A meeting of the U.S. Advisory Commission on Public Diplomacy will be held on April 17, 1984 from 10 a.m. to 4 p.m. in room 840, 301 4th Street, SW., Washington, D.C. The Commission will discuss matters relating to USIA's programs in the Far East, its television programs, and private sector committees.

Please call Elizabeth Fahl, (202) 485–2468, if you plan to attend because entrance to the building is controlled.

Dated: March 28, 1984.

Charles N. Canestro,

Management Analyst, Federal Register Liaison.

[FR Doc. 84–8852 Filed 4–2–84; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 65
Tuesday, April 3, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

AFRICAN DEVELOPMENT FOUNDATION

TIME AND DATE: 9:30 a.m., April 6, 1984 and 9:00 a.m., April 7, 1984.

PLACE: African Development Foundation, 1724 Massachusetts Avenue, NW., Washington, D.C.

SUBJECT:

April 6, 1984—Panel discussion: Overview of the African development
April 7, 1984—General Business Open.

STATUS: Open.

PERSON TO CONTACT: Kevin Callwood, African Development Foundation (202) 861-2900.

Dated: March 28, 1984.

Bunyan Bryant,

Acting General Counsel of the African Development Foundation.

[FR Doc. 84-8930 Filed 3-30-84; 8:45 am]

BILLING CODE 6116-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, April 5, 1984.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED: *Statement of General Policy OS #5626*

The Commission will consider a Statement of General Policy concerning internal personnel practices of the Agency.

For a recorded message containing the latest agenda information, call 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Md. 20207—301-492-6800.

Sheldon D. Butts,

Deputy Secretary.

March 29, 1984.

[FR Doc. 84-8853 Filed 3-30-84; 9:40 am]

BILLING CODE 6355-01-M

3

FEDERAL COMMUNICATIONS COMMISSION

March 29, 1984.

Deletion of agenda item from March 29th open meeting.

The following item has been deleted at the request of the Office of the Chairman from the list of agenda items scheduled for consideration at the March 29, 1984, Open Meeting and previously listed in the Commission's Notice of March 22, 1984.

Agenda, Item No., and Subject

Policy—6—Title: Amendments of Parts 2 and 73 of the Commission's Rules Concerning Use of Subsidiary Communications Authorization. Summary: The Commission will consider Petitions for Reconsideration of the *First Report and Order* in BC Docket No. 82-536, FM subchannels.

Issued: March 29, 1984.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-8861 Filed 3-30-84; 10:32 am]

BILLING CODE 6712-01-M

4

FEDERAL RESERVE SYSTEM: Board of Governors.

TIME AND DATE: 11:00 a.m., Monday, April 9, 1984.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Date: March 30, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-8931 Filed 3-30-84; 3:59 pm]

BILLING CODE 6210-01-M

federal register

Tuesday
April 3, 1984

Part II

International Development Cooperation Agency

Agency for International Development

48 CFR Ch. 7
Acquisition Regulations; Final Rule

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

48 CFR Ch. 7

Agency for International Development Acquisition Regulation (AIDAR)

AGENCY: Agency for International Development (AID).

ACTION: Final rule.

SUMMARY: AID is hereby establishing the AIDAR to supplement and implement the Federal Acquisition Regulation. The AIDAR is designed as much as possible to be consistent with the FAR and the procurement regulations of other Federal agencies, thereby reducing administrative impact on bidders and contractors. The AIDAR contains all of AID's significant policies and procedures on government procurement. The AIDAR supersedes the AID Procurement Regulation as of April 1, 1984.

EFFECTIVE DATE: April 1, 1984.

FOR FURTHER INFORMATION CONTACT: M/SER/CM/SD/POL, Mr. J. M. Kelly, Telephone (703) 235-9107.

SUPPLEMENTARY INFORMATION: Availability of a draft of the AIDAR for public review and comment was publicized in the December 23, 1984, **Federal Register** (48 FR 56806), as required by OFPP Policy Letter 83-2 (48 FR 24492), and FAR 1.303(b). Fifty-one firms, institutions, or individuals requested copies of the AIDAR. We received comments from six.

All of the comments received concerned areas where the AIDAR unnecessarily repeated, paraphrased, or restated material contained in the FAR; areas where the AIDAR material was not properly keyed to the FAR material it supplemented; and the numbering system used for material unique to AID.

Based on the comments received, we have removed all material identified by commentors as being redundant to FAR coverage; have redesignated material identified by commentors as improperly keyed to existing FAR material to correct this deficiency; and have revised the numbering system generally to simplify it, and key it more precisely to the FAR.

Although the AIDAR is being issued as a final rule, we recognize that it is new, and consider that further development will be required. Significant new items, or revisions to existing text will be issued for public review and comment. We will also be glad to receive and consider any comments on existing text, published as final rule.

Past users of the AID Procurement Regulations (AIDPR) will note a significant difference between the AIDPR and the AIDAR. The AIDAR contains no coverage of noncompetitive procurements. This is because FAR coverage of noncompetitive procurement rules and Pub. L. 98-72 have not been issued as of the date the AIDAR was prepared for issuance. AIDAR coverage, as required, will be issued as soon as possible after final FAR coverage is published in the **Federal Register.** Prior to such issuance noncompetitive procurements will continue to be governed by the FPR and AIDPR system, including FPR Temporary Regulation 75.

The AIDAR is a procurement regulation, and has been exempted by the Director, OMB, from the requirements of Executive Order 12291 (2/17/81) by memorandum dated April 8, 1981, as subsequently amended December 15, 1983.

As required by the Regulatory Flexibility Act, AID certifies that the AIDAR will not have a significant economic impact on a substantial number of small entities.

The collection of information requirements in the AIDAR have been submitted to OMB for review as required by the Paperwork Reduction Act (announcement of submission appeared in 49 FR 5001). No person may be penalized for failure to comply with any information collection requirement of the AIDAR unless the requirement has been approved and assigned a control number by OMB. The OMB control number(s) will be announced, when assigned, by notice in the **Federal Register.**

List of Subjects in 48 CFR Ch. 7

Government procurement.

Title 48 is hereby amended by establishing a new Chapter 7, as set forth below.

Dated: March 27, 1984.

John F. Owens,

AID Procurement Executive.

CHAPTER 7—AGENCY FOR INTERNATIONAL DEVELOPMENT

General Structure

SUBCHAPTER A—GENERAL

PART 701—FEDERAL ACQUISITION REGULATION SYSTEM

Subpart 701.3—Agency for International Development Acquisition Regulation

Subpart 701.4—Deviations From the FAR or AIDAR

Subpart 701.6—Contracting Authority and Responsibility

Authority: Sec. 621, 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.

Subpart 701.3—Agency for International Development Acquisition Regulation

701.370 Purpose.

The Agency for International Development Acquisition Regulation (AIDAR) supplements the Federal Acquisition Regulation (FAR) and implements the procurement related aspects of the Foreign Assistance Act, Executive Order 11223, and established AID policies on contracting as set forth in Supplement B to AID Handbook 1. The AIDAR provides for the codification and publication of procedures for the acquisition of services and personal property by AID.

701.371 Authority.

The AIDAR is prepared by the AID Procurement Executive by direction of the Administrator of AID pursuant to the Foreign Assistance Act of 1961. See FAR Subpart 1.3.

701.372 Applicability.

(a) Unless a deviation is specifically authorized in accord with Subpart 701.4, or unless otherwise provided, the FAR and AIDAR apply to all contracts (regardless of currency of payment) for personal property and nonpersonal services to which AID is a direct party.

(b) At Missions where joint administrative services are arranged, procuring offices may apply the Department of State Acquisition Regulation for all administrative and technical support contracts except in defined areas. The defined areas and administrative guidelines for procurement will be furnished to the overseas Missions by the Office of Management Operations. 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.

701.373 Code arrangement.

(a) The Federal Acquisition Regulation System brings together, in Title 48 of the Code of Federal Regulations, the procurement regulations that apply to all agencies of the Government. The FAR is Chapter 1 of Title 48; the AIDAR is Chapter 7.

(b) The FAR is divided into 69 parts; Parts 1 through 69 of AIDAR expand upon or modify the policies and procedures included in the FAR. Material issued in the first 69 parts of the AIDAR will be numerically keyed to the corresponding sections of the FAR.

701.374 Publication.

(a) Those parts of the AIDAR which contain basic and significant policies and procedures considered to be of interest to the general public will be published in the daily issues of the **Federal Register** and, in cumulated form, in the Code of Federal Regulations. Copies of the AIDAR in **Federal Register** and Code of Federal Regulations form may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

(b) Public participation will be obtained for significant revisions to the AIDAR by soliciting comments in accordance with FAR 1.501.

701.375 Citation.

Any section of the AIDAR may be identified by "AIDAR" followed by the section number. Within the AIDAR itself, internal references to an AIDAR section will cite the number only, and will not include the term "AIDAR". Since the AIDAR is published in the **Federal Register**, any section may be incorporated into contracts by reference, using the citation "48 CFR" followed by the section number, as "48 CFR 703.375."

701.376 Agency implementation.

701.376-1 Responsibility.

Responsibility for the development and maintenance of the AIDAR is assigned to the Procurement Executive, and under him, to the Director, Office of Contract Management. Amendments and revisions will be prepared in coordination with the General Counsel, and such other offices as may be appropriate.

701.376-2 AIDAR Notices.

AIDAR Notices will be used to promulgate changes to the AIDAR. Such Notices will be prepared by the Procurement Executive.

701.376-3 Appendices.

Procurement policies and instructions which are essentially informational or procedural may be issued as Appendices to the AIDAR. Appendices are filed behind the main text of the AIDAR in a section entitled "Appendices to Chapter 7." The Appendices section contains a table of contents and individual Appendices. The Appendices are identified by letter and subject title (e.g. Appendix A, [title]).

701.376-4 Implementation within AID contracting activities.

The heads of the various AID contracting activities 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 Director, Office of Contract Management. Insofar as possible, such material will be numerically keyed to the AIDAR.

701.377 Procurement policy.

Subject to the direction of the Administrator, the Procurement Executive will be responsible for the development and maintenance of necessary uniform procurement policies, procedures, and standards; for providing assistance to the contracting activities as appropriate; for keeping the Administrator and Executive Staff fully informed on procurement matters which should be brought to their attention.

Subpart 701.4—Deviations From the FAR or AIDAR

701.402 Policy.

It is the policy of AID that deviation from the mandatory requirements of the FAR and AIDAR shall be kept at a minimum and be granted only if it is essential to effect necessary procurement and when special and exceptional circumstances make such deviation clearly in the best interest of the Government.

701.470 Procedure.

(a) Deviation from the FAR or AIDAR affecting one contract or transaction.

(1) Deviations which affect only one contract or procurement will be made only after prior approval by the head of the contracting activity. Deviation requests containing the information listed in paragraph (c) of this section shall be submitted sufficiently in advance of the effective date of such deviation to allow adequate time for consideration and evaluation by the head of the contracting activity.

(2) Requests for such deviations may be initiated by the responsible AID contracting officer who shall obtain clearance and approvals as may be required by the head of the contracting activity. Prior to submission of the deviation request to the head of the

contracting activity for approval, the contracting officer shall obtain written comments from the Office of Contract Management, Support Division. The Support Division shall normally be allowed 10 working days prior to the submission of the deviation request to the head of the contracting activity to review the request and to submit comments. If the exigency of the situation requires more immediate action, the requesting office may arrange with the Support Division for a shorter review period. In addition to a copy of the deviation request, the Support Division shall be furnished any background or historical data which will contribute to a more complete understanding of the deviation. The comments of the Support Division shall be made a part of the deviation request file which is forwarded to the head of the contracting activity.

(3) Coordination with the Office of General Counsel, as appropriate, should also be effected prior to approval of a deviation by the head of the contracting activity.

(b) Class deviations from the FAR or AIDAR: Class deviations are those which affect more than one contract or contractor.

(1) Class deviations from the AIDAR will be processed in the same manner as prescribed in paragraph (a) of this section.

(2) Class deviations from the FAR shall be considered jointly by AID and the Chairperson of the Civilian Agency Acquisition Council (C/CAAC) (FAR 1.404) unless, in the judgement of the head of the contracting activity, after due consideration of the objective of uniformity, circumstances preclude such consultation. The head of the contracting activity shall certify on the face of the deviation the reason for not coordinating with the C/CAAC. In such cases, the Office of Contract Management, Support Division, shall be responsible for notifying the C/CAAC of the class deviation.

(3) Class deviations from the FAR shall be processed as follows:

(i) The request shall be processed in the same manner as paragraph (a) of this section, except that the Office of Contract Management, Support Division, shall be allowed 15 working days prior to the submission of the deviation request to the head of the contracting activity to effect the necessary coordination with the C/CAAC and to submit comments. If the exigency of the situation requires more immediate action, the requesting office may arrange with the Support Division for a shorter review and coordination period. The comments of the C/CAAC and the Support Division shall be made a part of the deviation request file which is forwarded to the head of the contracting activity.

(ii) The request shall be processed in the same manner as paragraph (a) of this section if the request is not being jointly considered by AID and the C/CAAC.

(4) Deviations involving basic agreements or other master type contracts are considered to involve more than one contract.

(5) Unless the approval is sooner rescinded, class deviations shall expire 2 years from the date of approval provided that deviation authority shall continue to apply to contracts or task orders which are active at the time the class deviation expires. Authority to continue the use of such deviation beyond 2 years may be requested in accordance with the procedures prescribed in paragraph (a) of this section.

(6) Expiration dates shall be shown on all class deviations.

(c) Requests for deviation shall contain a complete description of the deviation, the effective date of the deviation, the circumstances in which the deviation will be used, a specific reference to the regulation being deviated from, an indication as to whether any identical or similar deviations have been approved in the past, a complete justification of the deviation including any added or decreased cost to the Government, the name of the contractor, and the contract or task order number.

(d) Register of deviations: Separate registers shall be maintained by the procuring activities of the deviations granted from the FAR and AIDAR. Each deviation shall be recorded in its appropriate register and shall be assigned a control number as follows: the symbol of the procuring activity, the abbreviation "DEV", the fiscal year, the serial number [issued in consecutive order during each fiscal year] assigned to the particular deviation and the suffix "c" if it is a class deviation, e.g. CM-DEV-85-1, CM-DEV-85-2c. The control number shall be embodied in the document authorizing the deviation and shall be cited in all references to the deviation.

(e) Central record of deviations: Copies of approved deviations shall be furnished promptly to the Office of Contract Management, Support Division, who shall be responsible for maintaining a central record of all deviations that are granted.

(f) Semiannual report of class deviations:

(1) AID contracting officers shall submit a semiannual report to the Office of Contract Management, Support Division of all contract actions effected under class deviations to the FAR and AIDAR which have been approved pursuant to paragraph (b) of this section.

(2) The report shall contain the applicable deviation control number, the contractor's name, contract number and task order number (if appropriate).

(3) The report shall cover the 6-month periods ending June 30 and December 31, respectively, and shall be submitted within 20 working days after the end of the reporting period.

Subpart 701.6—Contracting Authority and Responsibility

701.601 General.

Except as otherwise prescribed, the head of each contracting activity (as defined in 702.170) is responsible for the procurement of supplies and services under or assigned to the procurement cognizance of his or her activity. The heads of AID contracting activities are vested with broad authority to carry out the programs and activities for which they are responsible. This authority includes procurement and the establishment of procurement policies, procedures, and standards appropriate for their programs and activities, subject to Government-wide and AID requirements and restrictions (see 701.376-4).

701.603 Selection, appointment, and termination of appointment.

701.603-70 Designation of contracting officers.

A contracting officer represents the U.S. Government through the exercise of his/her delegated authority to negotiate, sign, and administer contracts on behalf of the U.S. Government. The contracting officer's duties are sensitive, specialized, and responsible. In order to insure proper accountability, and to preclude possible security, conflict of interest, or jurisdiction problems, it is AID policy that AID contracting officers must be U.S. citizen employees of the U.S. Government.

PART 702—DEFINITIONS OF WORDS AND TERMS

Subpart 702.170—Definitions

Sec.

Authority: Sec. 621, 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.

Subpart 702.170—Definitions

702.170-1 AID.

"AID" means the Agency for International Development and its predecessor agencies, including the International Cooperation Administration (ICA).

702.170-2 Administrator.

"Administrator" means the Administrator or Deputy Administrator of the Agency for International Development.

702.170-3 Contracting activities.

The contracting activities within AID are:

(a) *The AID/Washington activities.* The contracting activities located in Washington are the Office of Contract Management, Office of Management Operations, and Office of International Training. Subject to delegations of authority, the contracting activities are responsible for procurement related to programs and activities for their areas. The Office of Management Operations is responsible for administrative and program support procurements. The Office of International Training has limited authority for the procurement of training for participants. The Office of Contract Management is responsible for procurements which do not fall within the responsibility of other contracting activities or which are otherwise assigned to it. Delegations of authority to AID/Washington contracting activities are published in the Federal Register, and in AID Handbook 5, Delegations of Authority.

(b) *The overseas field contracting activities.* Mission Directors and specified subordinate individuals may be redelegated contracting authority by the Procurement Executive or his/her designee, based on the recommendation of the regional bureau involved.

702.170-4 Cooperating country.

"Cooperating country" means a foreign country in which there is a program or activity administered by AID.

702.170-5 Cooperating country national (CCN).

Cooperating country national (CCN) means an individual who is a cooperating country citizen or a non-cooperating country citizen lawfully admitted for permanent residence in the cooperating country.

702.170-6 Executive agency.

"Executive agency" includes the Agency for International Development (AID) and its predecessor agencies, including the International Cooperation Administration.

702.170-7 Foreign Assistance Act.

"Foreign Assistance Act" means the Foreign Assistance Act of 1961, as amended (22 U.S.C., Chapter 32).

702.170-8 Government, Federal, State, local and political subdivisions.

As used in the FAR and AIDAR, these terms do not refer to foreign entities except as otherwise stated.

702.170-9 Head of the agency.

"Head of the agency" means, for AID, the Administrator, and the Deputy Administrator.

702.170-10 Head of the contracting activity.

The heads of the contracting activities within AID are the Director, Office of Contract Management, and the Mission Directors or other officers in charge of overseas field activities who have been delegated contracting authority.

702.170-11 Mission.

"Mission means the AID mission or the principal AID office or representative (including an embassy designated to so act) in a foreign country in which there is a program or activity administered by AID.

702.170-12 Overseas.

"Overseas" means outside the United States, its possessions, and Puerto Rico.

702.170-13 Procurement Executive.

"Procurement Executive" is the AID official designated by the Administrator as the official responsible for the management of AID's procurement system, including development and maintenance of AID acquisition regulations, certification and designation of contracting officers, and similar functions. The procurement executive for AID is Mr. John F. Owens, the Associate Assistant to the Administrator for Management.

702.170-14 Third country national (TCN).

"Third country national (TCN)" means an individual who is neither a cooperating country national nor a U.S. national, but is a citizen of a Free World Country (i.e., Geographic Code 935).

702.170-15 U.S. national (USN).

"U.S. national (USN)" means an individual who is a U.S. citizen or a non-U.S. citizen lawfully admitted for permanent residence in the United States.

Subpart 702.270—Definitions Clause

702.270-1 Definitions clause.

Use the appropriate clause in 752.202-1, in addition to the clause in FAR 52.202-1.

PART 703—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 730.4—Contingent Fees

703.403 Applicability.

The exception stated in FAR 3.404(b)(6) for contracts to be made in foreign countries will not be used.

(Sec. 621, 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)

PART 704—ADMINISTRATIVE MATTERS

Authority: Sec. 621, 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.

Subpart 704.4—Safeguarding Classified Information Within Industry

704.405 Contract clause.

If the contract involves access to classified ("Confidential", "Secret", or "Top Secret"), or administratively controlled ("Limited Official Use") information, use the contract clause in 752.204-2.

Subpart 704.8—Contract Files

704.803 Contents of contract files.

(a) In order that the official contract file may contain a full history of each procurement to support actions taken by various personnel in the procurement cycle, provide information for reviews conducted by AID or others, supply data for use in preparing replies to

Congressional inquiries, and furnish essential facts in the event of litigation, each such file shall contain the data required by 4.803 of the FAR, and the following additional data, as applicable:

(1) A full record of negotiations (memorandum of negotiation) including, but not limited to:

(i) Participants,

(ii) Dates and places of meetings,

(iii) Selection of the successful contractor, including reasons for selection,

(iv) Agreements on Government-furnished materials, equipment, or facilities,

(v) Technical or financial recommendations,

(vi) Terms, conditions and type of contract agreed to,

(vii) Agreements on subcontracting,

(viii) Justification for fixed fee or profit, and

(ix) Justification for final cost or price;

(2) Any required approvals and clearances (such as General Counsel, security, project office, Mission, Office of Small and Disadvantaged Business Utilization, Office of Information Resources Management, Communications Review Board);

(3) Any exceptions or exemptions to the Buy American Act, Foreign Assistance Act, or AID's nationality policy (Part 725 or Part 25 of the FAR);

(4) Copies of all amendments and task orders with supporting documents;

(5) Copy of contractor's established policies and practices covering compensation, leave, work week, promotions, etc.;

(6) Copy of contracting officer's decisions under the disputes clause (FAR 33.011);

(7) All other pertinent correspondence, documents and reports;

(8) Financial release upon completion of the contract (release forms, 753.270-3).

PART 705—PUBLICIZING CONTRACT ACTIONS

705.001 Policy.

AID's Office of Small and Disadvantaged Business Utilization maintains a Contractor's Index, which serves as a reference source and an indication of a prospective contractor's interest in performing AID contracts. Prospective contractors are invited to file the appropriate form (Standard Forms 254/255, Architect-Engineer and Related Services Questionnaire; or AID Forms 1420-50A, Consulting Organization Registration Form; or 1420-50B, Individual Consultant Registration Form) with AID's Office of Small and Disadvantaged Business Utilization (Department of State, Agency for International Development, Washington, D.C. 20523—Attention: Office of Small and Disadvantaged Business Utilization). These forms should be updated annually.

(Sec. 621, 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)

SUBCHAPTER B—ACQUISITION PLANNING

PART 707—ACQUISITION PLANNING

Subpart 707.1—Acquisition Plans—[Reserved]

PART 708—REQUIRED SOURCES OF SUPPLIES AND SERVICES

Subpart 708.1—Excess Personal Property

708.102-70 Policy.

See AID Handbook 16, Excess Property.

(Sec. 621, 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)

PART 709—CONTRACTOR QUALIFICATIONS

Subpart 709.4—Debarment, Suspension and Ineligibility

709.402 Policy.

The regulations for debarment, suspension, and ineligibility of contractors and suppliers for the Agency for International Development are codified in 22 CFR Part 208.

(Sec. 621, 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)

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

PART 714—FORMAL ADVERTISING

Subpart 714.4—Opening of Bids and Award of Contract

Authority: Sec. 621, 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.

Subpart 714.4—Opening of Bids and Award of Contract

714.406-3 Other mistakes disclosed before award.

The Head of the Agency is the designated central authority to make the determinations described in FAR 14.406-3.

714.406-4 Disclosure of mistakes after award.

The Procurement Executive is the designated central authority to make the determinations described in FAR 14.406-4.

PART 715—CONTRACTING BY NEGOTIATION

Subpart 715.2—Negotiation Authorities

Subpart 715.5—Unsolicited Proposals

Subpart 715.6—Source Selection

Subpart 715.10—Preaward and Postaward Notifications, Protests, and Mistakes

Authority: Sec. 621, 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.

Subpart 715.2—Negotiation Authorities

715.270 Negotiation authority.

All negotiated AID contracts are negotiated under the authority of section 633 of the Foreign Assistance Act of 1961, as amended, and Executive Order 11223, May 12, 1965, 30 FR 6635. The files of negotiated AID contracts shall cite, as the circumstance permitting negotiation, FAR 15.215 ("Otherwise authorized by law"). No other circumstances as set forth in FAR 15.2 need be cited.

Subpart 715.5—Unsolicited Proposals

715.502 Policy.

(a) AID encourages the submission of unsolicited proposals which contribute new ideas consistent with and contributing to the accomplishment of the Agency's objectives. However, the requirements for contractor resources are normally quite program specific, and thus widely varied, and must be responsive to host country needs. Futher, AID's projects are usually designed in collaboration with the cooperating country. These factors can limit both the need for, and AID's ability to use unsolicited proposals. Therefore, prospective offerors are encouraged to contact AID to determine the Agency's technical and geographical requirements as related to the offeror's interests before preparing and submitting a formal unsolicited proposal.

(b) AID's basic policies and procedures regarding unsolicited proposals are those established in FAR 15.5 and this Subpart.

(c) For detailed information on unsolicited proposals, see 715.504; for initial contact point within AID, see 715.506.

715.504 Advance guidance.

(a) Information concerning AID's policies and procedures for unsolicited proposals is available from the Department of State, Agency for International Development, Washington, D.C. 20523, to the attention of either PRE/SDB/SB, Room 647, SA-14, or, for research, S&T/RUR, Room 309, SA-18.

(b) The information available concerns:

(1) Contact points within AID;

(2) Definitions;

(3) Characteristics of a suitable proposal;

(4) Determination of contractor responsibility;

(5) Organizational conflict of interest;

(6) Cost sharing; and

(7) Procedures for submission and evaluation of proposals.

715.506 Agency procedures and point of contact.

Initial inquiries and subsequent formal unsolicited proposals (other than research) should be submitted to the Department of State, AID, Washington, D.C. 20523, Attention: PRE/SDB/SB, Room 647, SA-14. Formal unsolicited proposals for research should be submitted to the Department of State, AID, Washington, D.C. 20523, Attention: S&T/RUR, Room 309, SA-18.

715.506-1 Receipt, and initial review.

AID follows the policies and procedures established on FAR 15.506-1 and 15.506-2.

715.507 Contracting methods.

The justification for noncompetitive procurement based on an unsolicited proposal required by FAR 15.507(b) must be approved by the Assistant Administrator primarily responsible for the activity, for actions valued at or under $300,000. For actions over $300,000, approval of the Administrator is required. Each such justification will include a certification from the project officer that neither he/she, nor, to the best of his/her knowledge and belief, any other AID employee solicited the proposal from the offeror or had other prior contact with the offeror regarding the subject matter of the proposal other than to convey to the offeror an understanding of AID's mission and needs relative to the type of effort contemplated in the offer.

Subpart 715.6—Source Selection

715.605 Evaluation factors.

715.605-70 Adaptability to overseas conditions.

In addition to the factors set forth in FAR 15.605, AID will consider the adaptability of the prospective contractor and its employees to employment and residence in the overseas location or locations where work is to be performed.

715.608 Proposal evaluation.

(a) *AID evaluation committees.* An evaluation committee shall be established for each proposed procurement. In each case, these committees shall be composed of a chairman representing the project office, a representative of the contracting office, and representatives from other concerned offices as appropriate.

(b) *Functions and procedures of AID evaluation committees.*

(1) The functions of an evaluation committee shall be:

(i) To evaluate all proposals pursuant to the evaluation criteria established and set forth in the solicitation document.

(ii) To prepare a written listing of all offerors together with the results of the evaluation of their proposals. Such a listing shall be sent by the chairman to the contracting officer setting forth the results of the evaluation.

(iii) The contracting officer is responsible for reviewing the justification in support of the written evaluation results to determine that it is adequate and complete.

(2) The procedures for an evaluation committee shall be:

(i) The contracting officer will receive all proposals and provide a listing and copies to the chairman.

(ii) The chairman will promptly call a meeting of the committee to evaluate the proposals received. The evaluation will be based on the evaluation factors set forth in the solicitation document.

(iii) No member of the AID evaluation committee shall hold discussions with any offeror before or during the AID evaluation committee's proceedings.

715.613 Alternative source selection procedures.

715.613-70 Education institution and international research center selection procedure.

715.613-70-1 Scope of section.

The section prescribes policies and procedures for the selection of contractors to perform projects which have been determined to require the services of an educational institution or international research center (see 715.613-70-2 and 715.613-70-3 of this section).

715.613-70-2 Definitions.

(a) An educational institution, as used in this section, is any non-profit corporation, foundation, trust, or state or local governmental entity operated primarily as an institution of higher learning offering a course of general studies leading to the granting of academic degrees. Consortia whose membership consists exclusively of educational institutions, as defined above, are considered to be educational institutions.

(b) An international research center is an organization formally recognized and listed as such by the Assistant Administrator, Bureau for Science and Technology.

715.613-70-3 Applicability.

The provisions of this section are applicable when it has been determined by the project office, with the concurrence of the contracting officer, that the required skills or institutional relationships are available only from educational institutions or international research centers. This section is not applicable to contracts for collaborative assistance (see 715.613-71 of this subpart), or for architect-engineer services (see subpart 736.6).

715.613-70-4 Solicitation, evaluation, and selection procedures.

(a) A sufficient number of sources shall be solicited to insure that competition is obtained to the maximum practicable extent; this requirement shall be deemed satisfied when a contractor is selected pursuant to the procedures of this section.

(b) Following the concurrence of the contracting officer in the decision that the required services are available only from an educational institution or international research center (see 715.613-70-3), the project office shall:

(1) Prepare selection criteria for evaluation of potential contractors for use in preparing the source list, determining predominantly qualified sources, and selecting the contractor;

(2) Prepare an initial source list of institutions considered qualified to perform the proposed project;

(3) Provide a statement providing a description of qualifications and areas of expertise considered essential, a statement of work, estimate of personnel requirements, special requirements (logistic support, government furnished property, and so forth) for the contracting officer's use in preparing the request for technical proposal.

(4) Send a memorandum incorporating paragraphs (b) (1) through (3) of this section, together with the "Action" copy of the PIO/T to the contracting officer, requesting him/her to prepare and distribute requests for technical proposal from the source list provided.

(c) Upon receipt and acceptance of the project officer's request, the contracting officer shall prepare requests for technical proposals (RFTP). The RFTP shall contain sufficient information to enable an offeror to submit a responsive and complete technical proposal; this includes a definitive statement of work, an estimate of the personnel required, and special provisions (such as logistic support, government furnished equipment, and so forth), a proposed contract format, and evaluation criteria. No cost or pricing data will be requested or required by the requests for technical proposals. The RFTP will be distributed to the sources recommended by the project office, and to others, if appropriate. The RFTP will normally allow a minimum of 60 days for preparation and submission of a proposal.

(d) Upon receipt of responses to the RFTP by the contracting officer, an evaluation committee will be established consisting of a representative of the project office as chairman, the contracting officer or his/her designee, and any other members considered appropriate by the project office and contracting officer.

(e) The evaluation committee will evaulate all proposals in accordance with the criteria set forth in the RFTP, and will prepare a selection memorandum which shall:

(1) State the evaluation criteria;

(2) List all of the institutions whose proposals were reviewed;

(3) Report on the ranking and rationale therefor for all proposals;

(4) Indicate the institution(s) considered best qualified.

(f) The evaluation committee will submit the selection memorandum to the contracting officer for review and approval.

(g) The contracting officer will either approve the selection memorandum, or return it to the evaluation committee for reconsideration for specified reasons.

(h) If the selection memorandum is approved, the contracting officer shall obtain cost, pricing, and other necessary data from the selected institution(s) and shall conduct negotiations with said institution(s). If a satisfactory contract cannot be obtained, the contracting officer will so advise the evaluation committee. The evaluation committee may then recommend alternate sources.

715.613-71 Collaborative assistance selection procedure.

715.613-71-1 Scope of section.

This section prescribes policies and procedures for the selection of contractors for collaborative assistance projects.

715.613-71-2 Definition.

(a) A collaborative assistance project is any project for which it has been determined (see 715.613-71-4 of this section) that:

(1) A continuing collaborative relationship between AID, the host country, and the contractor is required from project design through completion of the project. AID, host country, and contractor participation in a continuing review and evaluation of the project is essential for its proper execution; and

(2) The required skills or institutional relationship have been determined by the project office, with the concurrence of the contracting officer to be available only from an educational institution, international research center (as defined in 714.613-70-2), or cooperative development organization (which are organizations recognized and listed as such by the Assistance Administrator, Bureau for Food for Peace and Voluntary Assistance).

(b) The collaborative assistance method is fully defined and discussed in AIDAR Appendix F—Use of Collaborative Assistance Method for Aid Direct Contracts for Technical Assistance.

715.613-71-3 Applicability.

The provisions of this section are applicable to all contracts implementing collaborative assistance projects (see 715.613-71-4).

715.613-71-4 Determination.

In order to prepare a contract pursuant to the collaborative assistance method, the determinations in 715.613-71-2 of this section must be made in accordance with the following procedures:

(a) The responsible project office makes a preliminary finding that a project should be classed as collaborative assistance in accordance with 715.613-71-2(a) (1) and (2).

(b) Based upon this preliminary finding, the project office shall establish an evaluation panel consisting of a representative of the project office as chairman; a representative of the Bureau for Science and Technology, for projects where the services of an educational institution or international research center are deemed necessary; a representative of the Bureau for Food for Peace and Voluntary Assistance, for projects where the services of a cooperative development organization are deemed necessary; a representative of the Office of Contract Management; and any other representatives considered appropriate by the chairman.

(c) The evaluation panel will review the proposed project; based on the panel's findings, the chairman will make the formal, written determinations as to whether or not the project is collaborative assistance as required by 715.613-71-2(a)(1) and 715.613-71-2(a)(2).

715.613-71-5 Evaluation and selection.

(A) A sufficient number of sources will be considered to insure that competition is obtained to the maximum practicable extent; this requirement shall be deemed satisfied when a contractor is selected pursuant to the procedures of this section.

(b) Following determination that a project is in fact collaborative assistance, the evaluation panel shall:

(1) Prepare evaluation and selection criteria;

(2) Prepare an initial source list including all potential sources known to have capabilities and expertise in the areas required by the proposed project; and

(3) Evaluate the list, using the evaluation criteria previously determined, for the purpose of making a written determination of the source (or sources) considered most capable of performing the project.

(c) The chairman of the evaluation panel will prepare a memorandum to the contracting officer setting forth:

(1) The formal determination that the project is collaborative assistance,

(2) The evaluation criteria which have been determined, and

(3) The recommended source list and the rationale therefore, and requesting the contracting officer to prepare a

request for expressions of interest from the qualified institution (or institutions).

(d) The contracting officer will prepare a request for an expression (or expressions) of interest, containing sufficient information to permit an institution to determine its interest in the project, and to discuss the project with AID representatives, if appropriate. The request for expression of interest should include a concise statement of the purpose of the project, any special conditions or qualifications considered important, a brief description of the selection procedure and evaluation criteria which will be used (if expressions of interest are being requested from more than one institution), the proposed contract format, and any other information considered appropriate. The request for expression of interest will be issued to the institution or institutions recommended by the panel; it will normally allow a minimum of 60 days for submission of an expression of interest. Guidelines for preparation of expressions of interest are contained in Attachment 1 to AIDAR Appendix F.

(e) The contracting officer will transmit all expressions of interest to the evaluation panel for evaluation and selection recommendation. The panel may conduct on site evaluations at its discretion, as part of the evaluation process.

(f) The chairman of the evaluation panel will prepare a written selection recommendation with supporting justification, recommending that negotiations be conducted with the prospective contractor(s) selected by the evaluation panel. The selection recommendation shall be transmitted to the contracting officer together with the complete official file on the project which was being maintained by the evaluation panel.

(g) The contracting officer will review the selection recommendation, obtain necessary cost and other data, and proceed to negotiate with the recommended source.

Subpart 715.10—Preaward and Postaward Notifications, Protests, and Mistakes

715.1002 Debriefing of unsuccessful offerors.

(a) FAR 15.1002 provides general guidance on post-award notification and debriefing of unsuccessful offerors. This subsection 715.1002 provides additional guidance regarding notification and debriefing requirements and procedures.

(b) *Notification.* (1) The FAR provides for notification and debriefing *after* award. However, there are circumstances which make it proper to notify unsuccessful offerors *prior* to award; these are:

(i) When the procurement is limited to educational institutions or international research centers, pursuant to subsection 715.613–70;

(ii) When it is expected that negotiations with offerors whose proposals are in the competitive range are likely to exceed 30 days.

Notifications pursuant to paragraph (b)(1)(i) of this section, should be limited to a statement that the unsuccessful offeror's proposal was not in the competitive range, advising that further negotiations with the offeror are not contemplated, and that no revised proposal will be considered. The contracting officer shall inform each unsuccessful offeror by written notice of the name and location of the apparently successful offeror(s). Each apparently unsuccessful offeror should be advised that any subsequent revisions of its proposal will not be considered, since no further negotiations are contemplated. No further contact with the contracting officer should be made regarding the procurement unless the unsuccessful offeror has grounds to challenge the small business size status of the apparently successful offeror(s).

(2) Except as provided in paragraph (b)(1) of this section, notification of unsuccessful offerors will be made *after* award. Following the award of any negotiated contract over $25,000, all unsuccessful offerors will be promptly notified that their offer has not been accepted. It is not necessary to volunteer a debriefing in this notification, but the contracting officer may do so if desired. The notification will, as a minimum, tell the unsuccessful offerors the name(s) and address(es) of the contractor(s) receiving the award, the contract number(s), and the amount(s). The notification should also include, *in general terms*, the reasons why the unsuccessful offeror's proposal was rejected.

(c) *Debriefing.* If, after post-award notification, an unsuccessful offeror requests a debriefing, the contracting officer should take the following steps:

(1) Notify the cognizant project office, and arrange to have a project officer who was directly involved in the selection made available.

(2) Establish a mutually convenient time for the project office, the contracting office, and the unsuccessful offeror, for the debriefing.

(3) The cognizant project officer and negotiator should have a pre-debriefing meeting to establish the contents of the debriefing (see paragraph (c)(2) of this section).

(4) Conduct the debriefing (see paragraph (c)(2) of this section).

(5) A summary of this debriefing will be retained as part of the contract file.

PART 716—TYPES OF CONTRACTS

Subpart 716.3—Cost-Reimbursement Contracts

716.301–3 Limitations.

The requirement of FAR 16.301–3(c) shall not apply to negotiated amendments to cost reimbursement contracts. The original determination and findings justifying the initial use of a cost reimbursement-type contract shall be deemed applicable to all subsequent amendments to said contracts.

(Sec. 621, 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)

PART 717—SPECIAL CONTRACTING METHODS

Subpart 717.70—Pharmaceutical Products

717.700 General.

Section 606(c) of the Foreign Assistance Act bars procurement by the Government of drug and pharmaceutical products manufactured outside the United States if their manufacture involves the use of or is covered by an unexpired U.S. patent which has not been held invalid by an unappealed or unappealable court decision unless the manufacture is expressly authorized by the patent owner. Applicable policies and procedures are set forth in AID Handbook 15, AID-Financed Commodities, and in AID Handbook 1, Supplement B, Procurement Policies, Chapter 4C3.

(Sec. 621, 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)

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

PART 719—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Subpart 719.2—Policies

Authority: Sec. 621, 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.

SUBPART 719.2—POLICIES

719.270 Small business policies.

(a) In keeping with section 602 of the Foreign Assistance Act of 1961 (22 U.S.C. 2352), as amended, AID shall, insofar as practicable and to the maximum extent consistent with the accomplishment of the purposes of said Act, assist United States small business to participate equitably in the furnishing of supplies and services for Foreign Assistance activities.

(b) It is the policy of AID to:

(1) Fully endorse and carry out the Government's small business program for placing a fair proportion of its purchases and contracts for supplies, construction (including maintenance and repair), research and development, and services (including personal, professional, and technical services) with small business, including minority small business concerns; and

(2) Increase their participation in AID procurement.

(c) In furtherance of this policy:

(1) Program/project officers shall make positive efforts (see 719.271–5) to identify potentially qualified small and minority business firms during precontract development of programs/projects and shall, with the responsible contracting officers, assure that such firms are given full opportunity to participate equitably;

(2) Small business set-asides shall be made for all contracts to be executed in AID/Washington which qualify for small business set-aside action under Part 19 of the FAR; and

(3) Consideration shall be given in appropriate cases to the award of the contract to the Small Business Administration for subcontracting to small business firms pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

(d) This program shall be implemented by all AID/Washington contracting activities in order to attain these policy objectives. In accordance with 719.271, all AID/Washington direct-procurement requirements which exceed $5,000 shall be screened for small business opportunities by the Office of Small and Disadvantaged Business Utilization (SDB) except those exempted by 719.271–6(a).

(e) Where practicable and desirable, small business and minority business enterprise award goals will be established for the respective AID/Washington procuring activities to provide incentive for contracting personnel to increase awards to small firms. The goals will be set by SDB after consultation with the respective head of the contracting activity (see subsection 702.170–10).

(f) In the event of a disagreement between SDB and the contracting officer concerning: (1) A recommended set-aside, or (2) a request for modification or withdrawal of a class or individual set-aside, complete documentation of the case including the reasons for disagreement shall be transmitted within five working days to the head of the contracting activity (see 719.271–6(e)) for a decision. Procurement action shall be suspended pending a decision.

(g) The above suspension shall not apply where the contracting officer:

(1) Certifies in writing, with supporting information, that in order to protect the public interest award must be made without delay;

(2) Promptly provides a copy of said certification to SDB; and

(3) Includes a copy of the certification in the contract file.

(h) SDB shall be the Small Business Advisor and Minority Business Procurement Policy Manager for all AID/Washington procuring activities.

(i) The details on the Agency's direction and operation of the small business program are set forth in 719.271.

(j) No decision rendered, or action taken, under the coverage set forth in 719.271 shall preclude the Small Business Administration from appealing directly to the AID Administrator as provided for in Part 19 of the FAR.

(k) SDB may delegate the responsibilities set forth in 719.271–2(b) (8), (9), and (17) to the Director, Office of Management Operations with the power to redelegate. The delegation shall cover only supplies and services authorized to be procured by the Office of Management Operations. Responsibilities not delegated are reserved to SDB.

719.271 Agency program direction and operation.

719.271–1 General.

The purpose of this section is to prescribe responsibilities and procedures for carrying out the small business program policy set forth in 219.270, and in Part 19 of the FAR. Small Business concerns are defined in FAR Subpart 19.1; in addition, small business concerns are concerns organized for profit. Nonprofit organizations are not considered small business concerns. Small disadvantaged business enterprises are defined in FAR Subpart 19.1. Small disadvantaged business enterprises are included in the term "small business" when used in this subpart; specific reference to disadvantaged business enterprises is for added emphasis.

719.271–2 The AID Office of Small and Disadvantaged Business Utilization (SDB).

(a) SDB is responsible for administering, implementing, and coordinating the Agency's small business (including minority business enterprises) program.

(b) SDB, headed by the Director SDB, who also serves as the Minority Business Procurement Manager, shall be specifically responsible for:

(1) Developing policies, plans, and procedures for a coordinated Agency-wide small business and minority business enterprise procurement program;

(2) Advising and consulting regularly with AID/Washington procuring activities on all phases of their small business program, including, where practicable and desirable, the establishment of small business and minority business enterprise award goals;

(3) Collaborating with officials of the Small Business Administration (SBA), other Government Agencies, and private organizations on matters affecting the Agency's small business program;

(4) Developing and maintaining a Contractor's Index of bidders/offerors (annotated to identify small business and minority business enterprise firms) capable of furnishing services for use by the AID contracting activities;

(5) Cooperating with contracting officers in administering the performance of contractors subject to the Small Business and Minority Business Enterprises Subcontracting Program clauses;

(6) Developing a plan of operation designed to increase the share of contracts awarded to small business concerns, including small minority business enterprises;

(7) Establishing small business class set-aside for types and classes of items of services where appropriate;

(8) Reviewing each procurement requisition (PIO/T, PIO/C or other requisitioning document) to make certain individual or class set-asides are initiated on all suitable AID/Washington proposed contract actions

in excess of $5,000 which are subject to screening (see 719.271–6);

(9) Maintaining a program designed to:

(i) Locate capable small business sources for current and future procurements through GSA and other methods;

(ii) Utilize every source available to determine if an item is obtainable from small business; and

(iii) Develop adequate small business competition on all appropriate procurements;

(10) Taking action to assure that unnecessary qualifications, restrictive specifications, or other features (such as inadequate procurement lead time) of the programming or procurement process, which may prevent small business participation in the competitive process, are modified to permit such participation where an adequate product or service can be obtained;

(11) Recommending that portions of large planned procurements or suitable components of end items or services be purchased separately so small firms may compete;

(12) On proposed non-competitive procurements, recommending to the contracting officer that the procurement be made competitive when, in the opinion of SDB, there are small business or minority business enterprises believed competent to furnish the required goods or services, and supplying the contracting officer a list of such firms;

(13) Assisting small business concerns with individual problems;

(14) Promoting increased awareness by the technical staff of the availability of small business firms;

(15) Making available to GSA copies of solicitations when so requested;

(16) Counseling non-responsive or non-responsible small business bidders/offerors to help them participate more effectively in future solicitations; and

(17) Examining bidders lists to make certain small business firms are appropriately identified and adequately represented for both negotiated and advertised procurements.

719.271–3 AID contracting officers.

With respect to procurement activities within their jurisidiction, contracting officers are responsible for:

(a) Being thoroughly familiar with Part 19 of the FAR and this section dealing with the small business program;

(b) Screening abstracts of bids and other award data to determine set-aside potential for future procurements;

(c) Assuring that small business concerns and minority business enterprises are appropriately identified on source lists and abstracts of bids or proposals by an "S" and "M", respectively, or other appropriate symbol;

(d) Reviewing types and classes of items and services to determine where small business set-asides can be applied;

(e) Recommending that portions of large planned procurements of suitable components of end items or services be purchased separately so small firms may compete;

(f) Making a unilateral determination for total or partial small business set-asides in accordance with Subpart 19.5 of the Federal Acquisition Regulations;

(g) Submitting proposed procurement actions (PIO/Ts, PIO/Cs, or other requisitioning documents) for AID/Washington contracts to SDB for screening (see 719.271–6);

(h) Taking action to assure that unnecessary qualifications, restrictive specifications or other features (such as inadequate procurement lead time) of the programming or procurement process which may prevent small business participation in the competitive process are modified to permit such participation where an adequate product or service can be obtained;

(i) Prior to rendering a final decision on a proposed non-competitive procurement action, and as part of his/her findings and determinations, the contracting officer shall consider the recommendations, if any, of SDB together with the latter's list of additional sources;

(j) As appropriate, referring small business concerns, including small minority business enterprises, SDB for information and advice;

(k) Promoting increased awareness by the technical staff of the availability of small business concerns;

(l) Making available to SDB copies of solicitations when requested;

(m) Assisting SDB in counseling non-responsive or non-responsible small business bidders/offerors to help them to participate more effectively in future solicitations; and

(n) Including the Small Business and Minority Business Enterprises Subcontracting Program clauses in all contracts where required by Part 19 of the FAR.

719.271–4 Heads of Contracting Activities.

In order for the agency small business program to be effective, the active support of top management is required. The heads of the contracting activities shall be responsible for:

(a) Rendering decisions in cases resulting from non-acceptances by their contracting officers of set-aside recommendations made by SDB;

(b) Consulting with SDB in establishing small business and minority business enterprise award goals, where practicable and desirable; and

(c) Advising program/project officers of their responsibilities as set forth in 719.271–5.

719.271–5 Program/project officers.

Since the procurement process starts with the establishment of a program/project requirement, the actions of the program/project officers can affect the opportunity of small business to participate equitably; therefore, each program/project officer shall, during the formulation of programs/projects which will require contractural implementation:

(a) Consult with SDB on the availability and capabilities of small business firms to permit making a tentative set-aside determination where appropriate; and

(b) Provide sufficient procurement lead time in the program/project implementation schedule to allow potential small business participation.

719.271–6 Small business screening procedure.

(a) *General.* All AID/Washington proposed contract actions (PIO/Ts, PIO/Cs, or other requisitioning documents) in excess of $5,000 shall be screened by SDB, with the exception of:

(1) Class set-asides and those unilaterally set-aside by contracting officers (719.271–3(f));

(2) Those where the contracting officer certifies in writing that the public exigency will not permit the delay incident to screening (719.271–7(b));

(3) Contracts with educational or non-profit institutions, the object of which is "institution building", i.e., the development of a counterpart capability in the host country by the educational or non-profit institution; or collaborative assistance contracts with educational institutions, international research centers, or cooperative development organizations pursuant to 715.613–71 and Appendix F.

(4) Those involving the payment of tuition and fees for participant training at academic institutions; and

(5) Personal services contract requirements (see 719.270).

(b) *Preparation of Form AID 1410–14 (the Small Business/Minority Business Enterprise Procurement Review Form).*

(1) The contracting officer shall prepare the subject form in an original and 3 copies and forward the original and 2 copies to SDB within one working day of receipt by the contracting activity of a procurement requisition (PIO/T,

PIO/C, or other requisitioning document, such as an approved Noncapital Project Paper (PROP), which may be substituted for the PIO/T or PIO/C if required by the urgency of the procurement).

(2) The contracting officer will attach to his/her transmittal a complete copy of the procurement request and a copy of the recommended source list as furnished by the technical office and supplemented by him/her.

(3) The contracting officer shall complete blocks 2, 3, 4, 5, 9, and 10 (when appropriate) prior to submittal to SDB.

(c) *Screening of Form AID 1410–14 by SDB.* (1) SDB will screen the contracting officer's recommendations on set-aside potential, small business subcontracting opportunities, and section 8(a) subcontracting, and furnish him/her with either a written concurrence in his/her recommendations or written counter-recommendations on the original and duplicate copy within five working days from receipt of the form from the contracting officer.

(2) SDB will complete Blocks 1, 6, 7, 8, 11, and 12 (when appropriate) prior to returning the screened form to the contracting officer.

(d) *Concurrence or rejection procedure.* (1) The contracting officer shall complete Block 13 upon receipt of the original and duplicate copy of the screened form from SDB.

(2) If the contracting officer rejects the SDB counter-recommendation, he/she shall return the original and duplicate forms with his/her written reasons for rejection to SDB within two working days.

(3) Upon receipt of the contracting officer's rejection, SDB may: (i) accept, or (ii) appeal, the rejection. In the case of acceptance of the contracting officer's rejection, SDB shall annotate Block 14 when it renders a decision and return the original form to the contracting officer within two working days.

(e) *Appeal procedure.* (1) When informal efforts fail to resolve the set-aside disagreement between the contracting officer and SDB, the latter official may appeal the contracting officer's decision to the head of the contracting activity. Such an appeal will be made within five working days after receipt of the contracting officer's rejection.

(2) In the case of an appeal, SDB will send the original and duplicate form, with the appeal noted in Block 14, directly to the head of the contracting activity with its written reasons for appealing. The contracting officer will be notified of SDB's appeal by means of a copy of the written reasons for appealing.

(3) The head of the contracting activity shall render a decision on the appeal (complete Block 15) within three working days after receipt of same and return the original to SDB and the duplicate to the contracting officer.

719.271-7 Reports on procurement actions that are exempted from screening.

(a) *Unilateral and class set-asides.* The contracting officer shall prepare Form AID 1410–14 as stated in 719.271–6, but forward only the duplicate copy with the documentation required by Block 5 of the form to SDB. The original will be filed in the contract file.

(1) If, upon review of the material submitted under 719.271–7(a) above, SDB concludes that it would be practicable to accomplish all or a portion of the procurement involved under section 8(a) subcontracting, it shall so advise the contracting officer in writing within five days after receipt of such material.

(2) Such advice shall be considered a counter-recommendation and shall be processed in accordance with 719.271–6 (d) and (e).

(b) *Public exigency exemption.* The contracting officer shall prepare Form AID 1410–14 as stated in 719.271–6, but forward only the duplicate copy with the documentation required by Block 5 of the form to SDB. In addition to the documentation called for in 719.271–6, the contracting officer shall furnish a copy of his/her written determination exempting the procurement from screening. The determination shall cite the pertinent facts which led to his/her decision. This exemption is not intended to be used as substitute for good procurement planning and lead-time; SDB will report abuses of this exemption to the head of the contracting activity for appropriate action in accordance with 719.271–4(c).

(c) *Institution building contract (IBC) exemption.* The contracting officer shall prepare Form AID 1410–14 as stated in 719.271–6, but forward only the duplicate copy with the documentation required by Block 5 of the form to SDB.

(d) *Personal services contract exemption.* Preparation of Form AID 1410–14 is not required for personal services contracts.

PART 722—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITION

Subpart 722.1—Basic Labor Policies

Subpart 722.8—Equal Employment Opportuntity

Authority: Sec. 621, 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.

Subpart 722.1—Basic Labor Policies

722.103 Overtime.

722.103-1 Definitions.

722.103-70 Compensatory time off.

"Compensatory time off" means leave equal to overtime worked, which, unless otherwise authorized in a contract or approved by a contracting officer, must be taken not later than the end of the calendar month following that in which the overtime is worked.

722.103-71 Policy.

(a) Most contracts covered by this regulation call for the performance of professional or technical services overseas on a cost-reimbursement basis. The compensation for employees performing such services is normally fixed on a monthly or annual basis, and the contracts usually state minimum work week hours. It is not expected that these employees will receive additional pay, overtime or shift premiums, or compensatory time off.

(b) When the contracting officer determines it is in the best interests of the Government, specific provision may be made in contracts to permit such benefits for non-technical and non-professional employees serving overseas, subject to approvals to be required in the contract.

722.103-72 Approvals.

The contracting officer may make the determinations referred to in FAR 22.103–4.

722.170 Employment of third country nationals (TCN's) and cooperating country nationals (CCN's).

(a) *General.* It is AID policy that cooperating country nationals (CCN's) and third country nationals (TCN's), who are hired abroad for work in a cooperating country under AID-direct contracts, generally be extended the same benefits, and be subject to the same restrictions as TCN's and CCN's employed as direct hires by the AID Mission. Exceptions to this policy may be granted either by the Mission Director or the Assistant Administrator having program responsibility for the project. (TCN's and CCN's who are hired to work in the United States shall be extended benefits and subject to restrictions on the same basis as U.S. citizens who work in the United States.)

(b) *Compensation.* Compensation, including merit or promotion increases paid to TCN's and CCN's may not, without the approval of the Mission Director or the Assistant Administrator having program responsibility for the project, exceed the prevailing compensation paid to personnel performing comparable work in the cooperating country as determined by the AID Mission. Unless otherwise authorized by the Mission Director or the Assistant Administrator having program responsibility for the project, the compensation of such TCN and CCN employees shall be paid in the currency of the cooperating country.

(c) *Allowances and differentials.* TCN's and CCN's, hired abroad for work in a cooperating country, are not eligible for allowances or differentials under AID-direct contracts, unless authorized by the Mission Director or the Assistant Administrator having program responsibility for the project.

(d) *Country and security clearances.* The contractor shall insure that the necessary clearances, including security clearances, if required, have been obtained for TCN and CCN employees in accordance with any such requirements set forth in the contract or required by the AID Mission, prior to the TCN or CCN starting work under the contract.

(e) *Physical fitness.* Contractors are required to insure that prospective TCN and CCN employees are examined prior to employment to determine whether the prospective employee meets the minimum physical requirements of the position and is free from any contagious disease.

(f) *Workweek, holidays, and leave.* The workweek, holidays, and leave for TCN and CCN employees shall be the same as for all other employees of the contractor, under the terms of the contract; however, TCN and CCN employees are not eligible for home leave or military leave unless authorized by the Mission Director or the Assistant Administrator having program responsibility for the project.

(g) *Travel and transportation for TCN's and CCN's.* Travel and transportation shall be provided TCN and CCN employees on the same basis as for all other employees of the contractor, under the terms of the contract.

(h) *Household effects and motor vehicles.* AID will not provide household effects to TCN and CCN employees; such employees may ship their household effects and motor vehicles to their place of employment on the same basis as for all other employees of the contractor, under the terms of the contract unless they are residents of the cooperating country.

Subpart 722.8—Equal Employment Opportunity

722.870-1 Introduction.

Executive Order 12086 consolidated the compliance responsibility for equal employment opportunity programs, which had previously been assigned to selected, designated compliance agencies, in the Department of Labor. The Department of Labor assumed full responsibility for verification of contractor's compliance with EEO requirements. Since there is no longer a compliance officer in AID, contracting officers will now obtain verification of contractor compliance directly from the cognizant regional Office of Federal Contract Compliance Programs (OFCCP) in accordance with the procedures in 722.870-3.

772.870-2 EEO clearance requirements.

(a) *General.* AID will not award a contract to a firm or institution unless it complies with EEO requirements.

(b) *Contracts for $1,000,000 or more.* For contracts with an estimated total value over the life of the contract of $1,000,000 or more, formal verification of compliance shall be obtained from the cognizant regional OFCCP in accordance with the procedures in paragraphs (a), (b), and (d) of 722.870-3.

(c) *Contracts over $10,000 but less than $1,000,000.* Contracts with an estimated total value over the life of the contract of more than $10,000, but less than $1,000,000 do not require formal verification of compliance from OFCCP. Compliance shall be determined in accordance with the procedures in paragraphs (a), (c), and (d) of 722.870-3.

(d) *Contract amendments.* Any amendment which increases the total estimated value of a contract to $1,000,000 or more, or any amendment which is itself $1,000,000 or more, requires formal verification of compliance from the cognizant regional OFCCP, i.e., the regional office responsible for the geographic area where the work is to be performed, in accordance with the procedures in 722.870-3(b). For other amendments, the method of verification of compliance is at the discretion of the contracting officer (see 722.870-3(c) and 722.870-3(d)(3)); formal verification is not required.

722.870-3 Clearance procedures.

(a) *General.* (1) All necessary representations and certifications (Reps and Certs) as required by FAR 22.810 is required for all AID contracts over $10,000. The (Reps and Certs) must be reviewed by the contracting officer when received to determine that they have been completed and signed as required, and are acceptable. Acceptable Reps and Certs are the first step in the EEO clearance process.

(2) If the Reps and Certs are not deemed acceptable on technical grounds (e.g. incomplete, not signed, etc.) the contracting officer must decide if they can be made acceptable within a reasonable period by corrective action on the part of the offeror, or if the fault is such that it renders the offer nonresponsive. In the first case, necessary corrective action should be taken; in the second case, negotiations with the non-responsive offeror will be terminated. If the Reps and Certs raise questions concerning EEO compliance, and this would be the basis for finding the offeror non-responsive, the matter must be referred to OFCCP regardless of the estimated value of the contract; only OFCCP may make determination of non-compliance with EEO requirements.

(b) *Contracts for $1,000,000 or more.* Contracts and amendments with an estimated value of $1,000,000 or more must have OFCCP verification of EEO compliance before award (see 722.870-2). This verification shall be obtained by:

(1) Getting completed, signed, Reps and Certs from the offeror (see 722.870-3(a).

(2) Contacting the cognizant regional OFCCP for verification of EEO compliance.

(i) OFCCP may require 30 days lead time for verification if a compliance study is required. This should be considered in the procurement planning process.

(ii) The contracting officer may make initial inquiry to OFCCP by telephone, and telephone verification of EEO compliance may be used in making an award; however, the inquiry and verification must be confirmed in writing.

(iii) The following information is normally required by OFCCP:

(A) The offeror's full name and address;

(B) Name, title, address, and telephone number of a contact person for the prospective contractor;

(C) A description of the type of organization (university, nonprofit, etc.) and its ownership (private, foreign, state, etc.).

(D) Names and addresses of organizations in joint venture (if any); names and addresses of subcontractors (if any).

(E) Type of procurement (new contract—RFP or IFB, amendment, etc.) and estimated dollar amount, and term.

(F) Copy of approved Reps and Certs. In the initial contact with OFCCP, the contracting officer and OFCCP should mutually determine what information is to be included in the written verification request. In the event that OFCCP reports that the offeror is not in compliance, negotiations with the offeror shall be terminated.

(c) *Contracts over $10,000, but less than $1,000,000.* Contracts and amendments within this range do not require formal verification by OFCCP (see 722.870–2). The method used to verify compliance is at the discretion of the contracting officer. The contracting officer may rely on the documentation submitted by the offeror (the Reps and Certs—see 722.870–3(a)), unless he or she is aware of some reason to doubt the documentation submitted. In case of doubt, then an informal check with OFCCP should be made. In the event that evidence of non-compliance is developed, the contracting officer must contact OFCCP for confirmation of EEO status; only OFCCP may determine non-compliance with EEO requirements. If OFCCP confirms non-compliance, negotiations with the offeror or contractor shall be terminated.

(d) *Documentation for the contract file.* (1) Every contract file must contain completed signed Reps and Certs. The file must clearly show that these documents have been reviewed and accepted by the contracting officer. If the Reps and Certs or O/S Team Agreement were revised to make them acceptable (see 722.870–3(a)), the file must show what changes were required and certify that the changes were made.

(2) For contracts or amendments of $1,000,000 or more, the file must contain:

(i) A record of the initial contact with OFCCP, specifying the name, address, and telephone number of the person contacted, a summary of the information presented, and the advice given by OFCCP;

(ii) A copy of the written follow-up request for EEO compliance verification to OFCCP; and

(iii) A copy of the compliance verification from OFCCP.

(3) For contracts or amendments over $10,000 but less than $1,000,000, the file must contain a memorandum from the contracting officer stating that the contractor is considered in compliance with EEO requirements, and giving the basis for this statement (see 722.870–3(c)).

(4) Documentation in the event of non-compliance. In the event that OFCCP determines that a prospective contractor is not in compliance, a copy of OFCCP's written determination, and a summary of resultant action taken (termination of negotiations, notification of offeror and project officer, negotiation with next offeror in competitive range, resolicitation, etc.) will be placed in the contract file for any contract which may result, together with other records related to unsuccessful offers, and retained for at least six months following award.

PART 724—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Authority: Sec. 621, 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.

Subpart 724.1—Protection of Individual Privacy

724.170 Protection of individual privacy.

The Privacy Act of 1974 is implemented in FAR Subpart 24.1 which summarizes statutory and regulatory requirements, and specifies procedures, notification requirements, and contract clauses.

Subpart 724.2—Freedom of Information Act

724.202 Policy.

The Agency for International Development's policies concerning implementation of the Freedom of Information Act are codified in 22 CFR Part 212 (AID Regulation 12).

PART 725—FOREIGN ACQUISITION

Authority: Sec. 621, 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.

Subpart 725.1—Buy American Act—Supplies

725.170 Exceptions for Foreign Assistance Act functions.

In addition to the exception stated in FAR 25.102 for purchases for use outside the United States, there is an exception for economic assistance functions performed under authority of the Foreign Assistance Act. This exception is stated in Executive Order 11223, dated May 12, 1965 (30 FR 6635). U.S. procurement restrictions are applied by AID, however, as shown elsewhere in this part. These restrictions are generally tighter than the Buy American Act. As a general rule, the tighter AID restrictions will be used. In the case of certain procurements for use within the United States, the Buy American provision may be used instead in the interest of uniformity among Federal Agencies procuring for domestic use.

Subpart 725.2—Buy American Act—Construction Materials

725.270 Exceptions for Foreign Assistance Act functions.

In addition to the exception stated in FAR 25.202 for purchases for use outside the United States, there is an exception for economic assistance functions performed under authority of the Foreign Assistance Act. This exception is stated in Executive Order 11223, dated May 12, 1965 (30 FR 6635). U.S. procurement restrictions are applied by AID, however, as shown elsewhere in this part. These restrictions are generally tighter than the Buy American Act. As a general rule, the tighter AID restrictions will be used. In the case of certain procurements for use within the United States, the Buy American provision may be used instead in the interest of uniformity among Federal Agencies procuring for domestic use.

Subpart 725.4—Purchases Under the Trade Agreement Act of 1979

725.403 Exceptions.

FAR subpart 25.4 establishes procedures for purchases under the Trade Agreement Act of 1979. Under the General Agreement on Tariffs and Trade, the Agreement on Government Procurement exempts tied—aid procurements from the requirements of the General Agreement. Under this authority AID is not required to follow the procedures in FAR subpart 25.4 for any contract implementing a foreign assistance project. The procurement of goods or services for the direct benefit and use of AID, rather than for implementation of an assistance project, would be subject to the procedures in FAR subpart 25.4, unless otherwise exempted by one of the exceptions specified in FAR subpart 25.4.

Subpart 725.70—Source, Origin, and Nationality

725.701 General.

AID policies regarding source, origin, and nationality requirements for AID contractors and subcontractors are established in AID Handbook 1, Supplement B, primarily in Chapter 5. Additional related policies are set forth in Chapters 4, 7, and 18. These policies as they apply to subcontracts and purchases under AID-direct contracts have been incorporated into the contract clauses referenced in 725.704 and 725.705 of this subpart.

725.702 Designation of authorized geographic code.

(a) The authorized geographic code or codes for an AID contract shall be specified in the Schedule of each contract and shown on its cover page. If no geographic code is specified, the authorized code will be deemed to be Geographic Code 000, the U.S.

(b) Individual country and geographic codes are defined in Attachment A-11, Section III, of Appendix D to AID Handbook 18.

725.703 Contractor employees.

There are no nationality restrictions on employees or consultants of either contractors or subcontractors providing services under an AID-financed contract, except that they must be citizens of a Geographic Code 935 country, or non-U.S. citizens lawfully admitted for permanent residence in the U.S.

725.704 Contract clause—source and nationality requirements.

The clause in 725.704 is required in all AID direct contracts.

725.70-5 Local cost financing—authorization and contract clause.

(a) Local cost financing requires specific authorization under Chapter 18 of AID Handbook 1, Supplement B. The authorization must specify the U.S. Dollar amount which may be used for local cost financing.

(b) When local cost financing has been authorized, the contract must contain the clause specified in 752.7017.

725.706 Geographic source waivers.

(a) Authority to waive source, origin, nationality, and transportation services requirements is set forth in Delegation of Authority No. 40 (AID Handbook 5). Additional guidance is available in Chapters 5, 7, and 18 of Supplement B to AID Handbook 1.

(b) The contracting officer shall insert the authorized geographic code based on an approved geographic source waiver in the Schedule of the contract as provided for in 725.702. In addition, the contracting officer shall place a copy of any approved geographic source waiver in the official contract file.

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

PART 728—BONDS AND INSURANCE

Subpart 728.1—Bonds

Authority: Sec. 621, 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.

Subpart 728.1—Bonds

728.105-1 Advance payment bonds.

(a) Generally, advance payment bonds will not be required in connection with AID contracts containing an advance payment provision. In lieu thereof, contracting officers will follow procedures set forth in FAR 32.409-3.

(b) Whenever a contracting officer considers that an advance payment bond is necessary, the contracting officer will: (1) Establish a bond penalty that will adequately protect interests of the Government, (2) use the AID Advance Payment Bond format, (3) place bond with a surety currently approved by the U.S. Treasury Department according to the latest Treasury Department Circular 570, (4) stipulate that the cost of the bond shall not exceed a rate of $7.50 per $1,000 per annum based on the penalty of the bond, without the prior written approval of the Insurance Advisor, Office of Contract Management.

(c) Where the surety's obligation under an advance payment bond covers all advances made to the contractor during the term of the contract, no release should be issued to the surety until all advances made and to be made under the contract have been fully liquidated in accordance with the provisions of the contract, such as no-pay vouchers, reports of expenditures, or by refund. Where the surety's obligation under the bond is limited to advances made during a specified period of time, no release should be issued to the surety until all advances made and to be made during the specified period have been liquidated as aforesaid.

Subpart 728.3—Insurance

728.302 Notice of cancellation or change.

All policies required by AID will provide that in the event of cancellation or change in policy coverage thirty days prior written notice will be given to the cognizant contracting officer. The contracting officer will, in turn, notify the Insurance Advisor, Office of Contract Management.

728.305 Overseas worker's compensation and war-hazard insurance.

(a) Upon the recommendation of the AID Administrator, the Secretary of Labor may waive the applicability of the DBA with respect to any contract, subcontract, or subordinate contract, work location, or classification of employees. Either the contractor or AID can request a waiver from coverage. Such a waiver can apply to any employees who are not U.S. citizens, not residents of, or not hired in the United States. Waivers requested by the contractor are submitted to the contracting officer for approval and further submission to the Department of Labor, which grants the waiver. Application for a waiver is submitted on Labor Department Form BEC 565. AID has a number of blanket waivers already in effect for certain countries that are applicable to its direct contracts with contractors performing in such countries. Where such waivers are granted from coverage under the DBA, the waiver is conditioned on providing other workmen's compensation coverage to employees to which the waiver applies. Usually this takes the form of securing workmen's compensation coverage of the country where work will be performed or of the country of the employee's nationality, whichever offers greater benefits. Copies of AID secured waivers should be made available for review by contractors. Contracting officers are responsible for advising contractors of applicable AID secured waivers. The Department of Labor has granted partial blanket waivers of Defense Base Act coverage for the countries listed below. The waivers are applicable to AID-financed contracts performed in the listed countries, and are subject to two conditions:

(1) Employees hired in the United States by the contractor, and citizens or residents of the United States are to be provided Defense Base Act insurance coverage:

(2) Waived employees (i.e., foreign nationals hired outside the United States) will be provided worker's compensation benefits prescribed in the applicable foreign laws as the contract requires. Countries for which waivers are in effect are:

1. Afghanistan
2. Antigua
3. Bahamas
4. Bangladesh
5. Barbados
6. Belize
7. Benin
8. Bolivia
9. Botswana
10. Brazil
11. Burundi
12. Cameroon
13. Cape Verde
14. Chad
15. Chile
16. Colombia
17. Costa Rica
18. Djibouti
19. Dominica
20. Dominican Republic
21. Ecuador
22. Egypt
23. El Salvador
24. Ethiopia
25. Fiji
26. Gambia
27. Ghana
28. Guatemala
29. Guinea
30. Guinea-Bissau
31. Guyana
32. Haiti
33. Honduras
34. India
35. Indonesia
36. Israel
37. Italy
38. Ivory Coast
39. Jamaica
40. Jordan
41. Kenya
42. Korea
43. Lebanon
44. Lesotho
45. Liberia
46. Madagascar
47. Malawi
48. Mali
49. Mauritania
50. Mauritius
51. Mexico
52. Morocco
53. Nepal
54. New Caledonia
55. Nicaragua
56. Niger
57. Nigeria
58. Oman
59. Pakistan
60. Panama
61. Papua New Guinea
62. Paraguay
63. Peru
64. Philippines
65. Portugal
66. Rwanda
67. St. Lucia
68. St. Vincent
69. Senegal
70. Seychelles
71. Sierra Leone
72. Sinai Support Mission
73. Somalia
74. Sri Lanka
75. Sudan.
76. Swaziland
77. Syria
78. Tanzania
79. Thailand
80. Togo
81. Tonga
82. Tunisia
83. Uganda
84. Upper Volta
85. Uruguay
86. Western Samoa
87. Yemen Arab Republic
88. Zambia
89. Zambia
90. Zimbabwe

(b) To assist contractors in securing insurance at minimal rates for the workmen's compensation insurance required under the DBA, and to facilitate meeting insurance requirements for such coverage, AID, after open and competitive negotiation, has entered into a contract with an insurance carrier to provide such coverage at a specified rate. The terms of this contract require the insurance carrier to provide coverage, and the contractor to make payments to and handle its claims with that insurance carrier. Contracting officers are responsible for explaining and advising contractors of the details of securing such insurance.

728.307-2 Liability.

If a contractor or any of its employees or their dependents transport or cause to be transported privately owned motor vehicles to a cooperating country, or they or any of them purchase a motor vehicle within a cooperating country, the contractor must give assurance that adequate liability coverage is provided and kept in force. Before such a motor vehicle is operated in a cooperating country, and whenever requested, the contractor will provide to the Mission Director, or his/her designee, satisfactory evidence of such coverage by an insurance carrier. Coverage will be for amounts equal in dollars or currency of the cooperating country to not less than $10,000/$20,000 for personal injury and $5,000 for property damage, or equal to not less than such minimums as the Mission Director may prescribe from time to time. The cost of such insurance is not reimbursable.

728.370 Contract clause.

In lieu of the clause prescribed in FAR 28.309, use the appropriate clause prescribed in 752.228-70 in all AID direct contracts under which worker's compensation insurance is required pursuant to Subpart 728.3 or Subpart 28.3 of the FAR.

PART 731—CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 731.1—Applicability

Subpart 731.2—Contracts With Commercial Organizations

Authority: Sec. 621, 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.

Subpart 731.1—Applicability

731.109 Advance agreements.

Advance agreements on selected costs may be negotiated with AID contractors by the Overhead and Special Cost Branch, Office of Contract Management. Such advance understandings will be applicable to all AID contracts with that contractor.

Subpart 731.2—Contracts With Commercial Organizations

731.205-6 Compensation for personal services.

(a) *General.* (1) Specific limitations on compensation for personal services, including fringe benefits, may be spelled out or incorporated by reference in AID contracts. Where the provisions of the contract are inconsistent with this section, such provisions will govern.

(2) Direct compensation of personnel will be reimbursable, in accordance with the contractor's established policies and procedures and FAR 31.205-6 except as provided in paragraphs (b) and (c) of this section. Such policies, procedures, and practices shall be the same as used in contracts and grants with other Government agencies and accepted by the U.S. Government agency assigned primary audit responsibility for the contractor, shall be in writing, and shall be made available to the contracting officer or his/her designated representative, upon request.

(3) Overseas recruitment incentive.

(i) Contract employees serving overseas under a contract who do not qualify, request, and receive an exemption for overseas income provided under section 911 of the U.S. Internal Revenue Code (26 U.S.C 911) are eligible to receive an overseas recruitment incentive, provided that the average incentive for all such employees does not exceed 10 percent of the initial base annual salary of all employees eligible for the incentive under the contract.

(ii) The overseas recruitment incentive is payable under one of the following alternative methods:

(A) As a lump-sum amount after the eligible employee has completed his/her tour of duty in the Cooperating Country under a contract, and has furnished to the contractor a certification that he/she does not qualify, and will not apply for an exemption from overseas income as provided by 26 U.S.C. 911 (the contractor shall retain such certifications for post-audit); or

(B) At the option of the contractor, the overseas recruitment incentive may be paid in increments during an employee's tour of duty; provided however, that payments made by the contractor to employees who become eligible for an exemption from overseas income as provided by 26 U.S.C. 911, which payments were reimbursed by AID under the contract, shall be refunded to AID; and provided further, that neither the contractor's (nor the subcontractor's) inability to collect refunds from ineligible employees shall be used as a basis to excuse subsequent refunds by the contractor to AID.

(iii) If the overseas recruitment incentive causes the employee's salary to exceed the level for a Foreign Service Officer, Class FS-1, contracting officer approval must be obtained.

(b) *Salaries and wages.* (1) Salaries and wages exclude overseas differential and other allowances associated with overseas service but include payments for personal services (including fees and honoraria) computed on a daily rate or other time basis different from an annual rate. Daily rates of compensation are computed on the basis of a 260-day work year made up of 5-day (8 hour) work weeks.

(2) Any compensation (i.e., the employee's or consultant's base annual salary plus overseas recruitment incentive, if any) which exceeds the maximum payable annual or daily rate for a Foreign Service Officer Class FS-1 as set forth in the payment schedule of the Uniform State/AID/USIA Regulations, as from time to time amended, will be reimbursed only with the written approval of the contracting officer. Contracting officer approval of salaries in excess of the maximum payable rate for a Foreign Service Officer Class FS-1 will be based upon a memorandum from the technical office and approved by the Assistant Administrator or Mission Director having program responsibility for the project in support of which the contract is written. The technical office is responsible for evaluating the reasonableness of the proposed salary, taking into account such factors as the degree of technical competence required, the scope of supervisory responsibilities involved, and the relationship of the proposed salary level to the contractor's customary salary level, and other pertinent information. Copies of all memoranda approved by the Assistant Administrator or Mission Director will be furnished to the Support Division, Office of Contract Management.

(3) For policies on compensation of third country national or cooperating country national contractor employees, see 722.170.

(c) *Fringe benefits.* AID contracts spell out rules and principles governing reimbursement of specific fringe benefits related to overseas service, including leave, holidays, differential, allowances, travel, transportation, and similar costs. The contract provisions are set forth in Part 752.

731.205-46 Travel costs.

International travel costs are allowable only when the travel has received the specific prior approval of the contracting officer. For purposes of this provision, international travel is defined as any travel outside of the United States, or its territories and possessions.

Subpart 731.3—Contracts With Educational Institutions

731.370 Predetermined fixed rates for indirect costs.

Section 635(k) of the Foreign Assistance Act of 1961, as amended, authorizes AID to use predetermined fixed rates in determining the indirect costs applicable under contracts with educational institutions.

731.371 Compensation for personal services.

(a) Specific limitations on compensation for personal services are set forth in the contract clauses specified in 752.7007. Contracting officer approval of salaries in excess of the maximum payable annual or daily rate for a Foreign Service Officer Class FS–1, as set forth in the Uniform State/AID/USIA Regulations, as from time to time amended will be based upon a memorandum from the technical office and approved by the Assistant Administrator or Mission Director having program responsibility for the project in support of which the contract is written. The technical office is responsible for evaluating the reasonableness of the proposed salary, taking into account such factors as the degree of technical competence required, the scope of supervisory responsibilities involved, and the relationship of the proposed salary level to the contractor's customary salary level, and other pertinent information. Copies of all memoranda approved by the Assistant Administrator or Mission Director will be furnished to the Support Division, Office of Contract Management.

(b) For policies on compensation of third country national or cooperating country national contractor employees, see 722.170.

Subpart 731.7—Contracts With Nonprofit Organizations

731.770 OMB Circular A–122, Cost Principles for Nonprofit Organizations; AID implementation.

(a) Paragraph 6 of the transmittal letter for OMB Circular A–122 specifies that "Agencies shall designate a liaison official to serve as the agency representative on matters relating to the implementation of this Circular." The Director, Office of Contract Management, has been so designated. The Overhead and Special Cost Branch, Office of Contract Management (OSC) provides staff assistance to the Director concerning OMB Circular A–122. OSC is also responsible for obtaining cognizance under the criteria in the transmittal letter for OMB Circular A–122; for liaison with other cognizant agencies; for authorizing exclusion of OMB Circular A–122 coverage for a particular nonprofit organization pursuant to paragraph 5 of the OMB Circular A–122 transmittal letter; and for advice and assistance in applying OMB Circular A–122 cost principles.

(b) Paragraph 4b of the OMB Circular A–122 transmittal letter contains a definition of "prior approval" as follows:

> Prior approval means securing the awarding agency's permission in advance to incur costs for those items that are designated as requiring prior approval by OMB Circular A–122. Generally, this permission will be in writing. Where an item of cost requiring prior approval is specified in the budget of an award, approval of the budget constitute approval of that cost.

Consequently, an award containing a budget constitutes prior approval of the direct cost item in the budget, unless otherwise annotated. Accordingly, award budgets should be appropriately annotated substantially as follows:

> Inclusion of any cost in the line item budget of this award does not obviate the requirement for prior approval of cost items designated as requiring prior approval by OMB Circular A–122 ; or
>
> In accordance with the requirements to OMB Circular No. A–122, approval is granted to incur costs for (name specific item or items) which are included in the budget of this award.

731.771 Bid and proposal costs.

Pending the establishment of Government-wide principles in Attachment B of OMB Circular A–122, AID will treat bid and proposal costs as follows:

(a) Bid and proposal costs are the costs of preparing bids, proposals, and applications for potential activities such as Government and non-Government grants, contracts and other agreements, including the development of scientific, cost, and other data needed to support such bids, proposals, and applications. Except as provided in (b) below, bid and proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect costs for allocation to all current activities, and no bid and proposal costs of past accounting periods will be allocable to the current period. However, if the organization's established practice is to treat bid and proposal costs by some other method, the results obtained may be accepted only if found to be reasonable and equitable.

(b) Bid and proposal costs incurred by the organization to obtain unrestricted funds are to be treated as fund raising and allocated an appropriate share of indirect costs under the conditions described in paragraph B.3 of Attachment A to OMB Circular A–122.

731.772 Compensation for personal services.

(a) It is AID policy to require prior approval by the contracting officer before reimbursing a contractor for employees compensation which exceeds the FS–1 rate, as set forth in the payment schedule of the Uniform State/AID/USIA Regulations. The contracting officer's approval will be obtained as specified in 731.205–6.

(b) For policies on compensation of third country national or cooperating country national contractor employees, see 722.170.

731.773 Independent research and development costs.

Pending establishment of Government-wide principles in Attachment B of OMB Circular A–122, AID will apply the cost principles at FAR 31.205–18 for independent research and development costs.

PART 732—CONTRACT FINANCING

Subpart 732.4—Advance Payments

Authority: Sec. 621, 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.

Subpart 732.4—Advance Payments

732.401 Statutory authority.

(a) Sections 635(b) of the Foreign Assistance Act and Executive Order 11223, May 12, 1955, 30 FR 6635, permit the making of advance payments with respect to functions authorized by the Foreign Assistance Act. Advance payments may also be made under section 305 of the Property Act, which provides authority, not otherwise available to AID, to take a paramount lien.

(b) The Act of August 28, 1968, Pub. L. 85–804 does not apply to AID.

732.403 Applicability.

References to nonprofit contracts with nonprofit educational or research institutions for experimental, research and development work include nonprofit contracts with nonprofit institutions for: (a) Technical assistance services provided to or for another country or countries, and (b) projects which concern studies, demonstrations and similar activities related to economic growth or the solution of social problems of developing countries.

732.406-70 Letters of Credit (LOC)—AID procedures.

732.406-70-1 Purpose.

This subsection provides guidance on use of the Letter of Credit—Treasury Financial Communication System (LOC-TFCS) and the Letter of Credit-Federal Reserve Bank (LOC-FRB), formerly know as an FRLC, for advance payments.

732.406-70-2 Circumstances for use of an LOC.

(a) The LOC-TFCS shall be used under the following circumstances:

(1) The contracting officer has determined that an advance payment is necessary and appropriate, in accordance with this subpart, the guidance provided in Subpart 32.4 of the FAR, and Chapter 15C of AID Handbook 1, Supplement B;

(2) The agency has, or expects to have, a continuing relationship of at least one year with the recipient organization, and the annual amount required for advance financing will be at least $120,000;

(3) To Office of Financial Management, Program Accounting Division (M/FM/PAD) agrees that the letter of credit payment method is appropriate; and

(4) The recipient organization's financial institution has entered into an agreement with the U.S. Treasury on the use of the LOC-TFCS.

(b) The LOC-FRB shall be used if the recipient organization's financial institution has not entered into an agreement with the U.S. Treasury on the use of the LOC-TFCS, provided that circumstances specified in 732.406-70-2(a)(1) through 732.406-70-2(a)(4) are met.

732.406-70-3 Establishing an LOC.

(a) An LOC is established by M/FM/PAD under rules and procedures issued by the Treasury Department. While the contract will provide for the use of an LOC when it is justified under 732.406-70-2, the LOC is a separate agreement between the contractor and M/FM/PAD, acting on behalf of the AID Controller. The terms and conditions of the LOC are established by the LOC.

(b) An LOC is established upon the request of the contracting officer, with the consent of M/FM/PAD. The request to M/FM/PAD must be made in writing early in the negotiation cycle as possible, and must include the following information:

(1) The name and address of the contractor, and the name, address, and telephone number of the contractor's representative for matters concerning establishment of the LOC.

(2) The name and address of the contractor's financial institution.

(3) The contracting officer's justification for an advance payment.

(4) The estimated total amount of the contract, and estimated frequency and amount of drawdowns against the LOC.

(5) A copy of the contractor's proposal.

(6) A copy of the PIO/T.

(7) Any other information specified by M/FM/PAD.

(8) Any special conditions or restrictions to be addressed in the LOC such as subadvances, special approval for subadvances, etc.

(c) M/FM/PAD will respond to the contracting officer's request within 5 working days of receipt by either:

(1) Concurring in the request (either as received, or with suggested changes).

(2) Requesting additional information.

(3) Rejecting the request for specified reasons.

(d) Rejection by M/FM/PAD may be appealed to the head of the contracting activity (HCA) and the AID Controller for a final decision.

(e) If a LOC is to be used:

(1) The contracting officer will:

(i) Prepare the appropriate findings, determination, and authorization for advance payment for signature by the HCA or his/her authorized designee.

(ii) Transmit a signed copy of the findings, determination and authorization to M/FM/PAD, together with a signed copy of the contract to authorize the LOC (see 732.406-70-4).

(iii) Include the LOC material provided by M/FM/PAD, under 732.406-70-3(e)(2)(v), in the official contract file.

(2) M/FM/PAD will:

(i) Determine the appropriate LOC type (LOC-TFCS or LOC-FRB) in accordance with 732.406-70-2(d) and (e).

(ii) Prepare the LOC in accordance with the procedures issued by Treasury and implemented by AID.

(iii) Enter into the LOC with the contractor.

(iv) Maintain the LOC in accordance with its terms, and Treasury and AID procedures and regulations.

(v) Provide the contracting officer(s) a copy of each LOC and any other material governing its use at the time the LOC is issued or when it is amended or modified.

732.406-70-4 LOC contract clause.

If payment is to be provided by LOC, the contract shall contain the clause in 752.232-70.

732.406-70-5 Revocation of the LOC.

After consultation with the contracting officer, M/FM/PAD may revoke the LOC by written notification to the contractor. A copy of any such revocation notice will immediately be provided to the cognizant contracting officer(s).

PART 733—DISPUTES AND APPEALS

Subpart 733.70—Aid Procedure

Authority: Sec. 621, 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.

Subpart 733.70—AID Procedure

733.7001 Designation of Armed Services Board of Contract Appeals (ASBCA) to hear and determine appeals under AID contracts.

(a) The ASBCA is hereby designated the authorized representative of the Administrator of the Agency for International Development (AID) in hearing, considering, and determining as fully and finally as might the Administrator, appeals by contractors from decisions on disputed questions taken pursuant to the provisions of contracts requiring the determination of such appeals by the Administrator or his/her duly authorized representative or Board.

(b) In acting under this designation, the ASBCA will follow such rules and procedures as are or may be prescribed for the conduct of Defense Department contract appeal cases, except for the rules entitled "Forwarding of Appeals" (Rule 3) and "Duties of the Contracting Officer" (Rule 4), which subjects will be governed by procedures to be promulgated by the General Counsel of AID with approval of the Chairman of the ASBCA.

(c) The General Counsel of AID will assure representation of the interests of the Government in proceedings before the ASBCA.

(d) All officers and employees of AID will cooperate with the ASBCA and Government counsel in the processing of appeals so as to assure their speedy and just determination.

(e) This designation will apply to appeals which have not been docketed by the AID Board of Contract Appeals before November 1, 1965, and, to such extent and in such manner as may be agreed upon by the General Counsel of AID and the Chairman of the ASBCA to appeals docketed before that date.

(f) The General Counsel of AID will assure that all matters docketed by the AID Board of Contract Appeals before November 1, 1965, are transferred or brought to completion, that no appeals will subsequently be docketed by that Board, that upon completion of its business the records and files of the Board will be transferred to the Executive Secretary of AID. The General Counsel will thereupon dissolve the Board.

733.7002 Special procedures regarding contract disputes appeals promulgated pursuant to Paragraph 2 of the Administrator's Designation.

(a) The following rules will apply, in lieu of Rules 3 and 4(a) of the ASBCA, to contract dispute appeals to the Administrator of the AID or his/her authorized representative which are docketed with that Board.

(b) Rule 3 (AID). *Forwarding of Appeals.* When a notice of appeal in any form has been received by the contracting officer, he/she shall endorse thereon the date of mailing (or date or receipt, if otherwise conveyed) and within 10 days shall forward said notice of appeal to the Board with a copy to the AID General Counsel in Washington, D.C. Following receipt by the Board of the original notice of an appeal (whether through the contracting officer or otherwise), the contractor, the contracting officer, and the AID General Counsel will be promptly advised of its receipt, and the contractor will be furnished a copy of these rules.

(c) Rule 4 (AID). *Preparation, Contents, Organization, Forwarding, and Status of Appeal File* (Supersedes Rule 4, "Duties of Contracting Officer" of the ASBCA rules in effect on September 30, 1965).

(d) *Duties of Contracting Officer.* Within 30 days of receipt of an appeal, or advice that an appeal has been filed, the contracting officer shall assemble and transmit to the AID General Counsel in Washington, D.C., two copies of all documents pertinent to the appeal, including:

(1) The decision and findings of fact from which appeal is taken;

(2) The contract, including specifications and pertinent amendments, plans and drawings;

(3) All correspondence between the parties pertinent to the appeal, including the letter or letters of claim in response to which the decision was issued;

(4) All transcripts of any testimony taken during the course of proceedings, and affidavits or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board; and

(5) Any additional information considered pertinent.

(e) The General Counsel will compile the appeal file from such documents, which file must contain the items enumerated in (d) (1) through (5) above and will promptly, and in any event within 65 days after the appeal is docketed by the Board, transmit the appeal file to the Board. The General Counsel will notify the appellant when he/she has compiled the appeal file, will provide him/her with a list of its contents, and will afford him/her an opportunity to examine the complete file at the office of the Board and, if the General Counsel deems it appropriate, at any overseas location, for the purpose of satisfying himself/herself as to the contents, and furnishings or suggesting any additional documentation deemed pertinent to the appeal. After receipt of the foregoing file, as it may be augmented at the time of receipt, the Board will promptly advise the parties.

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

PART 736—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Subpart 736.6—Architect-Engineer Services

Authority: Sec. 621, 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.

Subpart 736.6—Architect-Engineer Services

736.602–2 Evaluation boards.

(a) The Senior Engineer, Engineering Staff, Bureau for Science and Technology, or the chief engineer at an AID Mission is the designated representative of the Agency head for the establishment of architect-engineer evaluation boards.

(b) No firm or organization shall be eligible for consideration for a contract where its principals or associates participated as a member of the evaluation board in the selection process for that project.

(c) Each evaluation board will include a representative of the contracting officer and, as appropriate, the cognizant bureau.

736.602–3 Evaluation board functions.

Agency architect-engineer evaluation boards shall perform the following functions:

(a) Prepare a selection memorandum recommending no less than three firms which are considered most highly qualified to perform the required services for submission to the head of the contracting activity for his/her approval. This selection memorandum shall include the information specified in 736.602–3(c).

(b) In evaluating architect-engineer firms, the architect-engineer evaluation board shall apply the following criteria, other criteria established by Agency regulations, and any criteria set forth in the public notice on a particular contract:

(1) Specialized experience of the firm (including each member of joint venture or association) with the type of service required;

(2) Capacity of the firm to perform the work (including any specialized services) within the time limitations;

(3) Past record of performance on contracts with AID or other Government agencies and private industry with respect to such factors as control of costs, quality of work, and ability to meet schedules, to the extent such information is available;

(4) Ability to assign an adequate number of qualified key personnel from the organization, including a competent supervising representative having considerable experience in responsible positions on work of a similar nature;

(5) The portions of the work the architect-engineer is able to perform with its own forces when required;

(6) Ability of the architect-engineer to furnish or to obtain required materials and equipment;

(7) If the geographical or topographical aspects of the project are deemed vital, familiarity with the locality where the project is situated;

(8) Financial capacity;

(9) Responsibility of the architect-engineer under standards provided in FAR subpart 9.1. No contract may be awarded to a contractor that does not meet these standards;

(10) Volume of work previously awarded to the firm by the Agency, with the object of effecting an equitable distribution of architect-engineer contracts among qualified firms. Each

architect-engineer evaluation board shall give favorable consideration, to the fullest extent practicable to the most highly qualified firms that have not had prior experience on Government projects (including small business firms and firms owned by the socially and/or economically deprived).

(c) The evaluation board shall prepare a selection memorandum for the approval of the head of the contracting activity. The selection memorandum will be signed by the board chairman and cleared by each board member. The selection memorandum shall include the following information:

(1) A listing by name of all firms reviewed by the board;

(2) A listing of the evaluation criteria applied;

(3) An analysis of the selection showing the rationale for the board's recommendation;

(4) The board's recommendation of the three most highly qualified firms, in order of preference;

(5) An independent Government cost estimate. The evaluation board shall require the project engineer to develop an independent Government estimate of the cost of the required architect-engineer services. Consideration shall be given to the estimated value of the services to be rendered, the scope, complexity, and the nature of the project and the estimated costs expected to be generated by the work. The independent Government estimate shall be revised as required during negotiations to correct noted deficiencies and reflect changes in or clarification of, the scope of the work to be performed by the architect-engineer. A cost estimate based on the application of percentage factors to cost estimates of the various segments of the work involved, e.g., construction project, may be developed for comparison purposes, but such a cost estimate shall not be used as a substitute for the independent Government estimate.

736.602-4 Selection authority.

(a) The head of the contracting activity or his/her authorized designee shall review the selection memorandum and shall either approve it or return it to the board for reconsideration for specified reasons.

(b) Approval of the selection memorandum by the head of the contracting activity or his/her authorized designee shall serve as authorization for the contracting office to commence negotiation.

736.602-5 Short selection procedure for procurements not to exceed $25,000.

References to FAR 36.602-3 and 36.602-4 contained in FAR 36.602-5 shall be construed as references to 736.602-3 and 736.602-4 of this subpart.

736.603 Collecting data on and appraising firms' qualifications.

A Contractor's Index is maintained in Washington by the AID Office of Small and Disadvantaged Business Utilization. Architect-engineers wishing to perform contracts for AID should file the appropriate form with that office, as provided in subpart 705.001. Procurements are publicized in the *Commerce Business Daily*, as provided in FAR Part 5.

736.605 Government cost estimate for architect-engineer work.

See 736.602-3(c)(5).

PART 737—SERVICE CONTRACTING

Subpart 737.2—Services of Experts and Consultants

Authority: Sec. 621, 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.

Subpart 737.2—Services of Experts and Consultants

737.200 Scope of subpart.

This subpart implements and supplements Subpart 37.2 of the FAR. It provides supplementary, AID-specific examples of activities excluded from the definition of consulting services; and establishes procedures for determination, justification, approval, and reporting of such services, as required by OMB Circular A-120 and Subpart 37.2 of the FAR. This subpart also establishes special marking requirements in 737.272 for contracts for consulting services.

737.201 Definitions.

Within the specific context of AID's operations, any consulting services for which the primary beneficiary is the host country are not considered to be consulting services.

737.270 Contracting for consulting services.

(a) In cases where a single contract finances activities included within the definition of consulting services, and activities excluded from the definition, the contracting officer is responsible for determining whether the primary purpose of the contract is consulting services, in which case the contract will be classed as a consulting services contract.

(b) A signed justification and approval, as specified in paragraph (c) of this section must accompany each request for a contract for consulting services. If the contracting officer determines that a requested contract is for consulting services, and the required justification and approval has not been prepared, the request will be returned to the cognizant project office, together with a memorandum stating that the requested contract has been determined to be for consulting services; that justification and approval is required; and that the request for contract services will be acted upon when it is returned accompanied by the required justification and approval.

(c) The justification and approval must be clearly identified as a justification for consulting services, and must provide the following information:

(1) *Need and Utilization:* State concisely the specific need for procuring the consulting service, including the objectives and the anticipated benefits for the Agency. State the estimated cost of the services, and evaluate the cost in terms of anticipated utilization of the work product.

(2) *Review of Prior Work:* Briefly describe efforts made to ensure that the proposed consulting service does not, in the given circumstances, duplicate work conducted previously. Where appropriate, describe the results of an AID Data Bank (located in the Acquisitions Development Information and Utilization Service, Bureau for Program and Policy Coordination) search.

(3) *In-House Capability:* Describe the expertise needed for the service and state whether such expertise exists in AID. If it is found that the expertise does exist in AID, and is available for assignment to the work, state why AID personnel are not being assigned to the task.

(d) The justification must be approved by an officer one level above the organizational unit within a Bureau or Office requesting the service but two levels above during the fourth quarter of the fiscal year. For Mission-awarded direct contracts, these guidelines regarding approval levels should be followed whenever possible; however, throughout the fiscal year, the approval officer need be no higher than the principal AID officer at the post.

(e) *Organizational conflict of interest.* (1) As required by FAR 37.205, offerors must disclose possible conflicts of interest. The offeror will be required to submit the following representation with its proposal:

Organizational Conflicts of Interest Representation

(i) The offeror represents, to the best of its knowledge and belief, that the award to it of a contract or the modification of an existing contract does ( ) or does not ( ) involve an organizational conflict of interest.

(ii) The term "organizational conflict of interest" means that a relationship exists whereby an offeror or a contractor (including its chief executives, directors, proposed consultants or subcontractors) has interest which: (A) may diminish its capacity to give impartial, technically sound, objective assistance and advice or may otherwise result in a biased work product, or, (B) may result in an unfair competitive advantage. It does not include the normal flow of benefits from the performance of a contract.

(iii) The term "Contractor" means any person, firm, unincorporated association, joint venture, partnership, corporation or affiliate thereof, which is a party to a contract with the United States of America. As used in this definition, the term "affiliate" has the same meaning as provided in FAR 19.101.

(2) If the offeror indicates that there are organizational conflicts of interest in the "Organizational Conflicts of Interest Representation", the offeror shall provide a statement which describes in a concise manner all relevant facts concerning any present or current planned interest (financial, contractual, organizational, or otherwise) relating to the work to be performed in the proposed contract and bearing on whether the offeror has a possible organizational conflict of interest with respect to being able to render impartial, technically sound, and objective assistance or advice, or being given an unfair competitive advantage. The offeror may also provide relevant facts that show how its organizational structure and/or management systems limit its knowledge of possible organizational conflicts of interest relating to other divisions or sections of the organization and how that structure or system would eliminate or neutralize such organizational conflict.

(3) The contract clause entitled "Organizational Conflicts of Interest" set forth in subsection 752.7020 of the AIDAR shall be included in every contract award pursuant to this Subpart 737.2.

737.271 Contract data reporting.

Within AID, input into the Federal Procurement Data System is accomplished through the Contract On-Line Reporting System. The contracting officer is responsible for insuring that contracts for consulting services are identified as such on Form AID 1420-49, the Contract/Grant/ Cooperative Agreement Data Sheet.

737.272 Identifying contracts for consultant services.

The contracting officer is responsible for identifying all contracts, including purchase orders, work orders, and amendments thereto, determined to be for consulting services in accordance with Subpart 737.2. All copies of such contracts are to be legibly marked "Consulting Services" on the upper right-hand corner of the cover page of the contract.

SUBCHAPTER G—CONTRACT MANAGEMENT

PART 742—CONTRACT ADMINISTRATION

Subpart 742.7—Indirect Cost Rates

742.770 Negotiated indirect cost rate agreement.

Except for educational institutions having a cognizant agency (as defined in OMB Circular A-88, 44 FR 70094, 12/5/79) other than AID, AID may establish negotiated overhead rates in a Negotiated Indirect Cost Rate Agreement (Form AID 1420-47, as set forth in 753.270-1), executed by both parties. The Negotiated Indirect Cost Rate Agreement is automatically incorporated in each contract between the parties and shall specify: (a) The final rate(s), (b) the base(s) to which the rate(s) apply, (c) the period(s) for which the rate(s) apply, (d) the items treated as direct costs, and (e) the contract(s) to which the rate(s) apply. The Negotiated Indirect Cost Rate Agreement shall not change any monetary ceiling, obligation, or specific cost allowance or disallowance provided for in each contract between the parties.

(Sec. 621, 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)

PART 749—TERMINATION OF CONTRACTS

Subpart 749.1—General Principles

Authority: Sec. 621, 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.

Subpart 749.1—General Principles

749.100 Scope of subpart.

The Foreign Aid and Related Agencies Appropriation Act, 1963, and subsequent appropriation Acts, have imposed the following requirement:

None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, as amended, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

See, for example, section 110 of the Foreign Assistance and Related Agencies Appropriation Act, 1965.

749.111 Review of proposed settlements.

749.111-70 Termination settlement review boards.

(a) The AID Settlement Review Board shall be composed of the following members or their delegates (except as provided under 749.111-71(b)):

(1) Procurement Executive;

(2) Controller;

(3) General Counsel.

(b) The Procurement Executive or his/her delegate shall be designated as chairman of the board. Delegate members of the board shall have broad business and contracting experience and shall be senior AID officials. Each member or his/her delegate must be in attendance in order to conduct business, and the board shall act by majority vote. No individual shall serve as a member of a board for the review of a proposed settlement if he/she has theretofore reviewed, approved or disapproved or recommended approval, disapproval or other action with respect to any substantive element of such settlement proposal.

(c) The chairman shall appoint a nonvoting recorder who shall be responsible for receiving cases, scheduling and recording the proceedings at meetings, maintaining a log of all cases received by him/her for the board, and other duties as assigned by the board.

749.111-71 Required review and approval.

(a) *When required.* The AID Settlement Review Board shall receive and approve all AID/W and Mission proposed settlements or determinations if:

(1) The amount of settlement, by agreement or determination, involves $50,000 or more;

(2) The settlement or determination is limited to adjustment of the fee of a cost-reimbursement contract or subcontract and: (i) In the case of complete termination, the fee, as adjusted, with respect to the terminated portion of the contract or subcontract is

$50,000 or more; or (ii) in the case of a partial termination, the fee, as adjusted, with respect to the terminated portion of the contract or subcontract is $50,000 or more;

(3) The head of the contracting activity concerned determines that a review of a specific case or class of cases is desirable; or

(4) The contracting officer, in his/her discretion, desires review by the board.

(b) *Level of review.* Proposed settlements in excess of $1 million shall be reviewed and approved by a board consisting of the Procurement Executive, the General Counsel, and the Controller, without power of redelegation.

(c) *Submission of information.* The contracting officer shall submit to the board a statement of the proposed settlement agreement or determination, supported by such detailed information as is required for an adequate review. This information should normally include copies of: (1) The contractor's or subcontractor's settlement proposal, (2) the audit report, (3) the property disposal report and any required approvals in connection therewith, and (4) the contracting officer's memorandum explaining the settlement. The board may, in its discretion, require the submission of additional information.

PART 750—EXTRAORDINARY CONTRACTUAL ACTIONS

Authority: Sec. 621, 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.

750.000 Scope of part.

AID is not among the agencies named in the Act or authorized by the President to take actions under it; however, see Subpart 750.71—Extraordinary Contractual Actions to Protect Foreign Policy Interests of the United States.

Subpart 750.70—Ratification of Unauthorized Contract Awards

750.7000 Ratification of unauthorized contract awards.

(a) Execution of otherwise proper contracts made by individuals without contracting authority, or by contracting officers in excess of the limits of their delegated authority, may be later ratified. To be effective, such ratification must be in the form of a written document clearly stating that ratification of a previously unauthorized act is intended and must be signed by a person authorized to ratify such acts. Generally such ratification may be made only by an official on whose behalf the contract was made and then only: (1) If he/she could have given authority to enter into the contract before it was awarded and (2) if he/she still has power to do so at the time of ratification.

(b) The Director, Office of Contract Management, is the official within AID who may ratify unauthorized contract awards in accordance with paragraph (a).

Subpart 750.71—Extraordinary Contractual Actions To Protect Foreign Policy Interests of the United States

750.7100 Scope of subpart.

This subpart sets forth the standards and the procedures for disposition of requests for extraordinary contractual actions under Executive Order 11223.

750.7101 Authority.

(a) Pursuant to section 633 of the Foreign Assistance Act of 1961, 75 Stat. 454 (22 U.S.C. 2933) as amended, Executive Order 11223, dated May 12, 1965 (30 FR 6635) as amended, and State Department Delegation of Authority No. 104, dated November 3, 1961 (26 FR 10608) as amended, the Administrator of the Agency for International Development has been granted authority to provide extraordinary contractual relief. The authority is set forth in sections 3 and 4 of the Executive Order as follows:

Section 3. With respect to cost-type contracts heretofore or hereafter made with nonprofit institutions under which no fee is charged or paid, amendments or modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or of the form of the contract amended or modified, or the amending or modifying contract and irrespective of rights which may have accrued under the contract or the amendments or modifications thereof.

Section 4. With respect to contracts heretofore or hereafter made, other than those described in Section 3 of this Order, amendments and modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or the form of the contract amended or modified, or of the amending or modifying contract, and irrespective of rights which may have accrued under the contract or the amendments or modifications thereof, if the Secretary of State determines in each case that such action is necessary to protect the foreign policy interests of the United States.

(b) The authority delegated to the Secretary of State under the Executive Order has been redelegated to the Administrator, Agency for International Development, under State Department Delegation 104, with power to redelegate.

750.7102 General policy.

Extra-contractual claims arising from foreign assistance contracts will be processed in accordance with this subpart, which is similar to that utilized to process claims for extraordinary relief under FAR Part 50, as modified to meet the circumstances involved under the Foreign Assistance Act and the different authority involved.

750.7103 Definitions.

(a) The term "approving authority" as used in this subpart means an officer or official having been delegated authority to approve actions under the Executive Order. This authority is distinguished from authority to take appropriate contractual action pursuant to such approval.

(b) The term "The Executive Order" shall mean Executive Order 11223 (30 FR 6635) as amended.

(c) The term "the Delegation of Authority" shall mean State Department Delegation of Authority No. 104 (26 FR 10608).

(d) The term "the Act" shall mean the Foreign Assistance Act of 1961, as amended.

750.7104 Types of actions.

Three types of actions may be taken by or pursuant to the direction of an approving authority under the Executive Order. These are contractual adjustments such as amendments without consideration, correction of mistakes, and formalization of informal commitments.

750.7105 Approving authorities.

Authority to approve actions processed under this subpart has been delegated as follows:

(a) The Director, Office of Contract Management, may approve actions up to $50,000 per contract under Section 3 of the Executive Order.

(b) The Associate Assistant to the Administrator for Management may approve actions up to $250,000 per contract under both Sections 3 and 4 of the Executive Order.

(c) The Administrator and Deputy Administrator must approve any action over $250,000.

750.7106 Standards for deciding cases.

750.7106-1 General.

The mere fact that losses occur under a Government contract is not, by itself, a sufficient basis for the exercise of the authority conferred by the Executive Order. Whether, in a particular case, appropriate action such as amendment without consideration, correction of a mistake or ambiguity in a contract, or formalization of an informal commitment, will protect the foreign policy interests of the United States is a matter of sound judgment to be made on the basis of all of the facts of such case. Although it is obviously impossible to predict or enumerate all the types of cases with respect to which action may be appropriate, examples of certain cases or types of cases where action may be proper are set forth in subsections 750.7106-2 through 750.7106-4. Even if all of the factors contained in any of the examples are present, other factors or considerations in a particular case may warrant denial of the request. These examples are not intended to exclude other cases where the approving authority determines that the circumstances warrant action.

750.7106-2 Amendments without consideration.

(a) Where an actual or threatened loss under a foreign assistance contract, however caused, will impair the productive ability of a contractor whose continued performance of any foreign assistance contract or whose continued operation as a source of supply is found to be essential to protect the foreign policy interests of the United States, the contract may be adjusted but only to the extent necessary to avoid such impairment to the contractor's productive ability.

(b) Where a contractor suffers a loss (not merely a diminution of anticipated profits) on a foreign assistance contract as a result of Government action, the character of the Government action will generally determine whether any adjustment in the contract will be made and its extent. Where the Government action is directed primarily at the contractor and is taken by the Government in its capacity as the other contracting party, the contract may be adjusted if fairness so requires; thus where such Government action, although not creating any liability on its part, increases the cost of performance, considerations of fairness may make appropriate some adjustment in the contract.

750.7106-3 Mistakes.

A contract may be amended or modified to corrrect or mitigate the effect of a mistake, including the following examples:

(a) A mistake or ambiguity which consists of the failure to express or to express clearly in the written contract the agreements as both parties understood them;

(b) A mistake on the part of the contractor which is so obvious that it was or should have been apparent to the contracting officer; and

(c) A mutual mistake as to a material fact.

Amending contracts to correct mistakes with the least possible delay normally will protect the foreign policy interests of the United States by expediting the procurement program and by giving contractors proper assurance that such mistakes will be corrected expeditiously and fairly.

750.7106-4 Informal commitments.

Informal commitments may be formalized under certain circumstances to permit payment to persons who have taken action without a formal contract; for example, where any person, pursuant to written or oral instructions from an officer or official of the Agency and relying in good faith upon the apparent authority of the officer or official to issue such instructions, has arranged to furnish or has furnished property or services to the agency and/or to a foreign assistance contractor or subcontractor without formal contractual coverage for such property or services. Formalization of commitments under such circumstances normally will protect the foreign policy interests of the United States by assuring persons that they will be treated fairly and paid expeditiously.

750.7107 Limitations upon exercise of authority.

(a) The Executive Order is not authority for:

(1) The use of the cost-plus-a-percentage-of-cost system of contracting;

(2) The making of any contract in violation of existing law relating to limitation on profit or fees;

(3) The negotiation of purchases of or contracts for property or services required by law to be procured by formal advertising and competitive bidding; or

(4) The waiver of any bid, payment performance or other bond required by law.

(b) No amendments, or modifications shall be entered into under the authority of the Executive Order:

(1) Unless, with respect to cases falling within Section 4 of the Executive Order, a finding is made that the action is necessary to protect the foreign policy interests of the United States;

(2) Unless other legal authority in the Agency is deemed to be lacking or inadequate;

(3) Except within the limits of the amounts appropriated and the statutory contract authorization.

(c) No contract shall be amended or modified unless the request therefor has been filed before all obligations (including final payment) under the contract have been discharged.

(d) No informal commitment shall be formalized unless:

(1) A request for payment has been filed within six months after arranging to furnish or furnishing property or services in reliance upon the commitment; and

(2) It is found that at the time the commitment was made it was impracticable to use normal procurement procedures.

750.7108 Contractual requirements.

Every contract amended or modified pursuant to this subpart shall contain:

(a) A citation of the Act and Executive Order.

(b) A brief statement of the circumstances justifying the action;

(c) A recital of the finding, with respect to cases falling within Section 4 of the Executive Order, that the action is necessary to protect the foreign policy interests of the United States.

750.7109 Submission of requests by contractors.

750.7109-1 Filing requests.

Any person (hereinafter called the "contractor") seeking an adjustment under standards set forth in 750.7106 may file a request in duplicate with the cognizant contracting officer or his/her duly authorized representative. If such filing is impracticable, requests will be deemed to be properly filed if filed with the Director, Office of Contract Management, for forwarding to the cognizant contracting officer.

750.7109-2 Form of requests by contractors.

The contractor's request shall normally consist of a letter to the contracting officer providing the information specified in FAR 50.303.

750.7109-3 Facts and evidence.

The contracting officer or the approving authority may, where considered appropriate, request the contractor to furnish the facts and evidence as dsecribed in FAR 50.304.

750.7110 Processing cases.

750.7110-1 Investigation.

The Director, Office of Contract Management, shall be responsible for assuring that the cognizant contracting officer in all cases shall make a thorough investigation of all facts and issues relevant to each case. Facts and evidence shall be obtained from contractor and Government personnel, and shall include signed statements of material facts within the knowledge of the individuals where documentary evidence is lacking, and audits where considered necessary to establish financial or cost facts. The investigation shall establish both the facts essential to meeting the standards for deciding the particular case and the essential facts as to who has authority to approve the request.

750.7110-2 Intra-agency coordination.

Prior to the submission of a case to the approving authority recommending extraordinary contractual relief, the claim will be fully developed by the Office of Contract Management and concurrences or comments obtained from the Office of General Counsel and the Inspector General for the proposed relief to be granted. Such concurrences or comments shall be incorporataed in or accompany the action memorandum submited for consideration to the approving authority in accordance with 750.7110-3.

750.7110-3 Submission of cases to the approving authority.

Cases to be submitted for consideration shall be forwarded by means of an action memorandum signed by the Director, Office of Contract Management. The action memorandum shall state:

(a) The nature of the case;

(b) The basis for authority to act under 750.7101;

(c) The findings of fact essential to the case (see 750.7109-3) arranged chronologically with cross references to supporting enclosures;

(d) The conclusions drawn from applying the standards for deciding cases, as set forth in 750.7106, to the findings of fact;

(e) The disposition recommended, and, if contractual action is recommended with respect to cases falling within Section 4 of the Executive Order, the opinion of the signer that such action is necessary to protect the foreign policy interest of the United States; and

(f) The action memorandum shall enclose copies of the contracting officer's findings and recommendations, the evidentiary materials, all other reports and comments of cognizant Government or other officials, and a copy of the contractor's request with a cover sheet providing the following summary information related to the request.

(1) Date of request;

(2) Date request received by AID:

(3) Contract number;

(4) Contractor's name and address;

(5) Name, address, and phone number of contractor's representative;

(6) Name, office symbol, and phone number of cognizant contracting officer;

(7) Amount of request.

750.7110-4 Processing by approving authority.

In each case, the approving authority, whether approving or denying the request, shall sign a decision which shall be dated and shall contain the following:

(a) The name and address of the contractor, the contract identification, and the nature of the request;

(b) The decision reached and the actual cost or estimated potential cost, if any, of the settlement;

(c) A concise description of the property or services involved;

(d) A statement of the circumstances justifying the decision; and

(e) If some adjustment action is approved with respect to cases falling within section 4 of the Executive Order, a statement in substantially the following form: I find that the action authorized herein is necessary to protect the foreign policy interests of the United States.

750.7110-5 Records.

The following shall be retained in Agency files as a record of each action processed in accordance with this subpart:

(a) The decision required in 750.7110-4;

(b) The action memorandum and all enclosures as required in 750.7110-3; and

(c) A copy of the contractual document implementing any approved contractual action.

750.7110-6 Inter-agency coordination.

(a) *General.* Where a case involves matters of interest to more than one department or agency, AID should maintain liaison with other departments and agencies of the Government and take such joint action as may be proper under the circumstances, including holding joint meetings.

(b) *Cases involving funds of other departments or agencies.* Requests for adjustment within any category, involving the funds of another department or agency, shall not be approved by AID until advice is requested and received from the department or agency whose funds are involved.

SUBCHAPTER H—CLAUSES AND FORMS

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 752.2—Texts of Provisions and Clauses

Sec.

Subpart 752.70—Texts of AID Contract Clauses

Subpart 753.3-70—AID Clause Matrices—[Reserved]

Authority: Sec. 621, 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.

Subpart 752.2—Texts of Provisions and Clauses

752.200 Scope of subpart.

None of the clauses specified in this subpart are for use in AID personnel services contract. For personnel services contract clauses, see AIDAR Appendix D—Direct AID Contracts with U.S. Citizens or U.S. Residents for Personal Services Abroad.

752.202 Definitions.

(a) As prescribed in 702.270 and in FAR Subpart 2.2, AID contracts use the Definitions clause in FAR 52.202-1 and its Alternate I, as appropriate, and the following additional definitions.

(b) *Alternate 70.* For use in all AID contracts. Use in addition to the clause in FAR 52.202-1.

AID Definitions Clause—General Supplement for Use in All AID Contracts (Apr. 1984)

(a) "AID" shall mean the Agency for International Development.

(b) "Administrator" shall mean the Administrator or the Deputy Administrator of AID.

(c) When this contract is with an educational institution "Campus Coordinator" shall mean the representative of the Contractor at the Contractor's home institution, who shall be responsible for coordinating the activities carried out under the contract.

(d) When this contract is with an educational institution "Campus Personnel" shall mean representatives of the Contractor performing services under the contract at the Contractor's home institution and shall include the Campus Coordinator.

(e) "Consultant" shall mean any especially well qualified person who is engaged, on a temporary or intermittent basis to advise the Contractor and who is not an officer or employee of the Contractor who performs other duties for the Contractor.

(f) "Contractor employee" shall mean an employee of the Contractor assigned to work under this contract.

(g) "Cooperating Country or Countries" shall mean the foreign country or countries in or for which services are to be rendered hereunder.

(h) "Cooperating Government" shall mean the government of the Cooperating Country.

(i) "Economy class" air travel (also known as jet economy, air coach, tourist class, etc.) shall mean a class of air travel which is less than first class.

(j) "Federal Acquisition Regulations (FAR)", when referred to herein shall include Agency for International Development Acquisition Regulations (AIDAR).

(k) "Government" shall mean the United States Government.

(l) "Mission" shall mean the United States AID Mission to, or principal AID office in, the Cooperating Country.

(m) "Mission Director" shall mean the principal officer in the Mission in the Cooperating Country, or his/her designated representative.

(c) *Alternate 71.* For use in AID contracts with an educational institution for participant training. Use in addition to the clauses in FAR 52.202-1 and in 752.202-1(b) of this chapter.

AID Definitions Clause—Supplement for Contracts With an Educational Institution for Participant Training (Apr. 1984)

(a) "Catalog" shall mean any medium by which the Institution publicly announces terms and conditions for enrollment in the Institution, including tuition and fees to be charged. This includes "bulletins," "announcements," or any other similar word the Institution may use.

(b) "Director" shall mean the individual who fills the AID position of Director, Office of International Training, or his/her authorized representative acting within the limits of his/her authority. (c) "Fees" shall mean those applicable charges directly related to enrollment in the Institution. This shall not include any permit charge (e.g., parking, vehicle registration), or charges for services of a personal nature (e.g., food, housing, laundry) unless specifically called for in this contract.

(d) "Institution" shall mean the educational institution providing services hereunder. The terms "Institution" and "Contractor" are synonymous.

(e) "Tuition" shall mean the amount of money charged by an institution for instruction, not including fees as described in this section.

(d) *Alternate 72.* For use in all AID contracts which involve any performance overseas. Use in addition to the clauses in FAR 52.202-1 and in 752.202-1(b) of this chapter.

AID Definitions Clause—Supplement for AID Contracts Involving Performance Overseas (Apr. 1984)

(a) "Contractor's Chief of Party" shall mean the representative of the Contractor in the Cooperating Country who shall be responsible for supervision of the performance of all duties undertaken by the Contractor in the Cooperating Country.

(b) "Cooperating Country National (CCN) employee" means an individual who meets the citizenship requirements of 48 CFR 702.170-5 and is hired while residing outside the United States for work in a cooperating country.

(c) "Dependents" shall mean:

(1) Spouse;

(2) Children (including step and adopted children) who are unmarried and under 21 years of age or, regardless of age, are incapable of self support.

(3) Parents (including step and legally adoptive parents), of the employee or of the spouse, when such parents are at least 51 percent dependent on the employee for support; and

(4) Sisters and brothers (including step or adoptive sisters or brothers) of the employee, or of the spouse, when such sisters and brothers are at least 51 percent dependent on the employee for support, unmarried and under 21 years of age, or regardless of age, are incapable of self support.

(d) "Local currency" shall mean the currency of the Cooperating Country.

(e) "Regular employee" shall mean a Contractor employee appointed to serve one year or more in the Cooperating Country.

(f) "Resident" shall mean an individual who has been physically present for 3 consecutive years, substantially uninterrupted, in a country.

(g) "Short-term employee" shall mean a Contractor employee appointed to serve less than one year in the Cooperating Country.

(h) "Third Country National (TCN) employee" means an individual who meets the citizenship requirements of 48 CFR 702.170-14 and is hired while residing outside the United States for work in a Cooperating Country.

752.203-1 Officials Not to Benefit.

For contracts involving performance overseas the clause prescribed in FAR

3.102-2 may be modified to specify that it refers to United States officials.

752.204-2 Security Requirements.

Pursuant to the Uniform State/AID/USIA Regulations (Volume 5, Foreign Affairs Manual, Chapter 900), AID applies the safeguards applicable to "Confidential" information to administratively controlled information designated as "Limited Official Use". Therefore, when the clause in FAR 52.204-2 is used in AID contracts, pursuant to 704.404, paragraph (a) of the clause is revised as follows:

"(a) This clause applies to the extent that this contract involves access to classified ('Confidential', 'Secret', or 'Top Secret'), or administratively controlled ('Limited Official Use') information."

752.216-70 Post-determined Indirect Cost Rates.

Cost-reimbursement contracts with commercial firms which use *post-determined* overhead rates shall use the following clause (the clause may also be used for an educational institution which uses *post-determined* overhead rates by deleting reference to ". . . Fixed Fee . . ." in paragraph (a) of the clause, and by changing reference to cost principles in paragraph (c) from ". . . Subpart 31.2 (Contracts with Commercial Organizations) . . .", to ". . . Subpart 31.3 (Contracts with Educational Institutions) . . .".

Post-determined Indirect Cost Rates (Apr. 1984)

(a) Notwithstanding the provisions of the clause of this contract entitled "Allowable Cost, Fee, and Payment", the allowable indirect costs under this contract shall be obtained by applying negotiated overhead rates to bases agreed upon by the parties as specified below.

(b) The Contractor, as soon as possible but not later than ninety (90) days after the close of each of its fiscal years, or such other period as may be specified in the contract, shall submit to the Contracting Officer, with copies to the cognizant audit activity, a proposed final overhead rate or rates for that period based on the Contractor's actual cost experience during that period, together with supporting cost data. Negotiation of overhead rates by the Contractor and the Contracting Officer shall be undertaken as promptly as practicable after receipt of the Contractor's proposal.

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with Subpart 31.2 (Contracts With Commercial Organizations) of the Federal Acquisition Regulations as in effect on the date of this contract.

(d) The results of each negotiation shall be set forth in a modification of this contract which shall specify (1) the agreed final rates, (2) the bases to which the rates apply, (3) the periods for which the rates apply.

(e) Pending establishment of final overhead rates for any period, the Contractor shall be reimbursed either at negotiated provisional rates as provided in the Contract or at billing rates acceptable to the Contracting Officer, subject to appropriate adjustment when the final rates for that period are established. To prevent substantial over or under payment, and to apply either retroactively or prospectively, (1) provisional rates may at the request of either party be revised by mutual agreement and (2) billing rates may be adjusted by the Contracting Officer. Any such revision of negotiated provisional rates specified in the contract shall be set forth in modification to this contract.

(f) Any failure by the parties to agree on any final rate under this clause shall be considered a dispute concerning a question of fact decision by the Contracting Officer within the meaning of the "Disputes" clause of this contract.

752.219-8 Utilization of Small Business Concerns and Small Disadvantaged Business Concerns.

The Foreign Assistance Act calls for AID to give small businesses an opportunity to provide supplies and services for foreign assistance projects. To help AID meet this obligation, the following paragraph is to be added to the clause prescribed in FAR 19.708(a):

AID small business provision. To permit AID, in accordance with the small business provisions of the Foreign Assistance Act, to give small business firms an opportunity to participate in supplying equipment supplies and services financed under this contract, the Contractor shall, to the maximum extent possible, provide the following information to the Office of Small and Disadvantaged Business Utilization (PRE/SDB), AID, Washington, D.C. 20523, at least 45 days prior to placing any order in excess of five thousand dollars ($5,000) except where a shorter time is requested of, and granted by PRE/SDB:

(1) Brief general description and quantity of commodities or services;

(2) Closing date for receiving quotations or bids; and

(3) Address where invitations or specifications may be obtained."

752.225-9 Buy American Act—Trade Agreements Act—Balance of Payments Program.

The clause prescribed by FAR 25.407(a)(2) is not generally included in AID contracts when more stringent source requirements are stated in the contract or when inclusion is not appropriate under FAR 25.403, or 725.403 of this Subpart. (See Executive Order No. 11223, dated May 12, 1965, 30 FR 6635.) The clause setting forth AID's source restrictions is shown in 752.7005.

752.228-70 Insurance—Worker's Compensation, Private Automobiles, Marine and Air Cargo.

(a) Because of the volume of projects performed overseas, resulting in contracts which require insurance pursuant to the Defense Base Act (DBA), AID has contracted with an insurance carrier to provide the DBA required insurance for all AID contractors. In addition, AID has found it necessary to prescribe insurance coverage requirements for private automobiles and marine and air cargo. Therefore, the following clauses are to be used in place of the clause prescribed by FAR 28.309(b).

(b) *Alternate 70.* For use in all AID cost-reimbursement contracts involving performance overseas.

Insurance—Worker's Compensation, Private Automobiles, Marine, and Air Cargo (Apr. 1984)

(a) *Worker's compensation insurance.*

(1) The Contractor before commencing performance under this contract shall provide and thereafter maintain such workers' compensation insurance or security as is required by the Defense Base Act (DBA) as amended (42 U.S.C. 1651 et seq.).

(2) The Contractor agrees to procure DBA insurance coverage requirements pursuant to a contract between AID and its insurance carrier unless: The Contractor has a DBA self insurance program approved by the Department of Labor; has an approved retrospective rating plan for DBA; or has entered into a long term agreement for DBA coverage with an underwriter or agent prior to November 14, 1977. However, if it would be economical to cancel the long-term coverage and pay short-term rates, Contractor is required to do so.

(3) If the Contractor secures a waiver of DBA coverage for its employees who are not citizens of the United States, residents of, or hired in the United States, or, AID has secured such a waiver, the Contractor agrees to comply with the conditions of such waiver.

(4) The Contractor further agrees to insert in all subcontracts hereunder to which the DBA is applicable, a clause similar to this clause, including this sentence, imposing on all such subcontractors a like requirement to provide overseas workmen's compensation insurance coverage and obtain DBA coverage under the AID requirements contract.

(b) *Insurance on private automobiles.* If Contractor or any of its employees or their dependents transport or cause to be transported (whether or not at contract expense) privately owned automobiles to the Cooperating Country, or they, or any of them, purchase an automobile within the Cooperating Country, Contractor agrees to make certain that all such automobiles during such ownership within the Cooperating Country will be covered by a paid-up insurance policy issued by a reliable company providing the following minimum coverages, or such other minimum coverages as may be set by the Mission Director payable in United States dollars or its equivalent in the currency of the Cooperating Country: injury to persons, $10,000/$20,000; property damage, $5,000. Contractor further agrees to deliver or cause to be delivered to the Mission Director, the insurance policies required by this clause or satisfactory proof of the existence thereof, before such automobiles are operated within the Cooperating Country. The premium costs for such insurance shall not be a reimbursable cost under this contract.

(c) *Marine and air cargo insurance.* Contractor may obtain cargo insurance on equipment, materials, and supplies procured under this contract only after obtaining the prior written approval of the Contracting Officer.

(c) *Alternate 71.* For fixed-price contracts involving overseas performance, use the clause in *Alternate 70,* deleting paragraph (c), marine and air cargo insurance.

752.229-70 Federal, state and local taxes.

For contracts involving performance overseas the clauses prescribed in FAR 29.401-3 or 29.401-4 may be modified to specify that the taxes referred to are United States taxes.

752.232-70 Letter of Credit Advance Payment.

As required by 732.406.70-4, insert the following clause in contracts being paid by Letter of Credit.

Letter of Credit Advance Payment (Apr. 1984)

(a) Payment under this contract shall be by means of a Letter of Credit (LOC) in accordance with the terms and conditions of the LOC and any instructions issued by the AID Office of Financial Management, Program Accounting Division (M/FM/PAD).

(b) As long as the LOC is in effect, the terms and conditions of the LOC and any instructions issued by M/FM/PAD constitute the payment conditions of this contract, superseding and taking precedence over any other clause of this contract concerning payment.

(c) If the LOC is revoked, payment may be made on a cost-reimbursement basis, in accordance with the other clauses of this contract concerning payment.

(d) Revocation of the LOC is at the discretion of M/FM/PAD after consultation with the contracting officer. Notification to the contractor of revocation must be in writing and must specify the reasons for such action. The contractor may appeal any such revocation to the contracting officer, in accordance with the Disputes clause of this contract. Pending final decision, payments under the contact will be in accordance with paragraph (c) of this clause.

752.245-70 Government Property—AID Reporting Requirements.

In response to a GAO audit recommendation, AID contracts must contain the following preface and reporting requirement as additions to the appropriate Government Property clause prescribed by FAR 45.106.

Preface: to be inserted preceding the text of the FAR clause.

The term "Government furnished property" wherever it may appear in the following clause, shall mean (1) non-expendable personal property owned by or leased to the U.S. Government and furnished to the contractor *and* (2) personal property furnished either prior to or during the performance of this contract by any U.S. Government accountable officer to the contractor for use in connection with performance of this contract and identified by such officer as accountable. The term "government property", wherever it may appear in the following clause, shall mean government-furnished property and non-expendable personal property title to which vests in the U.S. Government under this contract. Non-expendable property, for purposes of this contract, is defined as property which is complete in itself, does not lose its identity or become a component part of another article when put into use; is durable, with an expected service life of two years or more; and which has a unit cost of more than $500.

Reporting Requirement: to be inserted following the text of the FAR clause.

Reporting Requirements: The contractor will submit an annual report on all non-expendable property in a form and manner acceptable to AID substantially as follows:

ANNUAL REPORT OF GOVERNMENT PROPERTY IN CONTRACTOR'S CUSTODY

[(Name of contractor) as of (end of contract year), 19xx]

Motor vehicles	Furniture and furnishings—		Other nonexpendable property
	Office	Living quarters	
A. Value of property as of last report			
B. Transactions during this reporting period			
1. Acquisitions (add):			
a. Purchased by contractor [1]			
b. Transferred from AID [2]			
c. Transferred from others, without reimbursement [3]			
2. Disposals (deduct):			
a. Returned to AID			
b. Transferred to AID—contractor purchased			
c. Transferred to other Government agencies [3]			
d. Other disposals [3]			
C. Value of property as of reporting date			
D. Estimated average age of contractor held property			
	Years	Years	Years

[1] Property which is complete in itself, does not lose its identity or become a component part of another article when put into use; is durable, with an expected service life of two years or more; and which has a unit cost of more than $500.

[2] Government furnished property listed in this Contract as nonexpendable.

[3] Explain if transactions were not processed through or otherwise authorized by AID.

Property Inventory Verifications

I attest that (1) physical inventories of Government property are taken not less frequently than annually; (2) the accountability records maintained or Government property in our possession are in agreement with such inventories; and (3) the total of the detailed accountability records maintained agrees with the property value shown opposite line C above, and the estimated average age of each category of property is as cited opposite line D above.

____

Authorized Signature.

752.245-71 Title to and Care of Property.

It is AID policy to vest title with the cooperating country for contractor acquired property used in a cooperating country. The following clause is for use in all AID contracts under which the contractor will acquire property for use overseas under the contract.

Title to and Care of Property (Apr. 1984)

(a) Title to all non-expendable property purchased with contract funds under this contract and used in the Cooperating Country, shall at all times be in the name of the Cooperating Government, or such public or private agency as the Cooperating Government may designate, unless title to specified types or classes of non-expendable property is reserved to AID under provisions set forth in the schedule of this contract; but all such property shall be under the custody and control of Contractor until the owner of title directs otherwise, or completion of work under this contract or its termination, at which time custody and control shall be turned over to the owner of title or disposed of in accordance with its instructions. All performance guaranties and warranties obtained from suppliers shall be taken in the name of the title owner. (Non-expendable property is property which is complete in itself, does not lose its identity or become a component part of another article when put into use; is durable, with an expected service life of two years or more; and which has a unit cost of $500 of more.)

(b) Contractor shall prepare and establish a program, to be approved by the Mission, for the receipt, use, maintenance, protection, custody, and care of non-expendable property for which it has custodial responsibility, including the establishment of reasonable controls to enforce such program.

(c)(1) For non-expendable property to which title is reserved to the U.S. Government under provisions set forth in the schedule of this contract, Contractor shall submit an annual report on all non-expendable property under its custody as required in the clause of this contract entitled "Government Property".

(2) For non-expendable property titled to the Cooperating Government, the Contractor shall, within 90 days after completion of this contract, or at such other date as may be fixed by the Contracting Officer, submit an inventory schedule covering all items of non-expendable property under its custody, which have not been consumed in the performance of this contract. The Contractor shall also indicate what disposition has been made of such property.

Subpart 752.70—Texts of AID Contract Clauses

752.7000 Scope of subpart.

Subpart 752.70 contains the text of AID-specific contract clauses for which there is no FAR equivalent. The clauses in this Subpart do not apply to contracts for personal services. For personal service contract clauses see AIDAR Appendix D—Direct AID Contracts with U.S. Citizens or U.S. Residents for Personal Services Abroad.

752.7001 Biographical data.

This clause is required in all AID contracts.

Biographical Data (Apr. 1984)

(a) Contractor agrees to furnish to the Contracting Officer, on forms provided for that purpose, biographical information on the following individuals to be employed in the performance of the contract: (1) All individuals to be sent outside of the United States, (2) any employees designated as "key personnel", such as the campus coordinator, etc. Biographical data on the other individuals employed under the contract shall be available for review by AID at the Contractor's headquarters.

(b) Emergency locator information. The Contractor agrees to provide the following information to the Mission Administrative Officer on or before the arrival in the host country of every contract employee or dependent:

(1) The individual's full name, home address, and telephone number.

(2) The name and number of the contract, and whether the individual is an employee or dependent.

(3) The contractor's name, home office address, and telephone number, including any after-hours emergency number(s), and the name of the contractor's home office staff member having administrative responsibility for the contract.

(4) The name, address, and telephone number(s) of each individual's next of kin.

(5) Any special instructions pertaining to emergency situations such as power of attorney designees or alternate contact persons.

752.7002 Travel and transportation.

(a) *Alternate 70.* For use in cost reimbursement contracts in the U.S., *except* contracts with an educational institution, or contracts for participant training.

Travel and Transportation Expenses (Apr. 1984)

(a) *United States Travel.* The Contractor shall be reimbursed for actual transportation costs and travel allowances of travelers in accordance with the established practice of the Contractor for travel within the United States directly referable to the contract and not continuous with travel to and from the Cooperating Country. Such transportation costs shall not be reimbursed in an amount greater than the cost of, and time required for, economy class commercial scheduled air travel by the most expeditious route unless economy air travel or economy air travel space are not available and the Contractor certifies to the facts in the voucher or other documents retained as part of its Contract records to support its claim for post-audit. Such travel allowances shall be in accordance with the established practice of the Contractor for travel within the United States provided that it shall not exceed the rates and basis for computation of such rates as provided in the Federal Travel Regulations, as from time to time amended.

(b) *Actual Expense Basis.* Travel on an actual expense basis may be authorized or approved by the Contractor's Chief Executive Officer, or equivalent official, when it is determined that unusual circumstances of the assignment will require expenditures greatly in excess of the maximum per diem allowance provided herein. Payment on an actual expense basis is limited to specific travel assignments and should be used only in exceptional cases and not merely to cover a small amount of costs in excess of per diem. Normally, the authorization will be limited to cases where the cost of lodging (exclusive of meals) at available hotels absorbs practically all of the per diem allowance. In no event, however, shall the amount authorized exceed the applicable maximum amount allowable under section 7.2 of the Federal Travel Regulations, as from time to time amended. Receipts covering all expenses claimed hereunder shall be filed by the traveler with his/her voucher and shall be retained as a part of the Contractor's records to support the Contractor's claim for reimbursement, or for post-audit.

(b) *Alternate 71.* For contracts for participant training in the U.S.

Travel and Transportation (Apr. 1984)

The Contractor shall be reimbursed for necessary and actual transportation costs and travel allowances of travelers in accordance with the established practice of the Contractor for travel within the United States directly referable to the Contract, provided they shall not exceed the rates and basis for computation of such rates as provided in the Federal Travel Regulations, as from time to time amended. Such transportation costs shall not be reimbursed in an amount greater than the cost of, and time required for, economy class commercial air travel scheduled by the most expeditious route unless economy travel or economy travel space are not available and the Contractor certifies to the facts in the voucher or other documents required to be submitted in accordance with the clause of this contract entitled "Documentation for Payment".

(c) *Alternate 72.* For cost reimbursement contracts with educational institutions, to be performed in the U.S.

Travel Expenses (Apr. 1984)

(a) The Contractor shall be reimbursed for actual travel costs and travel allowances for travel in the United States in accordance with the established on-campus practice of the Contractor. Travel costs shall not be reimbursed in any amount greater than the cost of, and time required for, economy class commercial scheduled air travel by the most expeditious route except as otherwise provided in paragraph (b) of this section, unless economy air travel or economy air travel space are not available and the Contractor supports this in the voucher or other documents retained as part of its contract records.

(b) The Contractor may grant under this contract reasonable delays en route, not circuitous in nature, while in travel status, caused by events beyond the control of such traveler or Contractor. It is understood that if delay is caused by physical incapacitation, personnel shall be eligible for such sick leave as is provided under paragraph (b) of the clause of this contract entitled "Leave and Holidays."

(d) *Alternate 73.* For cost reimbursement contracts performed in whole or in part overseas (use in addition to either *Alternate 70* or *Alternate 72,* as appropriate).

Travel Expenses and Transportation and Storage Expenses (Apr. 1984)

(a) *International Travel.* Prior written approval by the Contracting Officer is required for all international travel directly and identifiably funded by AID under this contract. The Contractor shall therefore present to the Contracting Office an itinerary for each planned international trip, showing the name of the traveler, purpose of the trip, origin/destination (and intervening stops), and dates of travel, as far in advance of the proposed travel as possible, but in no event less than three weeks before travel is planned to commence. The Contracting Officer's prior written approval may be in the form of letter or telegram or similar device, or may be specifically incorporated into the schedule of the Contract. At least one week prior to commencement of approved international travel, the Contractor shall notify the cognizant Mission, with a copy to the Contracting Officer, of planned travel, identifying the travelers and the dates and times of arrival.

The Contractor shall be reimbursed for actual travel costs and travel allowances of travelers from place of residence in the United States (or other location provided) that the cost of such travel does not exceed the cost of the travel from the employee's residence in the United States) to the post of duty in the Cooperating Country and return to place of residence in the United States (or other location, provided, that the cost of such travel does not exceed the cost of travel from the post of duty in the Cooperating Country to the employee's residence) upon completion of services by the individual. Such travel costs and travel allowances shall not be reimbursed in an amount greater than economy class commercially scheduled air travel by the most expeditious route, except as otherwise provided in paragraph (g) of this section, and unless economy air travel or economy air travel space are not available and the Contractor certifies to this in the voucher documents retained as part of its Contract records. When travel is by economy class accommodations, the Contractor will be reimbursed for the cost of transporting up to twenty-two (22) pounds of accompanied personal baggage per traveler in addition to that regularly allowed with the economy ticket provided that the total number of pounds of baggage does not exceed that regularly allowed for first class travelers. If the cost of economy class accommodations plus the cost of transporting twenty-two pounds of additional accompanied personal baggage equals or exceeds the cost of first class accommodations, first class accommodations may be used. Travel allowances for travelers shall not be in excess of six dollars ($6) per day for persons eleven (11) years of age, or over, or three dollars ($3) per day for persons under eleven (11) years of age, for not more than the travel time required by scheduled economy class commercial air carrier using the most expeditious route and computed in accordance with the Federal Travel Regulations as from time to time amended. One (1) stopover en route for a period of not to exceed twenty-four hours is allowable when the traveler uses economy class accommodations for a trip of fourteen (14) hours or more scheduled duration. Such stopover shall not be authorized when travel is by indirect route or is delayed for the convenience of the traveler. Per diem during such stopover shall be paid in accordance with the established practice of the Contractor but not to exceed the amounts stated in the Federal Travel Regulations, as from time to time amended.

(b) *Local travel.* Reimbursement for local travel shall not be in excess of the rates established by the Mission Director for the travel costs of travelers in the Cooperating Country in connection with duties directly referable to the contract. In the absence of such established rates, the Contractor shall be reimbursed for actual travel costs of travelers in the Cooperating Country, if not provided by the Cooperating Government or the Mission, in connection with duties directly referable to the contract, including travel allowances at rates not in excess of those prescribed by the Federal Travel Regulations as from time to time amended.

(c) *Travel for consultation.* The Contractor shall be reimbursed for the round trip of the Contractor's Chief of Party in the Cooperating Country or other designated Contractor employee or consultant in the Cooperating Country performing services required under this Contract, for travel from the Cooperating Country to the Contractor's office in the United States or to AID/Washington for consultation and return on occasions deemed necessary by the Contractor and approved in advance, in writing, by the Contracting Officer or the Mission Director.

(d) *Special international travel and third country travel.* For special travel which advances the purpose of the contract, which is not otherwise provided by the Cooperating Government, and with the prior written approval of the Contracting Officer or the Mission Director, the Contractor shall be reimbursed for (i) the travel cost of travelers other then between the United States and the Cooperating Country and for local travel within other countries and (ii) travel allowance for travelers while in travel status and while performing services hereunder in such other countries at rates not in excess of those prescribed by the Federal Travel Regulations, as amended.

(e) *Indirect travel for personal convenience.* When travel is performed by an indirect route for the personal convenience of the traveler, the allowable costs of such travel will be computed on the basis of the cost of economy class air fare via the direct usually traveled route. If such costs include fares for air or ocean travel by foreign flag carriers, approval for indirect travel by such foreign flag carriers must be obtained from the Contracting Officer or the Mission Director before such travel is undertaken, otherwise only that portion of travel accomplished by United States-flag carriers will be reimbursable within the above limitation of allowable costs.

(f) *Limitation on travel by dependents.* Travel costs and allowances will be allowed only for dependents of regular employees and such costs shall be reimbursed for travel from place of abode to assigned station in the Cooperating Country and return, only if dependent remains in the country for at least nine (9) months and one-half of the required tour of duty of the regular employee responsible for such dependent, whichever is greater.

If the dependent is eligible for educational travel pursuant to the General Provision entitled "Differential and Allowances", time spent away from post resulting from educational travel will be counted as time at post.

(g) *Delays en route.* The Contractor may grant to travelers under this contract reasonable delays en route, not circuitous in nature, while in travel status, caused by events beyond the control of such traveler or Contractor. It is understood that if delay is caused by physical incapacitation, personnel shall be eligible for such sick leave as is provided under paragraph (b) of the clause of this contract entitled "Leave and Holidays".

(h) *Travel by privately owned automobile.* The Contractor shall be reimbursed for the cost of travel performed by a regular employee in his/her privately owned automobile at a rate not to exceed fifteen cents (15¢) per mile plus authorized per diem for the employee and for each of the authorized dependents traveling in the automobile if the automobile is being driven to or from the Cooperating Country as authorized under the contract; *Provided,* That the total cost of the mileage and the per diem paid to all authorized travelers shall not exceed the total constructive cost of fare and normal per diem by all authorized travellers by (1) surface common carrier or (2) less than first-class air, whichever is the lesser.

(i) *Emergency and irregular travel and transportation.* Actual transportation costs and travel allowances while en route, as provided in this section will also be reimbursed under the following conditions:

(l) The costs of going from post of duty in the Cooperating Country to the employee's permanent, legal place of residence at the time he or she was employed for work under this contract or other location for Contractor employees and dependents and returning to the post of duty, when the Contractor's Chief of Party makes a written determination that such travel is necessary for one of the reasons specified in paragraph (i)(l)(i) and (ii) of this clause. A copy of the written determination shall be furnished to the Contracting Officer.

(i) Need for medical care beyond that available within the area to which the employee is assigned, or serious effect on physical or mental health if residence is continued at assigned post of duty, subject in either case, to the limitations stated in the provision of this contract entitled "Physical Fitness of Employee and Dependents." The Mission Director may authorize a medical attendant to accompany the employee at contract expense if, based on medical opinion, such an attendant is necessary.

(ii) Death, or serious illness or injury of a member of the immediate family of the employee or the immediate family of the employee's spouse. "Serious illness or injury" and "immediate family" are defined in accordance with section 699.5 of the Uniform State/AID/USIA Regulations, as in effect of the date of such travel.

(2) When, for any reason, the Mission Director determines it is necessary to evacuate the Contractor's entire team (i.e., employees and dependents or dependents only), the Contractor will be reimbursed for actual travel and transportation expenses and travel allowance while en route, for the cost of the individuals going from post of duty in the Cooperating Country to the employee's permanent, legal place of residence at the time he or she was employed for work under this contract or other approved location. The return of such employees and dependents may also be authorized by the Mission Director when, in his/her discretion, he/she determines it is prudent to do so.

(3) The Mission Director may also authorize emergency or irregular travel and transportation in other situations, when in his/her opinion, the circumstances warrant such action. The authorization shall include the kind of leave to be used and appropriate restrictions as to time away from post, transportation of personal and/or household effects, etc. Requests for such emergency travel shall be submitted through the Contractor's Chief of Party.

(4) If a regular employee does not complete one full year at post of duty (except for reasons beyond his/her control), the costs of going to and from the post of duty are not reimbursable hereunder. If the employee serves more than one year but less than the required service in the Cooperating Country (except for reasons beyond his/her control) the costs of going to the post of duty are reimbursable hereunder but the costs of going from post of duty to the employee's permanent, legal place of residence at the time he or she was employed for work under this contract or other location are not reimbursable under this contract.

(j) Home leave travel. TCN and CCN employees are not eligible for home leave unless authorized in advance by the cognizant Mission Director, and consequently are not eligible for home leave travel unless authorized in advance by the cognizant Mission Director. A copy of any such authorization shall be provided to the Contracting Officer. The Contractor shall be reimbursed for the cost of travel performed by regular employees and dependents for purposes of home leave provided that such reimbursement does not exceed that authorized by the Uniform State/AID/USIA Foreign Service Travel Regulations.

(k) *Rest and recuperation travel.* The Contractor shall be reimbursed for the cost of travel performed by regular employees and dependents for purposes of rest and recuperation: *Provided,* That, such reimbursement does not exceed that authorized Mission employees, e.g., required length of service at the post of assignment unbroken by home leave: *And Provided Further,* That no reimbursement will be made unless approval is given by the Contractor's Chief of Party.

(l) *Transportation of motor vehicles, personal effects and household goods.* Transportation, including packing and crating costs, will be paid for shipping from the point of origin in the United States (or other location as approved by the Contracting Officer) to post of duty in the Cooperating Country and return to point of origin in the United States (or other location as approved by the Contracting Officer):

(1) Of one privately owned vehicle for each regular employee,

(2) Of personal effects of travelers, and

(3) Of household goods of each regular employee not to exceed the following limitations:

	Basic household furniture not supplied (pounds net weight)	Basic household furniture supplied (pounds net weight)
Regular employee with dependents in Cooperating Country	7,500	2,500
Regular employee without dependents in Cooperating Country	4,500	1,500

Note.— For the purpose of this clause "net weight" and "gross weight" are defined and determined in accordance with the provisions of 162.1 of the Uniform State/AID/USIA Foreign Service Travel Regulations.

The cost of transporting motor vehicles and household goods shall not exceed the cost of packing, crating and transportation by surface. In the event that the carrier does not require boxing or crating of motor vehicles for shipment to the Cooperating Country, the cost of boxing or crating is not reimbursable. The transportation of a privately-owned motor vehicle for a regular employee may be authorized by the Contractor, as replacement of the last such motor vehicle shipped under this contract for such employee when the Mission Director or his/her designee determines in advance and so notifies the Contractor in writing, that the replacement is necessary for reasons not due to the negligence or malfeasance of the regular employee. The determination shall be made under the same rules and regulations that apply to Mission employees.

(m) *Unaccompanied baggage.* The Contractor will be reimbursed for costs of shipment of unaccompanied baggage (in addition to the weight allowance above for household effects) not to exceed the following:

	Gross weight (pounds)
Employee	250
First dependent travelling	200
Second dependent traveling	150
Each additional dependent travelling	100

This unaccompanied baggage may be shipped as air freight by the most direct route between authorized points of origin and destination regardless of the modes of travel used. Unaccompanied baggage is considered to be those personal belongings needed by the traveler immediately upon arrival at destination. To permit the arrival of effects to coincide with the arrival of regular employees and dependents, consideration should be given to advance shipments of unaccompanied baggage.

The foregoing provision concerning unaccompanied baggage is also applicable to home leave travel. The foregoing provision concerning unaccompanied baggage is also applicable to short-term employees when these are authorized by the terms of this contract.

(n) *Storage of household effects.* The cost of storage charges (including packing, crating, and drayage costs) in the U.S. of household goods of regular employees will be permitted in lieu of transportation of all or any part of such goods to the Cooperating Country under paragraph (a) above: *Provided,* That the total amount of household goods shipped to the Cooperating Country and stored in the U.S. shall not exceed 4,500 pounds net for each regular employee without dependents in the Cooperating Country and 7,500 pounds net for each regular employee with dependents in the Cooperating Country.

(o) International ocean transportation. (1) Flag eligibility requirements for ocean carriage is covered by paragraph (c)(2) of the General Provision entitled "Source and Nationality Requirements" of this contract.

(i) Transportation of things. Where U.S. flag vessels are not available, or their use would result in a significant delay, the Contractor may obtain a release from this requirement from the Transportation Support Division, Office of Commodity Management, Agency for International Development, Washington, D.C. 20523, or the Mission Director, as appropriate, giving the basis for the request.

(ii) Transportation of persons. Where U.S. flag vessels are not available, or their use would result in a significant delay, the Contractor may obtain a release from this requirement from the Contracting Officer or the Mission Director, as appropriate.

(2) Transportation of foreign-made vehicles. Reimbursement of the costs of transporting a foreign (non-U.S.) made motor vehicle will be made in accordance with the provisions of the Uniform State/AID/USIA Foreign Service Travel Regulations, as from time to time amended.

(3) Reduced rates on U.S. flag carriers. Reduced rates on United States flag carriers are in effect for shipments of household goods and personal effects of AID contract personnel. These reduced rates are available provided the shipper states on the bill of lading that the cargo is "Personal property-not for resale-payment of freight charges is at U.S. Government (AID) expense and any special or diplomatic discounts accorded this type cargo are applicable." The Contractor will not be reimbursed for shipments of household goods or personal effects in an amount in excess of the reduced rates available in accordance with the foregoing.

(e) *Alternate 74.* For fixed-price technical services contracts requiring international travel.

International Travel Approval and Notification Requirements (Apr. 1984)

Prior written approval by the Contracting Officer is required for all international travel directly and identifiably funded by AID under this contract. The Contractor shall therefore present to the Contracting Officer an itinerary for each planned international trip, showing the name of the traveler, purpose of the trip, origin/destination (and intervening stops), and dates of travel, as far in advance of the proposed travel as possible, but in no event less than three weeks before travel is planned to commence. The contracting officer's prior written approval may be in the form of a letter or telegram or similar device or may be specifically incorporated into the schedule of the contract. At least one week prior to commencement of approved international travel, the Contractor shall notify the cognizant Mission, with a copy to the Contracting Officer, of planned travel, identifying the travellers and the dates and times of arrival.

752.7003 Payment.

(a) *Alternate 70.* The following clauses are required in *all* AID contracts:

Interest on Overdue Payments (Apr. 1984)

(a) The Prompt Payment Act, Public Law 97-177 (96 Stat. 85, 31 U.S.C. 1801) is applicable to payments under this contract and requires the payment to contractors of interest on overdue payments and improperly taken discounts.

(b) Determinations of interest due will be made in accordance with the provisions of the Prompt Payment Act and Office of Management and Budget Circular A-125.

Payment Due Dates (Apr. 1984)

(a) Payments under this contract will be due as follows:

(1) When the designated paying office identified in the contract or purchase order is located in the U.S.: 30 calendar days after the date of actual receipt of a proper invoice in the designated paying office or 30 days after a designated AID official or authorized representative accepts the property or services, whichever is later.

(2) When the designated paying office identified in the contract or purchase order is at a foreign location: 45 calendar days after the date of actual receipt of a proper invoice in the designated paying office or 45 days after a designated AID official or authorized representative accepted the property or services, whichever is later.

(b) For definition of the term "proper invoice", see the clause of this contract entitled "Invoice Requirements"

(c) The date of the check issued in payment or the date of by wire transfer through the Treasury Financial Communications System shall be considered to be the date payment is made.

Invoice Requirements (Apr. 1984)

Invoices shall be submitted in an original and 3 copies to the Government office designated in this contract or on the delivery order to receive invoices. To constitute a proper invoice, the invoice must include the following information and/or attached documentation:

(a) Name of the business concern and invoice date.

(b) Contract number, or other authorization for delivery of property or services.

(c) Description, price, and quantity of property and services actually delivered or rendered.

(d) Shipping and payment terms.

(e) Name and (where practicable), title, phone number, and complete mailing address of responsible official to whom payment is to be sent.

(f) Other payment documentation required by the contract.

(b) *Alternate 71.* The following clause, in addition to Alternate 70 clauses, is required in all AID direct cost reimbursement contracts.

Documentation for Payment (Apr. 1984)

(a) Claims for reimbursement under this contract shall be submitted to the Paying Office indicated on the cover page of this contract. The authorized Certifying Officer of the Paying Office is the designated representative of the Contracting Officer, authorized to approve vouchers under this contract. The Contractor shall submit a Voucher Form SR–1034 (original) and SF–1034(a) in three copies. Each voucher shall be identified by the approppriate AID contract number, properly executed, in the amount of dollar expenditures made during the period covered. The voucher forms shall be supported by:

(1) Original and three copies of a certified fiscal report rendered by the Contractor in a form and manner satisfactory to AID substantially as follows:

Total Expenditures

Category	Budget amount	To date	This period (indicate dates)
Salaries and wages:			
Home office	$XXX	$XXX	$XXX
Field office	XXX	XXX	XXX
Indirect costs:			
Home office	XXX	XXX	XXX
Field office	XXX	XXX	XXX
Consultant fees	XXX	XXX	XXX
Allowances	XXX	XXX	XXX
Travel and transportation	XXX	XXX	XXX
Expendable equipment and materials	XXX	XXX	XXX
Non-expendable property	XXX	XXX	XXX
Participant costs	XXX	XXX	XXX
Other direct costs	XXX	XXX	XXX
Grand total	XXX	XXX	XXX

(2) The fiscal report shall include a certification, signed by an authorized representative of the Contractor, as follows:

The undersigned hereby certifies that (i) the fiscal report and any attachments have been prepared from the books and records of the Contractor in accordance with the terms of this contract, and to the best of my knowledge and belief, that they are correct, that the sum claimed under this Contract is proper and due, that all the costs of contract performance (except as herewith reported in writing) have been paid or will be paid currently by the Contractor when due in the ordinary course of business, that the work reflected by the costs above has been performed, that the quantities and amounts involved are consistent with the requirements of this Contract, that all required Contracting Officer approvals have been obtained, and (ii) appropriate refund to AID will be made promptly upon request in the event of disallowance of costs not reimbursable under the terms of this Contract.

By: ____________________

Title: ____________________

Date: ____________________

(3) Unless otherwise provided in this contract, the Contractor shall submit a vendor's invoice detailing the quantity, description, and price for each individual item purchased, as follows:

(i) Expendable equipment, supplies, or commodities—for transactions totaling more than $2,500.

(ii) Non-expendable property—for every purchase. Non-expendable property is property which is complete in itself, does not lose its identity or become a component part of another article when put into use; is durable, with an expected service life of two years or more; and which has a unit cost of more than $500.

(iii) The bill of lading or airway bill as evidence of shipment by U.S.-flag carrier.

(b) *Local currency payment.* The Contractor is fully responsible for the proper expenditure and control of local currency, if any, provided under this contract. Local currency will be provided to the Contractor in accordance with written instructions provided by the Mission Director. The written instructions will also include accounting, vouchering, and reporting procedures. A copy of the instructions shall be provided to the Contractor's Chief of Party and to the Contracting Officer. The costs of bonding personnel responsible for local currency are reimbursable under this contract.

(c) Upon compliance by the Contractor with all the provisions of this contract, acceptance by the Government of the work and final report, and a satisfactory accounting by the Contractor of all Government-owned property for which the Contractor had custodial responsibility, the Government shall promptly pay to the Contractor any moneys (dollars or local currency) due under the completion voucher. The Government will make suitable reduction for any disallowance or indebtedness by the Contractor by applying the proceeds of the voucher first to such deductions and next to any unliquidated balance of advance remaining under this contract.

(d) The Contractor agrees that all approvals of the Mission Director and the Contracting Officer which are required by the provisions of this contract shall be preserved and made available as part of the Contractor's records which are required to be preserved and made available by the clauses of this contract entitled "Examination of Records by Comptroller General" and "Audit".

752.7004 Source and Nationality Requirements.

The following clause is required in all AID contracts under which the contractor will procure goods or services.

Source and Nationality Requirements for Procurement of Goods and Services (Apr. 1984)

(a) *General.* Except as may be specifically approved or directed in advance by the Contracting Officer, all goods (e.g., equipment, vehicles, materials and supplies), and services which will be financed under this contract with United States dollars shall be procured in and shipped from the United States, or from any other countries within the authorized geographic code or codes specified in the schedule of this contract. Guidance on eligibility of specific goods or services may be obtained from the Contracting Officer. AID policies on source and nationality requirements are contained in Chapters 4 and 5 of AID Handbook 1, Supplement B (Procurement Policies).

(b) *Ocean and air transportation.*

(1) Except as otherwise approved in writing by the Contracting Officer, AID will finance only those ocean transportation costs:

(i) Incurred on vessels under U.S. flag registry, when Geographic Code 000 is authorized for procurement of goods or services;

(ii) Incurred on vessels under U.S., Cooperating Country, or other Countries included in geographic Code 941 flag registry, when Geographic Code 941 is authorized for procurement of goods or services; or

(iii) Incurred on vessels under flag registry of any free world country, if the costs are part of the total cost on a through bill of lading paid to a carrier for initial carriage on a vessel which is authorized in accordance with paragraphs (b)(1)(i) and (ii), above.

(2) Any ocean or air charter, covering full or part cargo, for the transportation of goods purchased under this contract must be approved by the AID Transportation Support Division, Office of Commodity Management, prior to shipment.

(3) When use of non-U.S. flag vessels has been authorized, the following requirements still apply:

(i) At least 50% of the gross tonnage of all goods purchased under this contract and transported to the Cooperating Country on ocean vessels shall be transported on privately-owned U.S. flag commercial vessels, to the extent such vessels are available at fair and reasonable rates for such vessels; and

(ii) At least 50% of the gross freight revenue generated by shipments of goods purchased under this contract and transported to the Cooperating Country on dry cargo liners shall be paid to or for the benefit of privately-owned U.S. flag commercial vessels to the extent such vessels are available at fair and reasonable rates for such vessels.

(4) When U.S. flag vessels are not available, or their use would result in a significant delay, the contractor may request a certificate of nonavailability from the AID Transportation Support Division, Office of Commodity Management, giving the basis for the request. Such a determination of nonavailability will relieve the contractor of the requirement to use U.S. flag vessels for the tonnage of goods included in the determination.

(5) Vouchers submitted for reimbursement which include ocean shipment costs shall contain a certification essentially as follows: "I hereby certify that a copy of each ocean bill of lading concerned has been submitted to the Maritime Administration, Cargo Preference Control Center, Commerce Building, Washington, D.C. 20235 and that such bills of lading state all of the carrier's charges including the basis for calculation such as weight or cubic measurement".

(6) For use of U.S. flag air carriers, see the General Provision entitled "Preference for U.S. Flag Air Carriers".

(c) *Marine insurance.* The eligibility of marine insurance is determined by the country in which it is "placed." Insurance is "placed" in country if payment of the insurance premium is made to, and the insurance policy is issued by, an insurance company located in that country. Eligible countries for placement are governed by the authorized geographic code, except that if Code 941 is authorized, the Cooperating Country is also eligible. Section 604(d) of the Foreign Assistance Act requires that if a recipient country discriminates by statute, decree, rule, or practice with respect to AID-financed procurement against any marine insurance company authorized to do business in any State of the United States, then any AID-financed commodity shipped to that country shall be insured against marine risk and the insurance shall be placed in the U.S. with a company or companies authorized to do a marine insurance business in any State of the U.S.

(d) *Ineligible goods and services.* The following goods or services shall not be procured under this contract:

(1) Military equipment,

(2) Surveillance equipment,

(3) Commodities and services for support of police or other law enforcement activities,

(4) Abortion equipment and services,

(5) Luxury goods and gambling equipment, or

(6) Weather modification equipment.

If AID determines that the Contractor has procured any of these specific ineligible goods and services under this contract and has received payment therefor, the Contractor agrees to refund to AID the entire amount of the purchase.

(e) *Restricted goods.* The Contractor shall not procure any of the following goods or services without the prior written approval of the Contracting Officer:

(1) Agricultural commodities,

(2) Motor vehicles,

(3) Pharmaceuticals,

(4) Pesticides,

(5) Plasticizers,

(6) Used equipment,

(7) U.S. government-owned excess property, or

(8) Fertilizer.

If AID determines that the Contractor has procured any of these specified restricted goods under this contract without the prior written authorization of the Contracting Officer, and has received payment for such purposes, the Contractor agrees to refund to AID the entire amount of the purchase.

(f) *Printed or audio-visual teaching materials.* If the effective use of printed or audio-visual teaching materials depends upon their being in the local language and if such materials are intended for technical assistance projects or activities financed by AID in whole or in part and if other funds, including U.S.-owned or U.S.-controlled local currencies are not readily available to finance the procurement of such materials, local language versions may be procured from the following sources, in order of preference:

(1) Code 000, United States,

(2) Code—, Cooperating Country,

(3) Code 941, Selected Free World,

(4) Code 899, Free World.

(g) *Ineligible suppliers.* Funds provided under this contract shall not be used to procure any commodity or commodity-related services furnished by any supplier whose name appears on the List of Ineligible Suppliers under AID Regulation 8, "Suppliers of Commodities and Commodity-Related Services Ineligible for AID Financing" (22 CFR Part 208).

752.7005 Language, Weights, and Measures.

The following clause shall be used in all AID direct contracts.

Language, Weights, and Measures (Apr. 1984)

The English language shall be used in all written communications between the parties under this contract with respect to services to be rendered and with respect to all documents prepared by the Contractor except as otherwise provided in the contract or as authorized by the Contracting Officer. Wherever weights and measures are required or authorized, all quantities and measures shall be made, computed, and recorded in the metric system, unless specified otherwise in the schedule of the contract.

752.7006 Notices.

The following clause shall be used in all AID contracts.

Notices (Apr. 1984)

Any notice given by any of the parties hereunder shall be sufficient only if in writing and delivered in person or sent by telegraph, cable, or registered or regular mail as follows:

To AID: Administrator, Agency for International Development, Washington, D.C. 20523. Attention: Contracting Officer (the name of the cognizant Contracting Officer with a copy to the appropriate Mission Director).

To Contractor: At Contractor's address shown on the cover page of this contract, or to such other address as either of such parties shall designate by notice given as herein required. Notices hereunder shall be effective when delivered in accordance with this clause or on the effective date of the notice, whichever is later.

752.7007 Personnel Compensation.

The following clause shall be used in all AID cost-reimbursement contracts.

Personnel Compensation (Apr. 1984)

(a) Direct compensation of the Contractor's personnel will be in accordance with the Contractor's established policies, procedures, and practices, and the cost principles applicable to this contract.

(b) Compensation (i.e., the employee's base annual salary plus overseas recruitment incentive, if any) which exceeds the maximum payable annual or daily rate for a Foreign Service Officer Class FS-1 as set forth in the payment schedule of the Uniform State/AID/USIA Regulations, as from time to time amended, will be reimbursed only with the approval of the Contracting Officer.

(c) Contractor employees serving overseas under this contract who do not qualify, request, and receive an exemption for overseas income provided under section 911 of the U.S. Internal Revenue Code (26 U.S.C. 911) are eligible to receive an overseas recruitment incentive, provided that the average incentive for all such employees does not exceed 10 percent of the initial base annual salary of all employees eligible for the incentive under this contract.

(1) The overseas recruitment incentive is payable under one of the following alternative methods:

(i) As a lump-sum amount after the eligible employee has completed his/her tour of duty in the Cooperating Country under this contract, and has furnished to the Contractor a certification that he/she does not qualify, and will not apply for an exemption from overseas income as provided by 26 U.S.C. 911. (Contractor shall retain such Certifications for post-audit); or

(ii) At the option of the Contractor, the overseas recruitment incentive may be paid in increments during an employee's tour of duty; provided however, that payments made by the Contractor to employees who become eligible for an exemption from overseas income as provided by 26 U.S.C. 911, which payments were reimbursed by AID under this contract, shall be refunded to AID; and provided further, that neither the Contractor's (nor the sub-contractor's) inability to collect refunds from ineligible employees shall be used as a basis to excuse subsequent refunds by the Contractor to AID.

(2) If the overseas recruitment incentive causes the employee's salary to exceed the

maximum payable annual or daily rate for a Foreign Service Officer Class FS-1, as set forth in the payment schedule of the Uniform State/AID/USIA Regulations, as from time to time amended, Contracting Officer approval must be obtained.

(c) The work week for the Contractor's overseas employees should take into consideration local practices and, in collaboration with the Mission Director, shall be established to coincide with the work week for those employees of the AID Mission and/or the Cooperating Country associated with the work of this contract.

752.7008 Use of Government Facilities or Personnel.

The following clause is for use in all AID contracts.

Use of Government Facilities or Personnel (Apr. 1984)

(a) The Contractor and any employee or consultant of the Contractor is prohibited from using U.S. Government facilities (such as office space or equipment) or U.S. Government clerical or technical personnel in the performance of the services specified in the contract, unless the use of Government facilities or personnel is specifically authorized in the contract, or is authorized in advance, in writing, by the Contracting Officer.

(b) If at any time it is determined that the Contractor, or any of its employees or consultants have used U.S. Government facilities or personnel without authorization either in the contract itself, or in advance, in writing, by the Contracting Officer, then the amount payable under the contract shall be reduced by an amount equal to the value of the U.S. Government facilities or personnel used by the Contractor, as determined by the Contracting Officer.

(c) If the parties fail to agree on an adjustment made pursuant to this clause, it shall be considered a dispute, and shall be dealt with under the terms of the clause of this contract entitled "Disputes".

752.7009 Marking.

The following clause is for use in all AID contracts performed in whole or in part overseas.

Marking (Apr. 1984)

(a) It is AID policy that AID-financed commodities and shipping containers, and project construction sites and other project locations be suitably marked with the AID red, white, and blue handclasp emblem. Shipping containers are also to be marked with the last five digits of the AID financing document number. As a general rule, marking is not required for raw materials shipped in bulk (such as coal, grain, etc.), or for semifinished products which are not packaged.

(b) Specific guidance on marking requirements should be obtained prior to procurement of commodities to be shipped, and as early as possible for project construction sites and other project locations. This guidance will be provided through the cognizant technical office indicated on the cover page of this contract, or by the Mission Director in the Cooperating Country to which commodities are being shipped, or in which the project site is located.

(c) Authority to waive marking requirements is vested with the Regional Assistant Administrators, and with Mission Directors.

(d) A copy of any specific marking instructions or waivers from marking requirements is to be sent to the Contracting Officer; the original should be retained by the Contractor.

752.7010 Conversion of U.S. Dollars to Local Currency.

For use in all AID contracts involving performance overseas.

Conversion of U.S. Dollars to Local Currency (Apr. 1984)

Upon arrival in the Cooperation Country, and from time to time as appropriate, the Contractor's Chief of Party shall consult with the Mission Director who shall provide, in writing, the procedure the Contractor and its employees shall follow in the conversion of United States dollars to local currency. This may include, but is not limited to, the conversion of said currency through the cognizant U.S. Disbursing Officer or Mission Controller, as appropriate.

752.7011 Orientation and Language Training.

For use in all AID cost-reimbursement contracts involving performance overseas.

Orientation and Language Training (Apr. 1984)

(a) Regular employees shall receive a maximum of 2 weeks AID sponsored orientation before travel overseas. The dates of orientation shall be selected by the Contractor from the orientation schedule provided by AID.

(b) Participation in AID sponsored orientation in no way relieves the Contractor of its responsibility for assuring that all employees, regular and short-term, are properly oriented. As an addition to or substitution for AID's sponsored orientation for regular employees, the following types of orientation may be authorized taking into consideration specific job requirements, the employee's prior overseas experience, or unusual circumstances.

(1) Modified orientation.

(2) Language training, particularly when significant for operating capabilities.

(3) Orientation and language training for regular employee's dependents.

(4) Contractor-sponsored orientation.

(5) Orientation in all matters related to the administrative, logistical, and technical aspects of the employee's movement to, and tour of duty in, the Cooperating Country.

(c) Authorization for an additional or alternate orientation program, if any, shall be either set forth in the schedule or provided in writing by the Contracting Officer.

(d) Travel expenses not to exceed one round trip from regular employee's residence to place of orientation and return will be reimbursed, pursuant to the cost principles applicable to this contract. Allowable salary costs during the period of orientation are also reimbursable.

752.7012 Protection of the Individual as a Research Subject.

This clause is for use in any AID contract which involves research using human subjects.

Protection of the Individual as a Research Subject (Apr. 1984)

The contractor is required to comply with the procedures in Title 45, Subtitle A, Part 46 of the Code of Federal Regulations.

752.7013 Contractor-Mission Relationships.

(a) *Alternate 70.* For use in all AID contracts involving performance overseas, *except* contracts with an educational institution.

Contractor-Mission Relationships (Apr. 1984)

(a) The Contractor acknowledges that this contract is an important part of the United States Foreign Assistance Program and agrees that its operations and those of its employees in the Cooperating Country will be carried out in such a manner as to be fully commensurate with the responsibilities which this entails.

(b) The Mission Director is the chief representative of AID in the Cooperating Country. In this capacity, he/she is responsible for the total AID program in the cooperating country including certain adminstrative responsibilities set forth in this contract and for advising AID regarding the performance of the work under the contract and its effect on the United States Foreign Assistance Program. Although the Contractor will be responsible for all professional, technical, and administrative details of the work called for by the contract, it shall be under the guidance of the Mission Director in matters relating to foreign policy. The Chief of Party shall keep the Mission Director currently informed of the progress of the work under the contract.

(c) In the event the conduct of any Contractor employee is not in accordance with the preceding paragraphs, the contractor's Chief of Party shall consult with the Mission Director and the employee involved and shall recommend to the Contractor a course of action with regard to such employee.

(d) The parties recognize the right of the U.S. Ambassador to direct the removal from a country of any U.S. citizen or the discharge from this contract of any third country national or cooperating country national when, in the discretion of the Ambassador, the interests of the United States so require.

(e) If it is determined that the services of such employee shall be terminated, the Contractor shall use its best efforts to cause the return of such employee to the United States, or point of origin, as appropriate.

(b) *Alternate 71.* For cost reimbursement contracts with an educational institution which involve performance overseas, use the clause in

Alternate 70, with the following additional paragraph added.

(f) It is understood by the parties that the Contractor's responsibilities shall not be restrictive of academic freedom. Notwithstanding these academic freedoms, the Contractor's employees, while in the Cooperating Country, are expected to show respect for its conventions, customs, and institutions, to abide by applicable laws and regulations, and not to interfere in its internal political affairs.

752.7014 Notice of Changes in Travel Regulations.

The following clause is for use in cost-reimbursement contracts involving work overseas.

Notice of Changes in Travel Regulations (Apr. 1984)

Changes in travel, differential, and allowance regulations shall be effective on either the beginning of the contractor's next pay period following receipt of the notice or the effective date of such notice, whichever is later. Notice of changes shall be sent by the Contracting Officer or Mission Director pursuant to the clause of this contract entitled "Notices".

752.7015 Use of Pouch Facilities.

For use in all AID Contracts involving performance overseas.

Use of Pouch Facilities (Apr. 1984)

(a) Use of diplomatic pouch is controlled by the Department of State. The Department of State has authorized the use of pouch facilities for AID contractors and their employees as a general policy, as detailed in paragraphs (a)(1) through (a)(7) of this clause; however, the final decision regarding use of pouch facilities rests with the Embassy or AID Mission. In consideration of the use of pouch facilities as hereinafter stated, the Contractor and its employees agree to indemnify and hold harmless the Department of State and AID against loss or damage occurring in pouch transmission.

(1) Contractors and their employees are authorized use of the pouch for transmission and receipt of up to a maximum of 2 pounds per shipment of correspondence and documents needed in the administration of foreign assistance programs.

(2) U.S. citizen employees are authorized use of the pouch for personal mail up to a maximum of one pound per shipment (but see paragraph (a)(3) of this clause).

(3) Merchandise, parcels, magazines, or newspapers are not considered to be personal mail for purposes of this clause, and are not authorized to be sent or received by pouch.

(4) Official mail pursuant to paragraph (a)(1) of this section sent by pouch should be addressed as follows: Name of individual or organization (followed by letter symbol "C"), Name of post (USAID/————), Agency for International Development, Washington, D.C. 20523.

(5) Personal mail pursuant to paragraph (a)(2) of this clause should be sent to the address specified in paragraph (a)(4) of this clause, but without the name of the organization.

(6) Mail sent via the diplomatic pouch may not be in violation of U.S. Postal laws and may not contain material ineligible for pouch transmission.

(7) AID contractor personnel are not authorized use of military postal facilities (APO/FPO). This is an Adjutant General's decision based on existing laws and regulations governing military postal facilities and is being enforced worldwide. Posts having access to APO/FPO facilities and using such for diplomatic pouch dispatch, may, however, accept official mail from Contractors and letter mail from their employees for the pouch, provided of course, adequate postage is affixed.

(b) The Contractor shall be responsible for advising its employees of this authorization and these guidelines and limitations on use of pouch facilities.

(c) Specific additional guidance on use of pouch facilities in accordance with this clause is available from the Post Communication Center at the Embassy or AID Mission.

752.7016 Family Planning and Population Assistance Activities.

The following clause is applicable to all contracts involving any aspect of family planning or population activities.

Family Planning and Population Assistance Activities (Apr. 1984)

(a) *Voluntary Participation.* (1) The Contractor agrees to take any steps necessary to ensure that funds made available under this contract will not be used to coerce any individual to practice methods of family planning inconsistent with such individual's moral, philosophical, or religious beliefs. Further, the Contractor agrees to conduct its activities in a manner which safeguards the rights, health and welfare of all individuals who take part in the program.

(2) The Contractor shall insert the substance of this clause in any subgrants, subcontracts, purchase orders, and other subordinate agreements hereunder whenever appropriate to the goods or services to be provided under such agreements.

(b) *Prohibition on Abortion-related Activities.* (1) No funds made available under this Contract shall be used to finance, support, or be attributed to the following activities: (i) procurement or distribution of equipment intended to be used for the purposes of inducing abortions as a method of family planning; (ii) special fees or incentives to women to coerce or motivate them to have abortions; (iii) payments to persons to perform abortions or to solicit persons to undergo abortions; (iv) information, education, training, or communication programs that seek to promote abortion as a method of family planning; (v) any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning (epidemiologic or descriptive research to assess the incidence, extent or consequences of abortion is not precluded); or (vi) lobbying for abortion.

(2) The Contractor shall insert the substance of this clause in any subgrants, subcontracts, purchase orders, and other subordinate agreements hereunder whenever appropriate to the goods or services to be provided under such agreements.

(c) *Voluntary Participation Requirements for Sterilization Programs.* (1) None of the funds made available under this contract shall be used to pay for the performance of involuntary sterilizations or to coerce or provide any financial incentive to any person to practice sterilizations.

(2) The Contractor shall insure that any surgical sterilization procedures supported in whole or in part by funds from the contract are performed only after the individual has voluntarily come to the treatment facility and has given an informed consent to the sterilization procedure. Informed consent means the voluntary knowing assent from the individual given after being advised of the surgical procedures to be followed, the attendant discomforts and risks, the benefits to be expected, the availability of alternative methods of family planning, the purpose of the operation and its irreversibility, and the fact that the consent can be withdrawn at any time prior to the operation. An individual's consent is considered voluntary if it is based upon the exercise of free choice and is not obtained by any special inducement or any element of force, fraud, deceit, duress or other forms of coercion or misrepresentation.

(3) Further, the Contractor shall document the patient's informed consent by: (i) A written consent document in a language the patient understands and speaks, which explains the basic elements of informed consent, as set out above, and which is signed by the individual and by the attending physician or by the authorized assistant of the attending physician; or (ii) when a patient is unable to read adequately a written certification signed by the attending physician or by the authorized assistant of the attending physician that the basic elements of informed consent above were orally presented to the patient, and that the patient thereafter consented to the performance of the operation. The receipt of the oral explanation shall be acknowledged by the patient's mark on the certification and by the signature or mark of the witness who shall be of the same sex and speak the same language as the patient.

(4) Copies of the informed consent forms and certification documents for each voluntary sterilization (VS) procedure must be retained by the performing Contractor or subcontractor for a period of three years after the performance of the sterilization procedure.

(5) The Contractor shall insert the substance of this clause in any subgrants, subcontracts, purchase orders, and other subordinate agreements hereunder whenever appropriate to the goods and services to be provided under such agreements.

752.7017 Local Cost Financing With U.S. Dollars.

For use in any AID contract involving performance overseas, under which local cost financing has been authorized in accordance with Chapter 18 of AID Handbook 1, Supplement B.

Local Cost Financing With U.S. Dollars (Apr. 1984)

Local cost financing is the use of U.S. dollars to obtain local currency for the procurement of goods and services in the Cooperating Country in furtherance of the purpose of the contract. Local cost financing must be specifically authorized in the schedule of the contract. The amount of U.S. dollars which may be used must be specified in the authorization, together with any special restrictions on their use. Procurement of goods and services under local cost financing is subject to the restrictions governing Ineligible goods and services, and Restricted goods in 48 CFR 752.7004(d) and 752.7004(e). Unless otherwise specifically authorized, the policies in chapter 18 of AID Handbook 1, Supplement B are applicable to all local cost financing.

752.7018 Health and Accident Coverage for AID Participant Trainees.

For use in any AID contract under which AID participants are trained.

Health and Accident Coverage for AID Participant Trainees (Apr. 1984)

(a) The Contractor shall enroll all non-U.S. participants (hereinafter referred to as "participants"), whose training in the U.S. is financed by AID under this contract, in AID's Health and Accident Coverage (HAC) program.

(b) The Contractor shall, prior to the initiation of travel by each participant financed by AID under this contract, fill out and mail to AID the Participant Data Form (form AID 1381–4). The contractor can obtain a supply of these cards and instructions for completing them, from the Office of International Training, AID Washington, D.C. 20523.

(c) The Contractor shall assure that enrollment shall begin immediately upon the participant's departure for the United States for the purpose of participating in a training program financed by AID and that enrollment shall continue in full force and effect until the participant returns to his/her country of origin, or is released from AID's responsibility, whichever is the sooner. The Contractor shall continue enrollment for participants whose departure is delayed due to medical or other compelling reasons, with the written concurrence of the AID Project Manager and subject to the requirements of paragraph (d).

(d) The Contractor shall submit the Participant Data Form to AID, as specified in paragraph (b) of this section, to enable the participant(s), or the provider of medical services, to submit bills for medical costs resulting from illness and accident to the HAC Administrator (the name and address of the HAC Administrator may be obtained from either M/FM/PAD (see paragraph (d)(1) of this clause), or from the Office of International Training (see paragraph (b) of this clause).

The HAC Administrator, not the Contractor, shall be responsible for paying all reasonable and necessary charges, not otherwise covered by student health service or other insurance programs (see paragraphs (e) and (f)), subject to the availability of funds for such purposes, in accordance with the standards of coverage established by AID under the HAC program, and subject to the payment of the fee specified in paragraph (d)(1), of this clause.

(1) Within thirty (30) days after enrollment, the Contractor shall send to: Agency for International Development, Office of Financial Management, Program Accounting Division, Non-Project Assistance, Washington, D.C. 20523, an enrollment fee computed on the basis of the fixed rate per participant per month (information regarding the current rate is available from the AID Office of International Training, or the HAC Administrator). The minimum period for calculation of fee is one month—that is, one participant month, 30 days, not one calendar month. Premiums may not be prorated for fractional periods of less than 30 days. The enrollment fee should cover a minimum period of up to one year or the current training period for which funds are obligated under this contract, whichever is less. As applicable, payments for additional periods of enrollment shall be made 30 days prior to the beginning of each new enrollment period or new period of funding of this contract. All such fee payments shall be made by check, payable to the "Agency for International Development (HAC)." If payments are not made within 30 days, a late payment charge shall apply at a percentage rate based on the current value of funds to the Treasury for each 30 day period; the full charge shall also be applicable to periods of less than 30 days. The percentage rate will be calculated by the Treasury as an average of the current value of funds to the Treasury for a recent three month period and will be transmitted to AID in TFRM Bulletins.The late payment charge shall be applied to any portion of the fees in arrears and be remitted together with the fees as a separately identified item on the covering memorandum.

(2) Whenever possible, fee payments for groups of several participants entering the HAC Program within the thirty-day reporting period shall be consolidated and covered by a single check. Participants covered by the fee payment shall be listed individually in a covering letter, identifying each participant (the name reported must be identical to that on the HAC enrollment card), showing period of enrollment (or period of coverage for which payment is remitted if this is different from the enrollment period), fee amount paid, contract number, and U.S. Government appropriation number (as shown under the "Accounting and Appropriation Data" block of the cover page of the contract).

(e) The Contractor, to the extent that it is an educational institution with a student health service program, shall also enroll all participants in their institution's student health service program. Medical costs which are covered under the institution's student health service shall not be eligible for payment under AID's HAC program. The Contractor shall provide the HAC Administrator with a copy of information showing what medical costs are covered by the institution's student health service program; medical costs that are not covered by the institution's student health service program shall be submitted to the HAC Administrator.

(f) If the Contractor has a mandatory, non-waivable health and accident insurance program for students, the costs of such insurance will be allowable under this contract. Any claims eligible under such insurance will not be payable under AID's HAC plan or under this contract. Even though the participant is covered by the Contractor's mandatory, non-waivable health and accident insurance program, the participant MUST be enrolled in AID's more comprehensive HAC program and HAC payments MUST be made to AID as provided above. In addition, a copy of the mandatory insurance policy must be forwarded to the HAC Administrator.

(g) Any payments for medical costs not covered by the Contractor's student health service program, or mandatory, non-waivable health and accident insurance program, or AID's HAC program shall be reimbursable under this contract only with specific written approval of the Contracting Office and subject to the availability of funds.

752.7019 Participant Training.

(a) *Alternate 70.* For use in any AID contract involving participant training except for cost reimbursement contracts with an educational institution.

Participant Training (Apr. 1984)

(a) *Definitions.*

(1) Participant training is the training of any foreign national outside of his or her home country, using AID funds.

(2) A Participant is any foreign national being trained under this contract outside of his or her home country.

(b) *Applicable regulations.* Participant training is to be conducted according to the policies established in AID Handbook 10-Participant Training, except to the extent that specific exceptions to AID Handbook 10 have been provided in this contract. (Handbook 10 may be obtained by submitting a request to the Office of International Training, at the address specified in paragraph (c) of this section.)

(c) *Reporting requirement.* Once each month the Contractor shall submit three copies of form AID 1381–4, "Participant Data Form" to the Office of International Training, AID, Washington, D.C. 20523.

(b) *Alternate 71.* For use in cost reimbursement contracts with an educational institution.

Participant Training (Apr. 1984)

(a) To the extent foreign country national training is authorized in the schedule of this contract, the contractor shall be reimbursed for the following reasonable and allocable costs incurred in providing training and observation to participants in the United States or other approved location:

(1) Customary tuition and fees of the institution in which the training takes place, as published in catalogs and announcements.

(2) Typing of papers and allowances for required textbooks, the titles of which will be approved by the Contractor.

(3) Travel within the United States or other countries (other than the country of the participant), as approved by the Contractor, including the cost of travel from port of entry into the United States to Contractor's campus and from the Contractor's campus to port of embarkation from the United States.

(4) Subsistence while in the United States or in third countries not to exceed maximum AID rates established in the applicable AID Handbook, furnished to the Contractor, as from time to time amended.

(5) Other direct costs authorized in the operational plan or otherwise determined by the Contracting Officer to be allowable in accordance with the general provisions clause of this contract entitled "Allowable Cost and Payment".

(b)(1) Health and accident coverage for foreign country nationals is governed by the clause of this contract entitled "Health and Accident Coverage for AID Participant Trainees."

(2) The Contractor shall prepare and submit to the Office of International Training three copies of Form AID 1381-4, "Participant Data Form" on the last day of each month.

(c) For participants assigned to the Contractor for whom specifically designed courses not otherwise covered in paragraph (a)(1) of this clause are authorized, the Contractor shall be paid the following in lieu of the costs authorized in paragraph (a)(1) of this clause.

(1) For not exceeding 20 instructional days (days on which such courses are scheduled to meet and are actually conducted):

(i) One participant: $150 for the first day, and $50 per day for each additional day, up to 19 days.

(ii) Groups up to and including 10 participants: for the first day, $150 for the first participant, and $50 for each additional participant. For each additional day, up to 19 days, $50 for each participant.

(2) For more than 20 instructional days, or more than 10 participants: The Contractor shall submit a proposal including supporting costs and pricing data to the Contracting Officer for approval.

(d) The Contractor shall prepare and submit to the Office of International Training a nonobligating Project Implementation Order/Participant, AID Form 1380-1, on all participants training under this contract, either in the United States or third country.

(e) Mandatory use of form IAP 66A, "Certificate for Exchange Visitor (J-1) Status." The Contractor shall insure that any foreign students brought to the United States for training under this contract use from IAP 66A to obtain a visa.

752.7020 Organizational Conflicts of Interest.

For use in all AID contracts.

Organizational Conflicts of Interest (Apr. 1984)

(a) The Contractor warrants that, to the best of its knowledge and belief, and except as otherwise set forth in this contract, it does not have any organizational conflicts of interest.

(1) The term "organizational conflict of interest" means that a relationship exists whereby an offeror or a contractor (including chief executives, directors, proposed consultants or subcontractors) has interests which (i) may diminish its capacity to give impartial, technically sound, objective assistance and advice or may otherwise result in a biased work product or, (ii) may result in an unfair competitive advantage. It does not include the "normal flow of benefits" from the performance of a contract.

(2) The term "Contractor" means any person, firm, unincorporated association, joint venture, partnership, corporation or affiliate thereof, which is a party to a contract with the United States of America. As used in this definition, the term "affiliate" has the same meaning as provided in FAR 9.403.

(b) The Contractor agrees that, if after award it discovers an organizational conflict of interest with respect to this contract, it shall make an immediate and full disclosure in writing to the Contracting Officer which shall include a description of the action which the Contractor has taken or proposes to take to avoid, eliminate or neutralize the conflict. The Government may, however, terminate the contract for the convenience of the Government if it would be in the best interests of the Government.

(c) The Contractor agrees further that if the award follows a formally advertised solicitation and a conflict of interest was identified prior to award, it will adequately avoid, eliminate or neutralize the conflict in a manner satisfactory to the Contracting Officer.

(d) In the event that the Contractor was aware of an organizational conflict of interest prior to the award of this contract and intentionally did not disclose the conflict to the Contracting Officer, the Government may terminate the contract at no cost to the Government.

752.7021 Changes in Tuition and Fees.

For use in contracts for participant training with an educational institution.

Changes in Tuition and Fees (Apr. 1984)

While educational programs for participants will be established utilizing the Contractor's currently applicable tuition and fee schedule, the parties understand that such standard tuition and fees may be subject to change during the course of the program. If such event results in an increase in the cost of the program, AID agrees to pay such increased standard tuition and fees in the next applicable academic term as a condition for the continuation of the program. If such change results in a decrease in the cost of the program, the Contractor agrees to charge to AID only the amount of such revised standard tuition and fees in the next applicable academic term. The Contractor shall undertake to keep AID currently advised as to changes in its standard tuition and fees. At such time as increases in the amounts of tuition and fees results in there being inadequate funds remaining in this contract to meet the costs of the next academic term, the Contractor will so advise AID. AID may then provide such additional funds as required to complete the program.

752.7022 Conflicts Between Contract and Catalog.

For use in contracts for participant training with an educational institution.

Conflicts Between Contract and Catalog (Apr. 1984)

In the event of any inconsistency between the provisions of this contract and any catalog, or other document incorporated in this contract by reference or otherwise or any of the Contractor's rules and regulations, the provisions of this contract shall govern.

752.7023 Required Visa Form for AID Participants.

For use in any AID direct contract which involves training of AID participants.

Required Visa Form for AID Participants (Apr. 1984)

The Contractor shall insure that any foreign student brought to the United States for training under this contract uses visa form IAP 66A "Certificate for Exchange Visitor (J-1) Status".

752.7024 Withdrawal of Students.

For use in contracts for participant training with an educational institution.

Withdrawal of Students (Apr. 1984)

(a) The Government may, at its option and at any time, withdraw any student.

(b) The Contractor may request withdrawal by the Government of any student for academic or disciplinary reasons.

(c) If such withdrawal occurs prior to the end of a term, the Government shall pay any tuition and fees due for the current term in which the student may be enrolled, and the Contractor shall credit the Government with any charges eligible for refund under the Contractor's standard procedures for civilian students in effect on the effective date of such withdrawal.

(d) Withdrawal of students by the Government shall not be the basis for any special charge or claim by the Contractor other than as provided by the Contractor's standard procedures.

752.7025 Approvals.

For use in all AID contracts.

Approvals (Apr. 1984)

All approvals required to be given under the contract by the Contracting Officer or the Mission Director shall be in writing and, except when extraordinary circumstances make it impracticable, shall be requested by the Contractor sufficiently in advance of the contemplated action to permit approval, disapproval or other disposition prior to that action. If, because of existing conditions, it is impossible to obtain prior written approval, the approving official may, at his discretion, ratify the action after the fact.

752.7026 Reports.

(a) *Alternate 70.* For use in all AID direct contracts *except* fixed-price contracts for technical services.

Reports (Apr. 1984)

(a) Unless otherwise provided in the schedule of this contract, the Contractor shall prepare and submit to the Contracting Officer three copies, and the Mission four copies, of a semi-annual report, within 45 days following the end of the period being covered, which shall include the following:

(1) A substantive report covering the status of the work under the contract, indicating progress made with respect thereto, setting forth plans for the ensuing period, including recommendations covering the current needs in the fields of activity covered under the terms of this contract.

(2) An administrative report covering expenditures, foreign country national trainees, and personnel employed under the contract.

(b) Contractor shall prepare and submit to the Contracting Officer such other reports as may be specified in the schedule.

(c) Unless otherwise provided in the schedule of this contract, at the conclusion of the work hereunder, the Contractor shall prepare and submit to the Contracting Officer three copies, and to the Mission four copies, of a final report which summarizes the accomplishments of the assignment, methods of work used and recommendations regarding unfinished work and/or program continuation. The final report shall be submitted within 60 days after completion of the work hereunder unless required date of submission is extended by the Contracting Officer.

(d) Contractor shall submit three copies of each report required by paragraphs (a)(1), (b), and (c) of this clause or any other report of a technical nature required by the schedule to the Development Information Utilization Service, Bureau for Program and Policy Coordination (PPC/DIU), Agency for International Development, Washington, D.C. 20523. The title page of all reports forwarded to PPC/DIU pursuant to this paragraph (d) shall include the contract number, project number and project title as set forth in the schedule of this contract.

(b) *Alternate 71.* For use in fixed-price contracts for technical services, use the clause in *Alternate 70,* less paragraph (a)(2).

752.7027 Personnel.

(a) *Alternate 70.* For use in AID fixed-price contracts involving performance overseas.

Personnel (Apr. 1984)

(a) *Cooperating country clearance.* The Contractor shall not send any individual outside the United States to perform work under the contract without first obtaining written notification from the Contracting Officer of country clearance for the employee.

(b) *Individuals engaged or assigned when outside the United States.* No individual shall be engaged or assigned when outside the United States to perform work outside the United States unless authorized in the Schedule or otherwise approved by the Contracting Officer or Mission Director.

(c) *Physical fitness of employees.* Contractor shall exercise reasonable precautions in assigning employees for work under this contract in the Cooperating Country to assure that such employees are physically fit for work and residence in the Cooperating Country. In carrying out this responsibility Contractor shall require all such employees (other than those hired in the Cooperating Country) to be examined by a licensed doctor of medicine. Contractor shall require the doctor to certify that, in the doctor's opinion, the employee is physically qualified to engage in the type of activity for which he/she is employed and the employee is physically qualified to reside in the country to which he is assigned for duty. The employee's medical certification shall be retained by the Contractor and made available to AID if so required.

(d) *Conformity to laws and regulations of Cooperating Country.* Contractor agrees to use its best efforts to assure that its personnel, while in the Cooperating Country, will abide by all applicable laws and regulations of the Cooperating Country and political subdivisions thereof.

(e) *Sale of personal property or automobiles.* To the extent permitted by Cooperating Country laws, the importation and sale of personal property or automobiles by Contractor employees and their dependents in the Cooperating Country shall be subject to the same limitations and prohibitions which apply to U.S. nationals employed by the Mission. This provision does not apply to employees or consultants who are citizens or legal residents of the Cooperating Country.

(f) *Conflict of Interest.* Other than work to be performed under this contract for which an employee or consultant is assigned by the Contractor, no such employee or consultant of the Contractor, shall engage, directly or indirectly, either in his/her own name or in the name or through the agency of another person, in any business, profession or occupation in the Cooperating Country or other foreign countries to which he/she is assigned, nor shall he make loans or investments to or in any business, profession or occupation in the Cooperating Country or other foreign countries in which he/she is assigned. This provision does not apply to employees or consultants who are citizens or legal residents of the Cooperating Country.

(g) *Right to recall.* On the written request of the Contracting Officer or of a cognizant Mission Director, the Contractor will terminate the assignment of any individual to any work under the contract and, as requested, will use its best efforts to cause the return to the United States of the individual from overseas or his/her departure from a foreign country or a particular foreign locale. Termination of each employee and placement of a substitute employee shall be at no cost to AID.

(b) *Alternate 71.* For use in AID cost reimbursement contracts involving performance overseas.

Personnel (Apr. 1984)

(a) *Clearance.*

(1) *Individuals Engaged or Assigned Within the United States.* The Contractor will obtain written notification from the Contracting Officer of Cooperating Country clearance of any employee sent outside the United States to perform duties under this contract.

(2) *Individuals Engaged or Assigned When Outside the United States.* No individual shall be engaged or assigned when outside the United States to perform work outside the United States under this contract unless authorized in the schedule or otherwise approved by the Contracting Officer or Mission Director. However, when services are performed in the Cooperating Country on a casual or irregular basis or in an emergency, exception to this provision can be made in accordance with instructions or regulations established by the Mission Director.

(b) *Duration of Appointments.*

(1) Regular employees will normally be appointed for a minimum of 2 years which period includes orientation (less language training) in the United States and authorized international travel under the contract except:

(i) An appointment may be made for less than 2 years if the contract has less than 2 years but more than 1 year to run; provided, that if the contract is extended the appointee shall also be extended to the full 2 years. This provision shall be reflected in the employment agreement prior to employment under this contract.

(ii) When a 2-year appointment is not required, appointment may be made for less than 2 years but in no event less than 1 year.

(iii) When the normal tour of duty established for AID personnel at a particular post is less than 2 years, then a normal appointment under this contract may be of the same duration; or

(iv) When the Contractor is unable to make appointments of regular employees for a full 2 years, the Contractor may make appointments of less than 2 but not less than 1 year, provided that such appointment is approved by the Contracting Officer.

(2) Services required for less than 1 year will be considered short-term appointments and the employee will be considered a short-term employee.

(c) *Employment of Dependents.* If any person who is employed for services in the Cooperating Country under this contract is either (1) a dependent of an employee of the Government working in the Cooperating Country, or (2) a dependent of a Contractor employee working under a contract with the Government in the Cooperating Country, such person shall continue to hold the status of a dependent and be entitled and subject to the contract provisions which apply to dependents except as they apply to employees. He or she shall be entitled to salary for the time services are actually performed in the cooperating country, and differential and allowances as established by the Standardized Regulations (Government Civilians, Foreign Areas).

(d) *Physical Fitness of Employees and Dependents.*

(1) *Predeparture.* For all employees (other than those hired in the Cooperating Country) and their authorized dependents, it shall be

certified by a licensed doctor of medicine that in his/her opinion the employee is physically qualified to engage in the type of activity for which he/she is to be employed and that he/she and his/her dependents are physically able to reside in the country to which he/she is assigned. If the Contractor has no such medical certificate on file prior to the departure for the cooperating country of any employee or authorized dependent and such employee is unable to perform the type of activity for which he is employed and complete his tour of duty because of any physical disability (other than physical disability arising from an accident while employed under this contract) or such authorized dependent is unable to reside in the cooperating country for at least 9 months or one-half of the period, whichever is greater, of the related employee's initial tour of duty because of any physical disability (other than physical disability arising from an accident while a dependent under this contract), the contractor shall not be reimbursed for the return transportation of the physically disabled employee or dependent required to return because of such disability.

(2) *End of tour.* The contractor is authorized to provide its regular employees and dependents with physical examinations within 60 days after completion of their regular tours of duty.

(3) The Contractor is encouraged to establish its own policy of pre- and post-tour medical examinations. As a contribution, AID shall reimburse the Contractor for physical examinations authorized in paragraphs (d) (1) and (2) of this clause as follows:

(i) For the employee and dependents 12 years of age and over: Not to exceed $100 for the physical examination plus reimbursement of charges for immunizations.

(ii) For dependents under 12 years of age: Not to exceed $40 for each child plus reimbursement of charges for immunizations.

(e) *Importation, purchase, or sale of personal property or automobiles.* To the extent permitted by the Cooperating Country laws and regulations, the importation, purchase, and sale of personal property or automobiles by Contractor employees and their dependents in the Cooperating Country shall be subject to the same limitations and prohibitions which apply to Mission employees and their dependents.

(f) *Economic and financial activities.* Other than work to be performed under this contract for which an employee is assigned by the contractor, no regular or short-term employee of the Contractor shall engage, directly or indirectly, either in his/or her own name or in the name or through the agency of another person, in any business, profession, or occupation in the Cooperating Country or other foreign countries to which he/she is assigned, nor shall he make loans or investments to or in any business, profession, or occupation in the Cooperating Country or other foreign countries to which he/she is assigned.

752.7028 Differential and Allowances.

The following clause is for use in all AID cost reimbursement contracts performed in whole or in part overseas.

Differentials and Allowances (Apr. 1984)

(This clause does not apply to TCN or CCN employees. TCN and CCN employees are not eligible for differentials and allowances, unless specifically authorized by the cognizant Assistant Administrator or Mission Director. A copy of any such authorization shall be provided to the Contracting Officer.)

(a) *Post differential.* Post differential is an additional compensation for service at places in foreign areas where conditions of environment differ substantially from conditions of environment in the continental United States and warrant additional compensation as a recruitment and retention incentive. In areas where post differential is paid to AID direct-hire employees, post differential not to exceed the percentage of salary as is provided such AID employees in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 500 (except the limitation contained in Section 552, "Ceiling on Payment") Tables-Chapter 900, as from time to time amended, will be reimbursable hereunder for employees in respect to amounts earned during the time such employees actually spend overseas on work under this contract. When such post differential is provided to Contractor employees, it shall be payable beginning on the date of arrival at the post of assignment and continue, including periods away from post on official business, until the close of business on the day of departure from post of assignment en route to the United States. Sick or vacation leave taken at or away from the post of assignment will not interrupt the continuity of the assignment or require a discontinuance of such post differential payments, provided such leave is not taken within the United States or the territories of the United States. Post differential will not be payable while the employee is away from his/her post of assignment for purposes of home leave. Short-term employees shall be entitled to post differential beginning with the forty-third (43rd) day at post.

(b) *Living quarters allowance.* Living quarters allownce is an allowance granted to reimburse an employee for substantially all of his/her cost for either temporary or residence quarters whenever Government-owned or Government-rented quarters are not provided to him/her at his/her post without charge. Such costs are those incurred for temporary lodging (temporary lodging allowance) or one unit of residence quarters (living quarters allowance) and include rent, plus any costs not included therein for heat, light, fuel, gas, electricity and water. The temporary lodging allowance and the living quarters allowance are never both payable to an employee for the same period of time. The Contractor will be reimbursed for payments made to employees for a living quarters allowance for rent and utilities if such facilities are not supplied. Such allowance shall not exceed the amount paid AID employees of equivalent rank in the Cooperating Country, in accordance with either the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 130, as from time to time amended, or other rates approved by the Mission Director. Subject to the written approval of the Mission Director, short-term employees may be paid per diem (in lieu of living quarters allownce) at rates prescribed by the Federal Travel Regulations, as from time to time amended, during the time such short-term employees spend at posts of duty in the Cooperating Country under this contract. In authorizing such per diem rates, the Mission Director shall consider the particular circumstances involved with respect to each such short-term employee including the extent to which meals and/or lodging may be made available without charge or at nominal cost by an agency of the United States Government or of the Cooperating Government, and similar factors.

(c) *Temporary lodging allowance.* Temporary lodging allowance is a quarters allowance granted to an employee for the reasonable cost of temporary quarters incurred by the employee and his family for a period not in excess of (i) three months after first arrival at a new post in a foreign area or a period ending with the occupation of residence (permanent) quarters, if earlier, and (ii) one (1) month immediately preceding final departure from the post subsequent to the necessary vacating of residence quarters. The Contractor will be reimbursed for payments made to employees and authorized dependents for temporary lodging allowance, in lieu of living quarters allowance, not to exceed the amount set forth in the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 120, as from time to time amended.

(d) *Post allowance.* Post allowance is a cost-of-living allowance granted to an employee officially stationed at a post where the cost of living, exclusive of quarters cost, is substantially higher than in Washington, D.C. The Contractor will be reimbursed for payments made to employees for post allowance not to exceed those paid AID employees in the Cooperating Country, in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 220, as from time to time amended.

(e) *Supplemental post allowance.* Supplemental post allownce is a form of post allowance granted to an employee at his/her post when it is determined that assistance is necessary to defray extraordinary subsistence costs. The Contractor will be reimbursed for payments made to employees for supplemental post allowance not to exceed the amount set forth in the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 230, as from time to time amended.

(f) Educational allowance. Educational allowance is an allowance to assist an employee in meeting the extraordinary and necessary expenses, not otherwise compensated for, incurred by reason of his/her service in a foreign area in providing adequate elementary and secondary education for his/her children. The Contractor will be reimbursed for payments made to regular employees for educational allowances for their dependent children in amounts not to exceed those set forth in the Standardized (Regulations Government

Civilians, Foreign Areas), Chapter 270, as from time to time amended.

(g) *Educational travel.* Educational travel is travel to and from a school in the United States for secondary education (in lieu of an educational allowance) and for college education. The Contractor will be reimbursed for payments made to regular employees for educational travel for their dependent children provided such payment does not exceed that which would be payable in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 280, as from time to time amended. Educational travel shall not be authorized for regular employees whose assignment is less than two years.

(h) *Separate maintenance allowance.* Separate maintenance allowance is an allowance to assist an employee who is compelled, by reason of dangerous, notably unhealthful, or excessively adverse living conditions at his/her post of assignment in a foreign area, or for the convenience of the Government, to meet the additional expense of maintaining his/her dependents elsewhere than at such post. The Contractor will be reimbursed for payments made to regular employees for a separate maintenance allowance not to exceed that made to Aid employees in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 260, as from time to time amended.

(i) *Payments during evacuation.* The Standardized Regulations (Government Civilians, Foreign Areas) provide the authority for efficient, orderly, and equitable procedure for the payment of compensation, post differential and allowances in the event of an emergency evacuation of employees or their dependents, or both, from duty stations for military or other reasons or because of imminent danger to their lives. If evacuation has been authorized by the Mission Director the Contractor will be reimbursed for payments made to employees and authorized dependents evacuated from their post of assignment in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 600, and the Federal Travel Regulations, as from time to time amended.

752.7029 Post Privileges.

For use in all AID contracts involving performance overseas.

Post Privileges (Apr. 1984)

(a) Health room services of the same type that are normally provided to AID direct-hire U.S. citizen employees are generally available only for U.S. citizen contractor or subcontractor employees and their authorized dependents (regardless of citizenship) at the post of duty. These services do not include hospitalization, or predeparture or end of tour medical examinations. The services do include such medications as may be available; immunizations and preventive health measures; diagnostic examinations and advice; emergency treatment; and home visits as medically indicated.

(b) Privileges such as the use of APO, PX's, commissaries, and officer's clubs are established at posts abroad pursuant to agreements between the U.S. and Cooperating Governments. These facilities are intended for and usually limited to members of the official U.S. establishment including the Embassy, AID Mission, U.S. Information Service, and the Military. Normally, the agreements do not permit these facilities to be made available to nonofficial Americans.

752.7030 Inspection Trips by Contractor's Officers and Executives.

For use in cost reimbursement contracts with an educational institution involving performance overseas.

Inspection Trips by Contractor's Officers and Executives (Apr. 1984)

Provided it is approved by the Mission Director, the Contractor may send the Campus Coordinator, a professional member of its staff as an alternate to the Campus Coordinator, or such of its senior officials (e.g., president, vice presidents, deans, or department heads) to the Cooperating Country as may be required to review the progress of the work under this contract. Except for the Campus Coordinator or his/her alternate, no direct salary charges will be paid hereunder with respect to any such officials.

752.7031 Leave and Holidays.

(a) *Alternate 70.* For use in AID cost reimbursement contracts performed in the U.S., except for contracts with an educational institution.

Leave and Holidays (Apr. 1984)

(a) Contractor employees shall be entitled to such leave and holidays while serving in the United States as are provided in accordance with the Contractor's established policy and practice, but in no event shall vacation leave be earned at a rate exceeding 26 working days per annum, or sick leave be earned at a rate exceeding 13 working days per annum.

(b) *Alternate 71.* For use in AID cost reimbursement contracts with educational institutions, to be performed in the U.S.

Leave and Holidays (Apr. 1984)

(a) *Vacation Leave.*

(1) The Contractor may grant to his employees working in the United States under this contract vacations of reasonable duration, but not to exceed the Contractor's on-campus policy and practice for its employees.

(2) Reimbursement to the Contractor for vacation leave is limited to the amount earned by the employees while serving under this contract.

(b) *Sick Leave.* The Contractor may grant to Contractor employees working in the United States, sick leave at a rate not exceeding its usual on-campus practice. However, reimbursement for sick leave taken under this Contract is limited to the amount earned by the employee while serving under this Contract.

(c) *Military Leave.* Military leave of not more than 15 calendar days in any calendar year may be granted in accordance with the Contractor's usual on-campus practice to each regular employee who is a reservist of the Armed Forces, provided that such military leave has been approved in advance by the Mission Director or the Contracting Officer.

(d) *Leave Records.* The Contractor shall maintain current leave records for all Contractor employees and make them available, as requested by the Mission Director or the Contracting Officer.

(e) *Holidays.* While serving in the United States, contractor employees shall be entitled to holidays in accordance with the contractor's established on-campus policy and practice.

(c) *Alternate 72.* For use in AID cost reimbursement contracts (*except* contracts with educational institutions) performed in whole or in part overseas (use in addition to *Alternate 70*).

Leave and Holidays (Apr. 1984)

(b) *Vacation leave overseas.*

(1) The Contractor may grant to its employees working overseas under this contract, vacations of reasonable duration in accordance with the Contractor's practice for its employees, but in no event shall such vacation leave be earned at a rate exceeding twenty-six (26) work days per annum. Vacation leave is provided under this contract primarily for purposes of affording necessary rest and recreation to regular employees during their tour of duty in the Cooperating Country. The Contractor's Chief of Party, the employee and the Cooperating Country institution associated with this project shall develop vacation leave schedules early in the employee's tour of duty taking into consideration project requirements, employee preference and other factors.

(2) Leave taken during the concluding weeks of an employee's tour shall be included in the established leave schedule and be limited to that amount of leave which can be earned during a twelve month period unless approved in accordance with paragraph (a)(3) of this clause.

(3) Vacation leave earned but not taken by the end of the employee's tour pursuant to paragraphs (a) (1) and (2) of this clause will be forfeited, unless the requirements of the project precluded the employee from taking such leave and the Contracting Officer, with the endorsement of the Mission, approves one of the following as an alternative:

(i) Taking, during the concluding weeks of the employee's tour, leave not permitted under (a)(2) of this clause, or

(ii) Lump-sum payment for leave not taken provided such leave does not exceed the number of days which can be earned by the employee during a twelve month period.

(c) *Sick Leave.* Sick leave is earned by regular and short-term employees in accordance with the Contractor's usual practice but not to exceed 13 work days per annum or 4 hours every 2 weeks. Additional sick leave after use of accrued vacation leave may be advanced in accordance with Contractor's usual practice, if in the judgment of the Contractor's Chief of Party it is determined that such additional leave is in the best interest of the project. In no event shall such additional leave exceed 30 days. The Contractor agrees to reimburse AID for leave used in excess of the amount earned during the employee's assignment under this contract. Sick leave earned and unused at the end of a regular tour of duty may be carried over to an immediately succeeding tour of duty under this contract. The taking of authorized home leave shall not constitute a break in service for the purpose of sick leave carry-over. Contractor employees will not be compensated for unused sick leave at the completion of their duties under this Contract.

(d) *Home leave.*

(1) Home leave is leave earned for service abroad for use only in the United States, in the Commonwealth of Puerto Rico, or in the possessions of the United States.

(2) A regular employee who is a U.S. citizen or resident and has served at least 2 years overseas, as defined in paragraph (d)(4) of this clause, under this contract and has not taken more than 30 workdays leave (vacation, sick, or leave without pay) in the United States, may be granted home leave of not more than 15 calendar days for each such year of service overseas: *Provided,* That such regular employees agree to return overseas upon completion of home leave under an additional 2 year appointment, or for such shorter period of not less than 1 year of overseas service under the contract as the Mission Director may approve in advance. Home leave must be taken in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States and any days spent elsewhere will be charged to vacation leave or leave without pay.

(3) Notwithstanding the requirement in paragraph (d)(2), of this clause, that the Contractor's regular employee must have served 2 years overseas under this contract to be eligible for home leave, Contractor may grant advance home leave to such regular employee subject to all of the following conditions:

(i) Granting of advance home leave would in each case serve to advance the attainment of the objectives of this contract;

(ii) The regular employee shall have served a minimum of 18 months in the Cooperating Country on his/her current tour of duty under this contract; and

(iii) The regular employee shall have agreed to return to the Cooperating Country to serve out the reminder of his/her current tour of duty and an additional 2 year appointment under this contract, or such other additional appointment of not less than 1 year of overseas service as the Mission Director may approve.

(4) The period of service overseas required under paragraph (d)(2), or paragraph (d)(3) of this clause, shall include the actual days in orientation in the United States (less language training) and the actual days overseas beginning on the date of departure from the United States port of embarkation on international travel and continuing, inclusive of authorized delays en route, to the date of arrival at the United States port of debarkation from international travel.

Allowable vacation and sick leave taken while overseas, but not leave without pay, shall be included in the required period of service overseas. An amount equal to the number of days vacation and sick leave taken in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States will be added to the required period of service overseas.

(5) Salary during travel to and from the United States for home leave will be limited to the time required for travel by the most expeditious air route. The Contractor will be responsible for reimbursing AID for salary payments made during home leave, if in spite of the undertaking of the new appointment, the regular employee, except for reasons beyond his/her control as determined by the Contracting Officer, does not return overseas and complete the additional required service. Unused home leave is not reimbursable under this contract.

(6) To the extent deemed necessary by the Contractor, regular employees in the United States on home leave may be authorized to spend not more than 5 days in work status for consultation at home office or at AID/Washington before returning to their post of duty. Consultation at locations other than AID/Washington or home office, as well as any time in excess of 5 days spent for consultation, must be approved by the Mission Director or the Contracting Officer.

(7) Except as provided in the schedule or approved by the Mission Director or the Contracting Officer, home leave is not authorized for TCN or CCN employees.

(e) *Holidays.* Holidays for Contractor employees serving overseas should take into consideration local practices and shall be established in collaboration with the Mission Director.

(f) *Military leave.* Military leave of not more than 15 calendar days in any calendar year may be granted in accordance with the Contractor's usual practice to each regular employee whose appointment is not limited to 1 year or less and who is a reservist of the United States Armed Forces, provided that such military leave has been approved in advance by the cognizant Mission Director or Assistant Administrator. A copy of any such approval shall be provided to the Contracting Officer.

(d) *Alternate 73.* For use in AID cost reimbursement contracts with an educational institution, to be performed in whole or in part overseas (use in addition to *Alternate 71*).

Leave and Holidays (Apr. 1984)

(d) *Vacation leave overseas.*

(1) The Contractor may grant to its employees working overseas under this contract, vacations of reasonable duration in accordance with the Contractor's on-campus practice for its employees, but in no event shall such vacation leave be earned at a rate exceeding twenty-six (26) work days per annum. Vacation leave is provided under this contract primarily for purposes of affording necessary rest and recreation to regular employees during their tour of duty in the Cooperating Country. The Contractor's Chief of Party, the employee and the Cooperating Country institution associated with this project shall develop vacation leave schedules early in the employee's tour of duty taking into consideration project requirements, employee preference and other factors.

(2) Leave taken during the concluding weeks of an employee's tour shall be included in the established leave schedule and be limited to that amount of leave which can be earned during a twelve month period unless approved in accordance with paragraph (a)(3) of this clause.

(3) Vacation leave earned but not taken by the end of the employee's tour pursuant to paragraphs (a) (1) and (2) of this clause will be forfeited, unless the requirements of the project precluded the employee from taking such leave and the Contracting Officer, with the endorsement of the Mission, approves one of the following as an alternative;

(i) Taking, during the concluding weeks of the employee's tour, leave not permitted under (a)(2) of this clause or

(ii) Lump-sum payment for leave not taken provided such leave does not exceed the number of days which can be earned by the employee during a twelve month period.

(e) *Sick leave.* Sick leave is earned by regular and short-term employees in accordance with the Contractor's usual on-campus practice but not to exceed 13 workdays per annum or 4 hours every 2 weeks. Additional sick leave after use of accrued vacation leave may be advanced in accordance with Contractor's usual practice, if in the judgment of the Contractor's Chief of Party it is determined that such additional leave is in the best interest of the project. In no event shall such additional leave exceed 30 days. The Contractor agrees to reimburse AID for leave used in excess of the amount earned during the employee's assignment under this contract. Sick leave earned and unused at the end of a regular tour of duty may be carried over to an immediately succeeding tour of duty under this contract. The taking of authorized home leave shall not constitute a break in service for the purpose of sick leave carry-over. Contractor employees will not be compensated for unused sick leave at the completion of their duties under this Contract.

(f) *Home leave.*

(1) Home leave is leave earned for service abroad for use only in the United States, in the Commonwealth of Puerto Rico, or in the possessions of the United States.

(2) A regular employee who is a U.S. citizen or resident and has served at least 2 years overseas, as defined in paragraph (c)(4) of this clause, under this contract, and has not taken more than 30 workdays leave (vacation, sick, or leave without pay) in the United States, may be granted home leave of not more than 15 calendar days for each such year of service overseas: *Provided,* That such regular employees agree to return overseas upon completion of home leave under an additional 2 year appointment, or for such shorter period of not less than 1 year of overseas service under the contract as the Mission Director may approve in advance. Home leave must be taken in the United

States, the Commonwealth of Puerto Rico, or in the possessions of the United States and any days spent elsewhere will be charged to vacation leave or leave without pay.

(3) Notwithstanding the requirement in paragraph (c)(2), of this clause, that the Contractor's regular employee must have served 2 years overseas under this contract to be eligible for home leave, Contractor may grant advance home leave to such regular employee subject to all of the following conditions.

(i) Granting of advance home leave would in each case serve to advance the attainment of the objectives of this contract;

(ii) The regular employee shall have served a minimum of 18 months in the Cooperating Country on his/her current tour of duty under this contract; and

(iii) The regular employee shall have agreed to return to the Cooperating Country to serve out the remainder of his/her current tour of duty and an additional 2 year appointment under this contract, or such other additional appointment of not less than 1 year of overseas service as the Mission Director may approve.

(4) The period of service overseas required under paragraph (c)(2), or paragraph (c)(3) of this clause, shall include the actual days in orientation in the United States (less language training) and the actual days overseas beginning on the date of departure from the United States port of embarkation on international travel and continuing, inclusive of authorized delays en route, to the date of arrival at the United States port of debarkation from international travel. Allowable vacation and sick leave taken while overseas, but not leave without pay, shall be included in the required period of service overseas. An amount equal to the number of days of vacation and sick leave in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States will be added to the required period of service overseas.

(5) Salary during travel to and from the United States for home leave will be limited to the time required for travel by the most expeditious air route. The Contractor will be responsible for reimbursing AID for salary payments made during home leave, if in spite of the undertaking of the new appointment, the regular employee, except for reasons beyond his/her control as determined by the Contracting Officer, does not return overseas and complete the additional required service. Unused home leave is not reimbursable under this contract.

(6) To the extent deemed necessary by the Contractor, regular employees in the United States on home leave may be authorized to spend not more than 5 days in work status for consultation on campus or at AID/Washington before returning to their post of duty. Consultation at locations other than AID/Washington or on campus, as well as any time in excess of 5 days spent for consultation, must be approved by the Mission Director or the Contracting Officer.

(7) Except as provided in the schedule or approved by the Mission Director or the Contracting Officer, home leave is not authorized for TCN or CCN employees.

(g) Holidays. Holidays for Contractor employees serving overseas should take into consideration local practices and shall be established in collaboration with the Mission Director.

Subpart 752.3-70—AID Clause Matrices—[Reserved]

PART 753—FORMS

Subpart 753.1—General

Authority: Sec. 621, 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.

Subpart 753.1—General

753.107 Obtaining forms.

Copies of the Forms prescribed and illustrated in this Part are available from SER/MO/PUM (Room B-926 New State), Department of State, AID, Washington, D.C. 20523.

Subpart 753.270—Prescription of AID Forms

753.270-1 Negotiated Indirect Cost Rate Agreement.

Form AID 1420-47, "Negotiated Indirect Cost Rate Agreement" is for use in establishing indirect cost rates for Agency contracts.

753.270-2 Small Business/Minority Business Enterprise Procurement Review Form.

Form AID 1410-14 (Small Business/ Minority Business Enterprise Procurement Review Form) is prescribed for use in accordance with 719.271-6.

753.270-3 Release and Assignment Forms.

(a) The forms set forth below are required for use in complying with the Contractor's release and assignment responsibilities (if any) in accordance with the payment clause of the contract. The forms shall be completed in accordance with the instructions contained thereon and submitted to the contracting officer administering the contract.

(b) Contractor's release and/or assignment of refunds, rebates, credits, and other amounts. Form AID 1420-40 (Contractor's Release and/or Assignment of Refunds, Rebates, Credits, and Other Amounts) is the form for the Contractor's release and assignment required by the clauses cited in paragraph (a), above.

(c) Assignee's release and/or assignment of refunds, rebates, credits, and other amounts. Form AID 1420-44 (Assignee's Release and/or Assignment of Refunds, Rebates, Credits, and Other Amounts) is the form for the assignee's release and assignment, if required by the payment clause of the contract.

753.270-4 Contractor Employee Biographical Data Sheet.

(a) Form AID 1420-17, Contractor Employee Biographical Data Sheet, is the prescribed form for use in submitting the data required by 752.7001.

(b) The form shall be included in each solicitation document when it is intended that the "Biographical Data" clause will be utilized. As required by the terms of either the solicitation or the contract clause entitled "Biographical Data," the offeror, bidder, or contractor shall, upon the contracting officer making such form available, submit the completed Form AID 1420-17 for each employee, in triplicate, to the contracting officer or other AID office designated by the contracting officer.

(c) The contracting officer or other designated AID office evaluates the information submitted and utilizes it as the basis for determining the reasonableness of proposed salaries and/or country clearance. Any required notifications of approval or disapproval to the contractor shall be handled as expeditiously as possible by the cognizant AID office. One copy of each Form AID 1420-17 submitted by the contractor shall be retained in the official contract file.

Subpart 753.370—Illustrations of Forms

753.300 Scope of subpart.

This subpart contains illustrations of all forms prescribed in Subpart 753.270.

BILLING CODE 6116-01-M

753.370-2 Form AID 1420-47 (8-80), Negotiated Indirect Cost Rate Agreement

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY
AGENCY FOR INTERNATIONAL DEVELOPMENT
WASHINGTON, D.C. 20523

NEGOTIATED INDIRECT COST RATE AGREEMENT

Date ______________________

SUBJECT: Indirect Cost Rates for Use in Cost Reimbursement Type Agreements With the Agency for International Development (AID)

REFERENCE:

CONTRACTOR:
or
GRANTEE:

PART I - NEGOTIATED INDIRECT COST RATES (%)

Type	Effective Period From	Through

Base of Application

Acceptance of the rate(s) agreed to herein is predicated upon the conditions: (1) that no costs other than those incurred by the grantee/contractor were included in its indirect cost rate proposal and that such costs are legal obligations of the grantee/contractor; (2) that the same costs that have been treated as indirect costs have not been claimed as direct costs; (3) that similar types of costs have been accorded consistent treatment; and (4) that the information provided by the grantee/contractor which was used as the basis for acceptance of the rate(s) agreed to herein is not subsequently found to be materially incomplete or inaccurate.

AID 1420-47 (8-80) *(See Reverse)*

PART II - ITEMS NORMALLY TREATED AS DIRECT COSTS

PART III - SPECIAL TERMS AND CONDITIONS

Pursuant to § 7-3.705 of the Agency for International Development Procurement Regulations (AIDPR), the negotiated indirect cost rates set forth in Part I of this Agreement are incorporated into AID Agreements shown below. This Agreement shall not change any monetary ceiling, obligation, or specific cost allowance or disallowance provided for in the Contracts or Grants listed below or any other Agreement between the parties.

Contract/Grant Number	Amendment Number	Project Number

ACCEPTED:

BY ______________________

____
Printed or Typed Name

____
Title

____
Date

____
CONTRACTING OFFICER
Overhead and Special Costs Branch
Services Operations Division
Office of Contract Management
Agency for International Development

DISTRIBUTION:

CM/ROD	CM/COD	CM/SOD	OTHER
AFR	AN	PDC	AAG/W
NE	PE		CM/SD/SUP
LA	OTR		FM/PAD
ASIA			

AID 1420-47 (8-80) back

753.370-3 Form AID 1420-14 (2-81), Small Business/Minority Business Enterprise Procurement Review Form

SMALL BUSINESS/MINORITY BUSINESS ENTERPRISE PROCUREMENT REVIEW FORM

INSTRUCTIONS:
1. Prepare an original and three copies.
2. Forward original and two copies to Small Business Advisor.
3. Reasons for rejections or appeals involving Blocks 11, 12, 13, 14, and 15 are to be set forth in Block 16 and additional sheets of paper as needed.

1. CASE NO.	2.A. PIO NO.	B. PROJECT NO.	3. TOTAL EST. $ VALUE
4. DATE PIO RECD.	5. PROJECT TITLE (Attach one copy of PIO and source list.)		
6. SIC CODE	7. SMALL BUSINESS SIZE STANDARD NO. OF EMPLOYEES ______ $ ______		8. DATE RECD. BY SDB/SB

9. CONTRACTING OFFICER'S RECOMMENDATION (If not set-aside or Section 8(a), complete Block 10.)

YES NO
- ☐ ☐ "SECTION 8(a)" PROGRAM APPLICABILITY
- ☐ ☐ SMALL BUSINESS SET-ASIDE (FPR 1-1.706) ______% $______
- ☐ ☐ SMALL BUSINESS SUBCONTRACTOR PROGRAMS (FPR 1-1.710 AND 1-1.1310)

NAME OF CONTRACTING OFFICER

SIGNATURE

DATE

10. SET-ASIDE/"8(a)" PROGRAM NOT INITIATED BECAUSE:

- ☐ SOLE SOURCE/PROPRIETARY
- ☐ COMPLEXITIES OF AND/OR COST TO MFR. PRECLUDE COMPETITION
- ☐ R&D PROCUREMENT WITH INSUFFICIENT SB COMPETITION TO PROVIDE REASONABLE ASSURANCE OF RECEIVING HIGHEST COMPETENT TECHNICAL PROPOSAL
- ☐ CONTINUING PROGRAM (CONTRACT AMENDMENT)
- ☐ NO REASONABLE EXPECTATION OF RECEIVING A SUFFICIENT NUMBER OF BIDS FROM SB SOURCES TO ASSURE AWARD AT REASONABLE PRICES
- ☐ NOT ECONOMICALLY SEVERABLE (PARTIAL SET-ASIDES)
- ☐ QPL ITEM WITH SUFFICIENT SOURCES (QUALIFIED PRODUCTS LIST)
- ☐ CONSTRUCTION – ANTICIPATED COST IN EXCESS OF $500,000
- ☐ NO KNOWN "8(a)" SOURCES
- ☐ PUBLIC EXIGENCY EXEMPTION (AIDPR 7-1.704-7(b))
- ☐ "IQC" EXEMPTION (AIDPR 7-1.704-7(c))
- ☐ OTHER (Explain)

11. THE SMALL BUSINESS ADVISOR ☐ ACCEPTS, ☐ REJECTS, THE CONTRACTING OFFICER'S RECOMMENDATION	SIGNATURE OF SMALL BUSINESS ADVISOR	DATE

12. SMALL BUSINESS ADVISOR'S COUNTER-RECOMMENDATIONS

YES NO
- ☐ ☐ "SECTION 8(a)" PROGRAM APPLICABILITY
- ☐ ☐ ADDITIONAL SOURCES ADDED
- ☐ ☐ SMALL BUSINESS SET-ASIDE (FPR 1-1.706) ______% $______
- ☐ ☐ SMALL BUSINESS SUBCONTRACTOR PROGRAM (FPR 1-1.710 AND 1-1.1310)

SIGNATURE OF SMALL BUSINESS ADVISOR — DATE

13. THE CONTRACTING OFFICER ☐ ACCEPTS, ☐ REJECTS, THE SMALL BUSINESS ADVISOR'S COUNTER-RECOMMENDATION	SIGNATURE OF CONTRACTING OFFICER	DATE
14. THE SMALL BUSINESS ADVISOR ☐ ACCEPTS, ☐ APPEALS, THE CONTRACTING OFFICER'S REJECTION	SIGNATURE OF SMALL BUSINESS ADVISOR	DATE
15. THE HEAD OF THE PROCURING ACTIVITY ☐ ACCEPTS, ☐ REJECTS, THE SMALL BUSINESS ADVISOR'S APPEAL	SIGNATURE OF HEAD OF THE PROCURING ACTIVITY	DATE

NOTE: ANY CHANGE IN THE PROCUREMENT PLAN DESCRIBED HEREIN WILL REQUIRE RETURN FOR REEVALUATION BY THE SMALL BUSINESS ADVISOR.

16. ADDITIONAL DOCUMENTATION

AID 1410-14 (2-81)

753.370-4 Form AID 1420-40 (1-72), Contractor's Release and/or Assignment of Refunds, Rebates, Credits, and Other Amounts

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AGENCY FOR INTERNATIONAL DEVELOPMENT

CONTRACTOR'S RELEASE AND/OR ASSIGNMENT OF REFUNDS, REBATES, CREDITS, AND OTHER AMOUNTS

I. IDENTIFICATION

1. CONTRACTOR'S NAME AND ADDRESS *(hereinafter referred to as the Contractor)*	2. CONTRACT NUMBER *(hereinafter referred to as the Contract)*
	3. AMOUNT OF RELEASE *(in dollars)*
	4. PURPOSE *(check appropriate box)* ☐ RELEASE ☐ ASSIGNMENT ☐ BOTH

II. CONTRACTOR'S RELEASE

Pursuant to the terms of the Contract and in consideration of the sum set forth in Section I., Block 3., above which has been or is to be paid under the said Contract to the Contractor or its assignees, if any, the Contractor, upon payment of the said sum by the UNITED STATES OF AMERICA (hereinafter called the Government), does remise, release, and discharge the Government, its officers, agents, and employees, of and from all liabilities, obligations, claims, and demands whatsoever under or arising from the said Contract except:

1. Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statements by the Contractor, as set forth in the space provided on the reverse of this form (Section V.).
2. Claims, together with reasonable expenses incidental thereto, based upon liabilities of the Contractor to third parties arising out of the performance of said Contract; provided that such claims are not known to the Contractor on the date of execution of this release; and provided further that the Contractor gives notice of such claims in writing to the Contracting Officer not more than six (6) years after the date of this release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier.
3. Claims for reimbursement of costs (other than expense of the Contractor by reason of his indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of the said Contract relating to patents.

The Contractor agrees, in connection with patent matters and with claims which are not released as set forth in Section V., that he will comply with all of the provisions relating to notification to the Contracting Officer and relating to the defense or prosecution of litigation.

III. CONTRACTOR'S ASSIGNMENT OF REFUNDS, REBATES, CREDITS, AND OTHER AMOUNTS

Pursuant to the terms of the Contract and in consideration of the reimbursement of costs and payment of fee, if any, as provided in the said Contract and any assignment thereunder, the Contractor does hereby:

1. Assign, transfer, set over and release to the UNITED STATES OF AMERICA (hereinafter called the Government), all right, title, and interest to all refunds, rebates, credits, and other amounts (including any interest thereon), arising out of the performance of the said Contract, together with all the rights of action accrued or which may hereafter accrue thereunder.
2. Agree to take whatever action may be necessary to effect prompt collection of all refunds, rebates, credits, and other amounts (including any interest thereon) due or which may become due, and to promptly forward to the A.I.D. Paying Office checks (made payable to the Treasurer of the United States) for any proceeds so collected. The reasonable costs of any such action to effect collection shall constitute allowable costs when approved by the Contracting Officer as stated in the said Contract and may be applied to reduce any amounts otherwise payable to the Government under the terms hereof.
3. Agree to cooperate fully with the Government as to any claim or suit in connection with refunds, rebates, credits, or other amounts due (including any interest thereon); to execute any protest, pleading, application, power of attorney, or other papers in connection therewith; and to permit the Government to represent him at any hearing, trial, or other proceeding, arising out of such claim or suit.

IV. CERTIFICATIONS

1. IN WITNESS WHEREOF, this release and/or assignment has (have) been executed this day.

*WITNESSES	CONTRACTOR
(1) ____________________	____________________
	BY
(2) ____________________	____________________
*In the case of a corporation, the signatures of two witnesses are not required, but the certificate below must be completed.	TITLE ____________ DATE ____________

CORPORATE CERTIFICATE

2. I, ____________________ certify that I am the ____________________ (official title) of the corporation named as Contractor in the foregoing release and/or assignment; that ____________ who signed said release and/or assignment on behalf of the Contractor was the ____________ (official title) of the said corporation; that said release and/or assignment was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

(CORPORATE SEAL) ____________________

AID 1420-40 (11-72)

V. Specified claims applicable to Section II.1. of the Contractor's Release are to be set forth in the space provided below.

INSTRUCTIONS TO CONTRACTOR

1. This form may be used for three purposes:

   a. As a *Contractor's Release.*

   b. As an *Assignment of Refunds, Rebates, Credits, and Other Amounts.*

   c. As both a *Contractor's Release* and an *Assignment of Refunds, Rebates, Credits, and other Amounts.*

2. In completing Section I., the Contractor is to indicate the purpose (see 1. above) for which he is submitting the completed form as follows:

a. Contractor's Release	Check *only* the release box in Section I.4. and if a corporation complete the Certificate in Section IV.2.
b. Assignment of Refunds, Rebates, Credits, and Other Amounts	Check *only* the assignment box in Section I.4. and if a corporation complete the Certificate in Section IV.2.
c. As *both* a Contractor's Release *and* an Assignment of Refunds, Rebates, Credits, and Other Amounts	Check the *both* box in Section I.4. and if a corporation complete the Certificate in Section IV.2.

3. The form is to be completed in triplicate as follows:

a. ORIGINAL AND DUPLICATE	When completed, forward these to the cognizant A.I.D. Contracting Officer.
b. TRIPLICATE	Contractor's retain copy

4. The Contractor is responsible for filling in all the information requested on the form. Use the space provided in Section V. for listing outstanding claims as requested in Section II.1. of the form.

AID 1420-40 (11-72) BACK

753.370-5 Form AID 1420-44 (11-72), Assignee's Release and/or Assignment of Refunds, Rebates, Credits, and Other Amounts

AGENCY FOR INTERNATIONAL DEVELOPMENT
ASSIGNEE'S RELEASE AND/OR ASSIGNMENT OF
REFUNDS, REBATES, CREDITS, AND OTHER AMOUNTS

I. IDENTIFICATION

1. ASSIGNEE'S NAME AND ADDRESS *(hereinafter referred to as the Assignee)*	2. CONTRACT NUMBER *(hereinafter referred to as the Contract)*
	3. AMOUNT OF RELEASE *(in dollars)*
	4. PURPOSE *(check appropriate box)* ☐ RELEASE ☐ ASSIGNMENT ☐ BOTH
5. DOING BUSINESS AS *(check and complete appropriate box)* ☐ INDIVIDUAL ☐ PARTNERSHIP ☐ CORPORATION, INCORPORATED IN ______	

II. ASSIGNEE'S RELEASE

Pursuant to the terms of the Contract and in consideration of the sum set forth in Section I., Block 3., above which has been or is to be paid under the said Contract by the UNITED STATES OF AMERICA (hereinafter called the Government) to the Contractor or his assignees, the assignee upon receipt of that part of the said sum due under his assignment does remise, release and discharge the Government, its officers, agents and employees, of and from all liabilities, obligations, claims, and demands whatsoever under or arising from the said contract and assignment, except:

1. Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statements by the Contractor, as set forth in the space provided on the reverse of this form (Section V.).

2. Claims, together with reasonable expenses incidental thereto, based upon liabilities of the Contractor to third parties arising out of the performance of said Contract; provided that such claims are not known to the Contractor or Assignee on the date of execution of this release; and provided further that the Contractor or Assignee gives notice of such claims in writing to the Contracting Officer not more than six (6) years after the date of this release or the date of any notice to the Contractor or Assignee that the Government is prepared to make final payment, whichever is earlier.

3. Claims for reimbursement of costs (other than expense of the Contractor by reason of his indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of the said Contract relating to patents.

The Assignee agrees, in connection with claims which are not released as set forth in Section V., that final payment under the said contract does not modify the requirements and limitations imposed on the Contractor or Assignee by the contract or the assignment, including without limitation those provisions relating to notification to the Contracting Officer and relating to the defense or prosecution of litigation.

III. ASSIGNEE'S ASSIGNMENT OF REFUNDS, REBATES, CREDITS, AND OTHER AMOUNTS

Pursuant to the terms of the Contract and in consideration of the reimbursement of costs and payment of fees, as provided in the said contract and assignment thereunder, the Assignee does hereby assign, transfer, set over, and release to the UNITED STATES OF AMERICA, all right, title, and interest to all refunds, rebates, credits, and other amounts (including any interest thereon) arising out of the performance of the said contract, together with all the rights of action accrued or which may hereafter accrue thereunder.

IV. CERTIFICATIONS

1. IN WITNESS WHEREOF, this release and/or assignment has (have) been executed this day.

*WITNESSES ______

______

CONTRACTOR ______

BY ______

TITLE ______ DATE ______

*In the case of a corporation, the signatures of two witnesses are not required, but the certificate below must be completed.

CORPORATE CERTIFICATE

2. I, ______ certify that I am the ______ (official title) of the corporation named as Assignee in the foregoing release and/or assignment; that ______ who signed said release and/or assignment on behalf of the Assignee was the ______ (official title) of the said corporation; that said release and/or assignment was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

(CORPORATE SEAL) ______

AID 1420-44 (11-72)

V. Specified claims applicable to Section II, I. of the Assignee's Release are to be set forth in the space provided below.

INSTRUCTIONS TO ASSIGNEE

1. This form may be used for three purposes:

   a. As an *Assignee's Release*.

   b. As an *Assignment of Refunds, Rebates, Credits, and Other Amounts*.

   c. As both an *Assignee's Release* and an *Assignment of Refunds, Rebates, Credits, and other Amounts*.

2. In completing Section I., the Assignee is to indicate the purpose (see 1. above) for which he is submitting the completed form as follows:

a. Assignee's Release	Check *only* the release box in Section I.4. and if a corporation complete the Certificate in Section IV.2
b. Assignment of Refunds, Rebates, Credits, and Other Amounts	Check *only* the assignment box in Section I.4. and if a corporation complete the Certificate in Section IV.2.
c. *As both* an Assignee's Release *and* an Assignment of Refunds, Rebates, Credits, and Other Amounts	Check the *both* box in Section I.4. and if a corporation complete the Certificate in Section IV.2.

3. The form is to be completed in triplicate as follows:

a. ORIGINAL AND DUPLICATE	When completed, forward these to the cognizant A.I.D. Contracting Officer.
b. TRIPLICATE	Assignee's retain copy

4. The Assignee is responsible for filling in all the information requested on the form. Use the space provided in Section V. for listing outstanding claims as requested in Section II.1 of the form.

AID 1420-44 (11-72) BACK

753.370-6 Form AID 1420-17 (3-80), Contractor Employee

Biographical Data Sheet

Form Approved
OMB No. 24-R0064

CONTRACTOR EMPLOYEE BIOGRAPHICAL DATA SHEET

(SEE PRIVACY ACT STATEMENT ON REVERSE)

INSTRUCTIONS:
Submit in triplicate to contracting officer.
See reverse for Contractor Certification.

1. Name *(Last, First, Middle)* ☐ Mr. ☐ Mrs. ☐ Miss ☐ Ms.		2. Contractor's Name	
3. Address *(include ZIP Code)*		4. Contract No.	5. Position Under Contract
		6. Proposed Salary	7. Country of Assignment / 8. Duration of Assignment
9. Telephone Number *(include area code)*	10. Marital Status ☐ Married ☐ Single ☐ Other *(specify)*	11. Names and Ages of Dependents to Accompany Individual *(if applicable)*	
12. Date of Birth	13. Place of Birth		
14. Citizenship *(if non-U.S. citizen, give visa status)*			

15. EDUCATION *(include all secondary, business college or university training)*

NAME AND LOCATION OF INSTITUTION	MAJOR SUBJECTS	Credits Completed		Type of Degree	Date of Degree
		Semester Hours	Quarter Hours		

16. EMPLOYMENT HISTORY

1. Give last three (3) years. Continue on reverse to list all employment related to duties of proposed assignment.
2. Salary definition - basic periodic payment for services rendered.
Exclude bonuses, profit-sharing arrangemnets, commissions, consultant fees, extra or overtime work payments, overseas differential, or quarters, cost of of living or dependent education allowances.

POSITION TITLE	EMPLOYER'S NAME AND ADDRESS	Dates of Employment *(Mo., Yr.)*		Salary	
		From	To	Dollars	Per.

17. SPECIFIC CONSULTANT SERVICES *(give last three (3) years)*

SERVICE PERFORMED	EMPLOYER'S NAME AND ADDRESS	Dates of Employment *(Mo., Day, Yr.)*		DAILY RATE
		From	To	

18. LANGUAGE PROFICIENCY

LANGUAGE	Speaking			Reading			Writing			Understanding		
	Fair	Good	Excl.	Fair	Good	Excl.	Fair	Good	Excl.	Fair	Good	Excl.

19. Special Qualifications *(honors, professional societies, special licenses, publications, research, special skills, and relevant education not previously mentioned; use reverse side of form, if necessary)*

20. CERTIFICATION: To the best of my knowledge, the above facts as stated are true and correct.

Signature of Employee	Date

AID 1420-17 (3-80)

(Use this space for continuation of Blocks 16 and 19)

CONTRACTOR'S CERTIFICATION *(To be completed by responsible representative of Contractor)*

A. I hereby certify that *('X' appropriate box)*:

- ☐ The initial salary proposed herein meets the salary standards prescribed in the contract.
- ☐ The salary increase proposed herein conforms to the customery policy and practice for this organization for periodic salary increases.

B. Justification or Remarks

Signature	Title	Date

PRIVACY ACT STATEMENT

The following statement is required by the Privacy Act of 1974 (Public Law 93-579; 88 Statute 1896).

The information requested on this form is needed by AID to evaluate your suitability for the position for which you have been nominated as a contract employee. It is necessary that you provide the information for AID to consider your nomination. The Foreign Assistance Act of 1961, as amended, constitutes authority for its collection.

Employers and educational institutions you list may be contacted for verification of the information provided. Disclosure may otherwise be made in whole or in part to any (a) foreign government concerned if required by that government in connection with their review of your nomination and (b) pursuant to any other applicable routine use listed under AID's Civil Service Employee Office Personnel Record System, AID-2 in AID's Notice of Systems of Records for implementing the Privacy Act as published in the Federal Register, or (c) when disclosure without the employee's consent is authorized by the Privacy Act and provided for in AID Regulation 15. *(A copy of the Regulation and Notice of System of Records is available from AID Distribution on request.)*

AID 1420-17 (5-80) back

BILLING CODE 6116-01-C

Appendices to Chapter 7

Authority: Sec. 621, 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.

Appendix A—Respective Roles of Contracting and Other Personnel in the AID Procurement Process

1. Basic Policy

Only a contracting officer, designated to enter into contracts and make the determinations and findings related thereto (or an authorized representative of the contracting officer acting within the limits of his/her authority), may bind the United States Government to a contract, or direct or authorize a contractor to proceed with work.

2. Planning, Competition, Negotiation, and Award

(a) Preaward technical discussions with potential contractors should be conducted in such a manner as to preclude the assumption by any potential contractor that a commitment has been made. AID employees are responsible for insuring that no unfair competitive advantage is afforded one contractor over any other contractor in competing for Agency contracts. In this connection, discussions with prospective contractors prior to the final selection of the contractor and commencement of negotiations by the contracting officer must be conducted with the greatest discretion. Under no circumstances should the specific amount of funds which the Agency has available to support a contract be made known to a prospective contractor. No AID employee is authorized to dilute the Agency's negotiation position prior to or during an "arm's length" negotiation conducted between AID and the contractors with whom it does business. The requirement for preservation of the Agency's negotiation position must be scrupulously observed whether the procurement is to be negotiated with a single, non-competitive source or whether it is to be negotiated on the basis of multiple competitive proposals. It is advisable to involve the contracting officer in the project planning cycle as early as possible, and to insure that he/she or his/her representative is either present at any meeting with prospective contractors, or is consulted prior to such a meeting.

(b) Contracting personnel act upon requirements which are formulated by the planning, technical, and research offices of the Agency. Contracting officers obtain the information they need on technical requirements by questions and discussions with the planning, technical, and research offices of the Agency. If a contract is to be tenable, the end result which is desired must be described with completeness and exactitude. The scope of the work must be explicitly stated; otherwise the contracting officer cannot assure terms in a contract by which the desired action can be enforced. If the requiring office cannot provide a point of departure in these terms and deliver to the contracting officer a clear-cut description of the purpose and outline the limits of the scope, results may be disappointing and the possibility of deferring the project until these elements can be given more concrete dimensions should be considered. Finally, the requiring office should insure that the scope of work and funding information are delivered to the contracting officer with sufficient lead time to allow for proper preparation and planning of the procurement.

(c) One of the paramount duties of the contracting officer is to secure competition to the maximum practical extent for any planned procurement. The procedures for formally advertised, or for publicized negotiated, or for limited source procurements differ; the contracting officer must determine the proper method of procurement and contract type, and must determine the extent of competition required. The technical office has a continuing responsibility to assist the contracting officer in this effort to obtain competition and negotiate a contract. Basically, this commences with adequate drafting of the statements of work and specifications. The technical office can frequently assist by identifying additional technically competent sources for the solicitation of proposals.

3. Contract Administration

Meetings to discuss contract matters with contractors should be preceded by sufficient advance notification to all parties, including the contracting officer, to permit advance arrangements for the attendance at such meetings. Technical personnel shall not hold discussions of contract problems with contractors or technical problems with contractual implications without arranging for attendance by contracting personnel. Once a meeting with a contractor has been agreed upon and the issues have been made known to all involved parties, an internal AID meeting should take place between technical and contracting personnel, with the Country Desk representative and such other personnel in attendance as may be necessary, to establish an AID position or line of inquiry to be followed in the meeting with the contractor. If differences of opinion arise among AID personnel in the meeting with the contractor, such differences should never be discussed in the meeting with the contractor. AID personnel shall adjourn to resolve privately any such differences of opinion, and resume discussions with the contractor only when the AID position is consolidated. The AID individual designated to chair meeting with a contractor should be selected prior to the meeting with the contractor. Depending upon the issues to be discussed, whether primarily technical or primarily contractual, the chairman should be designated from either the technical office or the contracting office.

Appendix B—Notice to Cost-Reimbursement Type Contractors of Changes in Applicable Standarized Government Regulations

1. General

This appendix establishes a procedure for providing new cost-reimbursement contractors with applicable Government travel and allowance regulations, and for notifying existing contractors, whose contracts require that they be so notified, of changes in such regulations.

2. Background

(a) AID cost-reimbursement type contracts generally provide (see paragraph 3) for the application of direct-hire AID personnel travel and allowance regulations to similarly situated contractor personnel. The procedures for notifying contractors of changes in such regulations are set out in paragraph 5 of this appendix.

(b) For the purpose of this appendix, the term "Chief of Party" refers to either the head of a field party or such other representative of the contractor in the field designated to communicate on contract matters with the AID Mission.

3. General Provisions for Cost-Reimbursement Contracts

Text of the clause "Notice of Changes in Travel Regulations" is set forth in 752.7014.

4. Notice to Contractor Field Personnel

Notice of changes in Government travel and allowance regulations is sent to the contractor at its address shown on the cover page of the contract. Notice to the contractor's Chief of Party is supplied by:

(a) The contractor, in accordance with its normal field communication procedures; or,

(b) The Mission Executive Officer, by use of his/her normal internal Mission information procedures. (See paragraph 5(d)(2) of this Appendix).

5. Duties and Responsibilities

(a) *Contracting officer.* (1) Upon signing each contract, forwards the contract together with three completed copies of form AID 1420-2, AID Cost-Reimbursement Contract Allowances—Applicability of Standardized Regulations, to the Office of Contract Management, Support Division (Attention: SER/CM/SD/SS, Statistical Section), indicating on the form whether the contractor needs to be supplied with Government travel and allowance regulations.

(2) If the Government travel and allowance regulations do apply, forwards copy No. 4 of Form AID 1420-2 to the appropriate Mission Executive Officer.

(3) Retains copy No. 5 of Form AID 1420-2 for his/her record.

(b) *Statistical section, SER/CM/SD/SS.* (1) Maintains a current file on all cost-reimbursement contractors to which the Government travel and allowance regulations apply, and annually supplies a revised list of such contractors to the Office of Management Operations, Distribution Branch (SER/MO/PUM).

(2) Notifies SER/MO/PUM of all changes to the list using Form AID 1420-2.

(c) Distribution Branch, SER/MO/PUM. (1) Prepares for mailing to each contractor, upon addition of its name to the SER/CM/SD/SS distribution list, a complete set of the Government travel and allowance regulations.

(2) Following any change in the Government travel or allowance regulations, mails to each contractor on the current SER/CM/SD/SS distribution list all revisions to such regulations.

(3) Keeps the distribution list, J-27, updated as instructed by SER/CM/SD/SS.

(d) *Mission Executive Officer.* (1) Maintains a current file of all contracts affected by changes in the Government travel or allowance regulations. (See paragraph 5(a) of this section.)

(2) Promptly notifies each appropriate contractor's Chief of Party in writing of all relevant changes in the Government travel or allowance regulations and their effective date.

Appendix C—Logistic Support Overseas to AID-Direct Contractors

1. General

(a) *Purpose.* In furtherance of AID's objectives to: (1) Increase the utilization of contractors in accordance with section 621 of the Foreign Assistance Act of 1961, as amended, (FAA), (2) reduce the administration burden on the AID establishment in Cooperating Countries, and (3) ensure, in accordance with section 636(h) of the FAA, that to the maximum extent possible local costs are met from Cooperating Country funds or United States (U.S.) Government-owned local currency rather than from U.S. dollars, the following policies govern the financing and provision in kind of logistic support overseas to AID-direct contractors.

(b) *Scope.* "Logistic support overseas" means the financing of or furnishing to a contractor, its employees, and their dependents (in accordance with the provisions of the contract) items such as transportation of personnel, personal goods and commodities; quarters, furnishings, equipment, utilities, and supplies for residence and office; and maintenance and other supporting services, including medical facilities.

2. Policy

(a) *Financing of logistic support.* (1) Local Currency Financing. Consistent with the requirements of AID Handbook 19, Financial Management, local currencies are to be used wherever feasible in lieu of dollars to defray the costs of contractor logistic support, whether such support is arranged for by the contractor, the Cooperating Country, or AID. Such local currencies will be contributed from the following sources in descending order of preference:

(i) The Cooperating Country's own budgetary or private resources;

(ii) Cooperating Country-owned local currency generated through AID or Pub. L. 480 programs; and

(iii) U.S. Government-owned country-use local currency generated through AID or Pub. L. 480 programs.

(2) *Dollar financing.* AID dollars are used to finance logistic support overseas only when no reasonable alternative exists by which such support can be financed with local currency provided in kind.

(b) *Arrangements for logistics support.* Each mission should assess the local logistical support situation and determine which method is best suited for its program or individual projects. While the following three options are listed in descending order of preference, the Mission is encouraged to use the option which is in the best interest of the project:

(1) Arrangements by the contractor itself where feasible and reasonably economical. (It is assumed that this test will be met in the case of virtually all construction contracts and in most of the larger engineering and technical assistance contracts.)

(2) Arrangements by the Cooperating Country where these would be timely, adequate, and feasible in terms of the country's economic and administrative resources.

(3) Arrangements by the Mission alone or jointly with either or both of the other parties, in those cases where the Mission Director determines that adequate and timely logistic support at reasonable cost cannot be assured through the other options. In such cases, and when direct-hire resources are inadequate, the Mission is encouraged wherever feasible, to contract for assistance in providing logistic support. Guidance on logistic support contracts should be obtained from SER/CM and GC.

(c) *Medical facilities.* AID and the Department of State have an agreement whereby the latter furnishes certain medical services, *on an availability basis,* to all eligible U.S. citizen contract personnel performing economic assistance functions abroad under the Foreign Assistance Act, and to their authorized dependents overseas with funding via Shared Administrative Support (SAS) Budgets. These services are provided at post to such personnel to the same extent as for AID direct-hire personnel. They are provided at no cost to the contractor or to the personnel. The medical services to be provided exclude: (1) Evacuation or hospitalization, and (2) entrance, in-service, fitness for duty, and separation medical examinations.

(1) *Eligible personnel.* (i) Eligible contractor personnel are those U.S. citizens serving abroad, and their authorized dependents, who are engaged under a contract between a contractor and AID or who are engaged under a subcontract thereto.

(ii) Employees of other U.S. Government agencies serving under Participating Agency Service Agreement (PASA) with AID are also eligible pursuant to the terms of General Agreements between AID and their parent agencies.

(iii) U.S. citizens serving under Cooperating Country contracts financed from AID loan or grant funds are not "AID contractor employees" and thus not eligible, except with approval of the Ambassador. Third country national employees of AID contractors are not U.S. citizens and thus are not eligible, except with approval of the Ambassador. Americans serving under operational expert (OPEX) type contracts to which AID is not a signatory are also not "AID contractor employees." Most OPEX employees are provided a lump-sum amount to finance their participation in a group health program in lieu of receiving any U.S. Government health services.

(iv) AID or other direct-hire U.S. Government employees working under formal detail to multilateral or other non-U.S. agencies obtain health services on the same basis as their non-U.S. co-workers unless the provisions governing detail of the U.S. employees specifically provide for their access to available U.S. Government facilities.

(v) It is recognized that emergency situations will arise involving OPEX or other Americans who are not "AID contractor personnel" as defined above. Such cases are to be handled by the Medical Officer or other post officials pursuant to their procedures for handling an emergency health problem of any non-official American requesting assistance.

(2) *Services to be provided.* Embassy physician, nurse, and health room services are provided, in countries where and when these are available, including:

(i) Immunizations and preventive health measures;

(ii) Diagnostic examinations and advice;

(iii) Emergency treatment;

(iv) Home visits as medically indicated.

(d) *Other post privileges.* Privileges such as the use of APO, PX's, commissaries, and officer's clubs are established at posts abroad pursuant to agreements between the U.S. and Cooperating Governments. Normally, these facilities *are not* available to contractor employees. However, in those cases where the facilities are open to contractor personnel, they may be used.

(e) *Uniformity.* Every effort should be made by each Mission to foster the development of country-wide standards for comparable classes of contractors. In all instances, logistic support is to be provided at the minimum level necessary to assure efficient, economical, and effective contractor performance.

(f) *Exceptions.* Exceptions from these policies, except as permitted by paragraph 2(b)(3) above, are made in writing by the responsible Assistant Administrator or his/her designee for such purposes.

3. Contract Implementation

Each PIO/T shall indicate on page 3 each type of logistic support which is to be made available, either in cash or in kind, by the Cooperating Country, the Mission, and the contractor itself. The contracting officer shall ensure that the contract reflects the information contained in the PIO/T.

4. Additional Instructions for Medical Support

(a) *Notifications.* (1) The AID contracting officer shall notify the contractor of any potentially available medical benefits prior to the execution of the contract.

(2) The Mission Executive Officer notifies the contractor's Chief of Party at the post of the locally available medical benefits.

(b) *Identification of eligible persons.* The Mission Executive Officer provides each eligible contractor employee and dependent with appropriate identification for use at Embassy medical facilities.

(c) *Records and insurance.* (1) The Embassy medical unit maintains an appropriate register of visits to the unit. The information recorded includes the name of the contractor employee or dependent treated, the contractor's name and contract number, date of visit, and a brief description of the reason for the visit (e.g., medical consultation, injury, medical briefing, immunization). Periodically a copy of this register is forwarded to the Mission Executive Officer.

(2) If medical service provided to a contractor employee or his/her authorized dependents by the Embassy medical unit is eligible for recovery from an insurance company, the contractor employee shall file an appropriate claim with the insurance company and so notify the Mission Executive Officer in writing. The contractor employee pursues the claim for reimbursement. Amounts recovered are forwarded to the Mission Executive Officer for the account of the medical unit in accordance with AID regulations.

Appendix D—Direct AID Contracts With U.S. Citizens or U.S. Residents for Personal Services Abroad

1. General

(a) *Purpose.* This appendix and attachments set forth the authority, policy, and provisions under which AID may contract with individual U.S. citizens or U.S. residents to provide personal services abroad.

(b) *Definitions.* For the purposes of this appendix:

(1) A personal services contract is one which establishes an employer-employee relationship.

(2) A nonpersonal services contract is one which establishes an independent contractor relationship.

2. Legal Basis

(a) Section 635(b) of the Foreign Assistance Act of 1961, as amended (FAA), provides specific contracting authority for AID.

(b) Section 636(a)(3) of the FAA authorizes the Agency to enter into contracts with individuals for personal services abroad and provides further that such individuals "* * * shall not be regarded as employees of the U.S. Government for the purpose of any law administered by the Civil Service Commission."

3. Applicability

(a) This appendix applies to AID contracts with U.S. citizens or U.S. residents to provide assistance abroad to Cooperating Countries and regional organizations under contracts which establish an employer-employee relationship. Attachment A is designed to establish that relationship.

(b) This appendix does not apply to:

(1) Contracts with U.S. citizens or U.S. residents which establish independent contractor relationships, which are covered under *AID Handbook 14—Procurement Regulations.*

(2) Contracts with consultants and experts, which are covered under *AID Handbook 25—Employment and Promotion.*

(3) Contracts with individual cooperating country or third-country nationals, which are covered under *AID Handbook 31—Foreign National Personnel.*

4. Policy

(a) *General.* AID may finance the cost of providing personal services to a Cooperating Country or a regional organization as part of the Agency's program of assistance to such country or organization by entering into a direct contract with an individual U.S. citizen or U.S. resident for personal services.

(b) *Limitations on personal services contracts.* A personal services contract with an individual may be used when adequate supervision is available and for nearly any type of work except:

(1) Negotiating on behalf of the United States with AID recipient countries, organizations or entities.

(2) Making planning, budgeting, programming and policy decisions which determine the allocation of resources available to AID, or establish AID policy.

(3) Supervising the execution of functions performed by U.S. Government personnel of AID or other Government agencies.

(4) Performance of internal functions such as personnel selection and administration, agency management, and congressional presentation.

(5) Contracts entered into pursuant to this authority may not exceed 5 years.

5. Executing a Personal Services Contract

Contracting activities, whether AID/W or Mission, may execute personal services contracts, provided that the amount of the contract does not exceed the amount of contracting authority which has been redelegated pursuant to Delegation of Authority No. 99—To the Assistant Administrator for Program and Management Services, et al., Concerning Contracting and Related Functions (38 FR 12834). In executing a contract, the contracting activity insures that:

(a) The following approvals for the proposed contractor have been obtained:

(1) Security clearance, to the extent required by *AID Handbook 6—Security.*

(2) Mission and country clearance, as appropriate.

(3) Medical clearance based on certification by a licensed physician. Medical clearance requirements apply to the contractor and to each dependent who is authorized to travel to the overseas post.

(b) Compensation for personal services provided under each contractor complies with the principles and approvals set forth in AIDAR 731.205-6, entitled "Compensation for Personal Services", in effect at the time the contract is executed (see Appendix I).

(c) The contract is modified by deleting from the general provisions the inapplicable portion of the clauses entitled "Allowances, Travel and Transportation Expenses," and the medical clearance of dependents residing with the contractor at post, when the contractor is a resident of the Cooperating Country.

(d) The block entitled, "Project No.," on the cover page of the contract format is completed by inserting the four-segment project number as prescribed in *AID Handbook 18—Information Services.*

(e) Necessary deviations from the prescribed contract format are properly documented and approved by the head of the contracting activity (see Subpart 701.4). A record of the nature of each such deviation, the justification for it, and the approval are included in the contract file and a copy is forwarded to the Office of Contract Management, Support Division (SER/CM/SD), AID/W, which is responsible for maintaining a central record of all approved deviations.

(f) Funds for the contract are properly obligated to preclude violation of the Anti-Deficiency Act, 31 U.S.C. 665. The contracting officer assures that the contract has been properly recorded by the appropriate accounting office prior to its release for the signature of the selected contractor.

(g) The contractor receives and understands Chapter 3, Employee Responsibilities and Conduct, of *AID Handbook 24—General Personnel Policy*, and a copy is attached to each contract, as provided for in paragraph 2(c) of the General Provisions (Attachment B).

(h) Agency conflict of interest requirements are met by the contractor prior to his/her reporting for duty.

6. Post Audit

The Inspector General, or his/her designee, audits the personal services contracts of all contracting activities for the purpose of insuring conformance to approved policy and standards.

7. Contract Provisions

The prescribed Cover Page, Schedule, and General Provisions for a direct AID contract with a U.S. citizen or U.S. resident for personal services abroad are attached as follows:

Attachment 1 to Appendix D— Form AID 1420-36, "Cover Page" and "Schedule";
Attachment 2 to Appendix D— Form AID 1420-37, "General Provisions"; and
Attachment 3 to Appendix D— Form AID 1420-38, "Additional General Provisions".

BILLING CODE 6116-01-M

Attachment 1 to Appendix D— Form AID 1420-36, "Cover Page" and "Schedule".

AGENCY FOR INTERNATIONAL DEVELOPMENT
WASHINGTON, D.C. 20523

CONTRACT WITH A U.S. CITIZEN OR U.S. RESIDENT FOR PERSONAL SERVICES ABROAD

Negotiated Pursuant to the Foreign Assistance Act of 1961, as Amended, and Executive Order 11223

Contract Number

Country of Performance

Amount Obligated
$

Total Estimated Contract Cost
$

Contract For

Project Number

Contracting Office *(name and address)*

Contractor *(name, street, city, state, zip code)*

Administered By *(if other than Contracting Office)*

Effective Date

Estimated Completion Date

Cognizant Scientific/Technical Office *(name, office symbol, address)*

Accounting and Appropriation Data

PIO/T Number ______

This is a Consulting Services Contract *(AIDPR 7-4.804-50)*
☐ YES ☐ NO

Appropriation Number ______

This is a Contract for Studies and/or Reports *(AIDPR 7-4.804-50)*
☐ YES ☐ NO

Budget Plan Code ______

Payment Will Be Made By

Social Security Number ______

Type of Advance *("X" appropriate box)*
☐ INITIAL ☐ NONE AUTHORIZED

The United States of America, hereinafter called the Government, represented by the Contracting Officer executing this contract, and the Contractor agree that the Contractor shall perform all the services set forth in the attached Schedule, for the consideration stated therein. The rights and obligations of the parties to this contract shall be subject to and governed by the Schedule and the General Provisions. To the extent of any inconsistency between the Schedule or the General Provisions and any specifications or other provisions which are made a part of this contract, by reference or otherwise, the Schedule and the General Provisions shall control. To the extent of any inconsistency between the Schedule and the General Provisions, the Schedule shall control.

(Fill in appropriate spaces)

This Contract consists of this Cover Page, the Schedule of ______ pages, including the Table of Contents, the General Provisions (form AID 1420-37, dated ______), the Additional General Provisions (form AID 1420-38, dated ______), and the Alterations in Contract Attachments, dated ______ .

UNITED STATES OF AMERICA
AGENCY FOR INTERNATIONAL DEVELOPMENT

Signature of Contractor

By *(signature of Contracting Officer)*

Typed or Printed Name

Typed or Printed Name

Date

Date

AID 1420-36 (10-81)

BILLING CODE 6116-01-C

Privacy Act Statement

This information is provided pursuant to Public Law 93-579 (Privacy Act of 1974), December 31, 1974, for individuals who complete this form.

The Executive Office of the President, Office of Management and Budget has required that all departments and agencies comply with the reporting requirements of Section 6041 of the Internal Revenue Code. Section 6041 states that all departments and agencies making payments totalling $600.00 or more in one year to a recipient for services provided must be reported to the Internal Revenue Service (IRS). The SSN and all financial numbers will be disclosed to Agency for International Development (AID) payroll office personnel and personnel in the Department of the Treasury, Division of Disbursements. AID will use this SSN to complete Form 1099 of the Code on non-employee compensation and other forms of income. Disclosure by the contractor of the SSN is necessary to obtain the services, benefits or processes provided by this contract. Disclosure of the SSN may be made outside AID (a) pursuant to any applicable routine use listed in AID's Notice for implementing the Privacy Act as published in the Federal Register, or (b) when disclosure by virtue of a contract being a public document after signatures are authorized under the Freedom of Information Act.

Contract No.——————

AID 1420-36 (10-81)

TABLE OF CONTENTS

Schedule

The Schedule on pages 2 through 5 consists of this Table of Contents and the following Articles:

General Provisions

The following provisions, numbered as shown below, omitting number(s) ——————, are the General Provisions (GP) of this Contract:

For a tour of duty of 1 year or more, "Additional General Provisions (AGP)" will be attached and be applicable to this contract. References to individual clauses should specify, for example, "GP 9" (insurance), or "AGP 9" (termination).

Schedule

[Note.—Use of the following Schedule articles are not mandatory. They are intended to serve as guidelines for contracting offices in drafting contract schedules. Article language may be changed to suit the needs of the particular contract.]

Article I—Statement of Duties

[The statement of duties shall include:

A. General statement of the purpose of the contract.

B. Statement of duties to be performed.

C. Any AID consultation or orientation.]

Article II—Period of Service Overseas

Within———days after written notice from the Contracting Officer that all clearances, including the doctor's certificate required under General Provisions Clause 3, have been received or unless another date is specified by the Contracting Officer in writing, the contractor shall proceed to ———where he/she shall promptly commence performance of the duties specified above. The contractor's period of service overseas shall be approximately———in———. (Specify time of duties in each location as well as authorized stopovers with purpose of each.)

Article III—Contractor's Compensation and Reimbursement in U.S. Dollars

A. Except to the extent reimbursement therefore is payable in the currency of the cooperating country pursuant to Article IV, AID shall pay the contractor compensation after it has accrued and reimburse him/her in U.S. dollars for necessary and reasonable costs actually incurred by him/her in the performance of this contract within the categories listed in paragraph C, below, and subject to the conditions and limitations applicable thereto as set out herein and in the attached General Provisions (GP).

B. The amount budgeted and available as personal compensation to the contractor is calculated to cover a calendar period of approximately———(days) (weeks) (months) (years) (which is to include (1) vacation, sick, and home leave which may be earned during the contractor's tour of duty (GP Clause No. 5, AGP Clause No. 4), (2)———days for authorized travel (GP Clause 10(b)), and (3)———days for orientation and consultation in the United States.

C. ALLOWABLE COSTS

1. Compensation at the rate of $——per (year) (month) (week) (day). Adjustments in compensation for periods when the contractor is not in compensable pay status shall be calculated as follows: Rate of $—— per (day) (hour)	$——
2. Overtime (Unless specifically authorized in the Schedule of this contract, no overtime hours shall be allowed hereunder)	
3. Overseas Differential (Ref. GP Clause No. 6.) Rate	
4. Allowances in Cooperative Country (Ref. GP Clause 6 and AGP Clause 5.)*	
5. Travel and Transportation (Ref. GP Clause 10 and AGP Clause 6.) (Includes the value of GTRs furnished by the Government, not payable to Contractor).*	
a. United States	
b. International	
c. Cooperating and Third Country	
Subtotal Item 5	
6. Subsistence or Per Diem (Ref. GP Clause 10 and AGP Clause 6.)*	
a. United States	
b. International	
c. Cooperating and Third Country	
Subtotal Item 6	
7. Other direct costs	
a. Health and Life Insurance (Ref. GP Clause 9-b)	
b. Precontract Costs, passport, visa, inoculations, etc. (Ref. GP Clause 8)	
c. Physical Examination (Ref. GP Clause 3 and AGP Clause 3.)	
d. Communications, miscellaneous	
Subtotal Item 7	
8. F.I.C.A.—U.S.G. contribution (not payable to contractor)	
Total estimated costs (lines 1 thru 8)	

*Do not include the value of any costs to be paid or reimbursed in local currency.

D. Maximum U.S.-Dollar Obligation

In no event shall the maximum U.S.-dollar obligation under this contract, exceed $———. Contractor shall keep a close account of all obligations he/she incurs and accrues hereunder and promptly notify the Contracting Officer whenever in his/her opinion the said maximum is not sufficient to cover all compensation and costs reimbursable in U.S. dollars which he/she anticipates under the contract.

Article IV—Costs Reimbursable and Logistic Support

A. General

The contractor shall be provided with or reimbursed in local currency (———) for the following:

[Complete]

B. Method of Payment of Local Currency Costs

Those contract costs which are specified as local currency costs in paragraph A. above, if not furnished in kind by the cooperating government or the Mission, shall be paid to the contractor in a manner adapted to the local situation, based on vouchers submitted in accordance with General Provisions Clause 11. The documentation for such costs shall be on such forms and in such manner as the Mission Director shall prescribe.

C. Cooperating or U.S. Government-Furnished Equipment and Facilities

List any logistical support, equipment, and facilities to be provided by the cooperating government or the U.S. Government at no cost to this contract; e.g., office space, supplies, equipment, secretarial support, etc., and the conditions, if any, for use of such equipment.

Article V—Precontract Expenses

No expense incurred before execution of this contract will be reimbursed unless such expense was incurred after receipt and acceptance of a precontract expense letter issued to the contractor by the Contracting Officer, and then only in accordance with the provisions and limitations contained in such letter. The rights and obligations created by such letter shall be considered as merged into this contract.

Article VI—Additional Clauses

[Additional Schedule clauses may be added, such as the implementation of General Provisions or Additional General Provisions clauses.]

Attachment 2 to Appendix D—Form AID 1420-37, "General Provisions"

GENERAL PROVISIONS

Contract With a U.S. Citizen or U.S. Resident for Personal Services Abroad

To be used on tours of duty of less than 1 year. For tours of duty of 1 year or more these "General Provisions" will be supplemented by "Additional General Provisions."

Index of Clauses

1. Definitions

(a) "Administrator" means the Administrator or the Deputy Administrator of the Agency for International Development.

(b) "AID" means the Agency for International Development.

(c) "Contracting Officer" means the person executing this Contract on behalf of the U.S. Government, or his successor who is a properly designated Contracting Officer; and the term includes, except as otherwise provided in this Contract, the authorized representative of a Contracting Officer acting within the limits of his authority.

(d) "Contractor" means the individual engaged to serve in the cooperating country under this Contract.

(e) "Cooperating country" means the foreign country in or for which services are to be rendered hereunder.

(f) "Cooperating government" means the government of the cooperating country.

(g) "Economy class" air travel (also known as jeteconomy, air coach, tourist-class, etc.) means a class of air travel which is less than first class.

(h) "Government" means the United States Government.

(i) "Local currency" means the currency of the cooperating country.

(j) "Mission" means the United States AID Mission to, or principal AID office in, the cooperating country.

(k) "Mission Director" means the principal officer in the Mission in the cooperating country, or his designated representative.

(l) "Tour of duty" means the Contractor's period of service under this Contract and shall include orientation in the United States (less language training), authorized leave, and international travel.

(m) "Traveler" means the Contractor in authorized travel status.

(n) "Project Officer" means the AID official to whom the Contractor reports, and who is responsible for monitoring the Contractor's performance.

(o) "U.S. Resident", as used in this contract, means an alien immigrant, legally resident in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States, and having a valid "Alien Registration and Receipt Card" (Immigration and Naturalization Service forms I-151 or I-551).

2. Laws and Regulations Applicable Abroad

(a) *Conformity to Laws and Regulations of the Cooperating Country*

Contractor agrees that, while in the cooperating country, he shall abide by all applicable laws and regulations of the cooperating country and political subdivisions thereof.

(b) *Purchase of Sale of Personal Property or Automobiles*

To the extent permitted by the cooperating country, the purchase, sale, import or export of personal property or automobiles in the cooperating country by the Contractor shall be subject to the same limitations and prohibitions which apply to Mission U.S.-citizen direct-hire employees.

(c) *Code of Conduct*

The Contractor shall, during his tour of duty under this Contract, be considered an "employee" (or if his tour of duty is for less than 130 days, a "special Government employee") for the purposes of, and shall be subject to, the provisions of AID Handbook 24, Chapter 3. The Contractor acknowledges receipt of a copy of said provisions by his acceptance of this Contract.

3. Physical Fitness

The Contractor shall be required to be examined by a licensed doctor of medicine and the Contractor shall obtain from the doctor a certificate that, in the doctor's opinion, the Contractor is physically qualified to engage in the type of activity for which he is to be employed under the Contract and is physically qualified to reside in the cooperating country. A copy of the certificate shall be provided to the Contracting Officer prior to the Contractor's departure for the cooperating country or if this Contract is entered into in the cooperating country, the Contractor shall provide the certificate before he starts work under the Contract. The Contractor shall be reimbursed not to exceed $85 for the cost of the physical examination, plus reimbursement of charges for immunizations.

4. Workweek

The Contractor's workweek shall not be less than 40 hours, unless otherwise provided in the Schedule, and shall coincide with the workweek for those employees of the Mission on the cooperating country agency most closely associated with the work of this Contract. If the Contract is for less than full time (40 hours weekly), the leave earned shall be prorated.

5. Leave and Holidays

(a) *Vacation Leave*

(1) The Contractor shall earn vacation leave at the rate of 13 workdays per annum or 4 hours every 2 weeks. However, no vacation shall be earned if the tour of duty is less than 90 days.

(2) It is understood that vacation leave is provided under this Contract primarily for the purposes of affording necessary rest and recreation during the tour of duty in the cooperating country. All vacation leave earned by the Contractor will be used during the Contractor's tour of duty. Unless approved by the Contracting Officer or Mission Director, the maximum amount of vacation leave which the Contractor may take following the completion of his services overseas shll be limited to vacation leave earned by the Contractor during a 6-month period.

(b) *Sick Leave*

Sick leave is earned at a rate not to exceed 13 workdays per annum or 4 hours every 2 weeks. Unused sick leave may be carried over under an extension of this Contract but the Contractor will not be compensated for unused sick leave at the completion of this Contract.

(c) *Leave Without Pay*

Leave without pay may be granted only with the written approval of the Contracting Officer or Mission Director.

(d) *Holidays*

The Contractor, while serving abroad, shall be entitled to all holidays granted to U.S.-

citizen direct-hire employees by the Mission who are on comparable assignments.

6. Differential and Allowances

The following differential and allowances will be granted to the Contractor to the same extent and on the same basis as they are granted to U.S.-citizen direct-hire employees at the Mission by the Standardized Regulations (Government Civilians, Foreign Areas), as from time to time amended, except as noted to the contrary below:

	Applicable reference to standardized regulations
(a) Post differential	Chapter 500 and Tables in Chapter 900.
(b) Living quarters allowance	Section 130.
(c) Temporary lodging allowance	Section 120.
(d) Post allowance	Section 220.
(e) Supplemental post allowance	Section 230.
(f) Payments during evacuation	Section 600.

The allowances provided in paragraph (b) through (e) above shall be paid to the Contractor in dollars or in the currency of the cooperating country in accordance with the practice prevailing at the Mission, or the Mission Director may direct that the Contractor be paid a per diem in lieu thereof as prescribed by the Standardized Regulations (Government Civilians, Foreign Areas), as from time to time amended.

7. Social Security and Federal Income Tax

F.I.C.A. contributions and U.S. Federal Income Tax withholding shall be deducted in accordance with regulations and rulings of the Social Security Administration and the U.S. Internal Revenue Service, respectively.

8. Advance of Dollar Funds

If requested by the Contractor and authorized in writing by the Contracting Officer, AID will arrange for an advance of funds to defray the initial cost of travel, travel allowances, authorized precontract expenses, and shipment of personal property. The advance shall be granted on the same basis as to an AID U.S.-citizen direct-hire employee in accordance with AID Handbook 22, Chapter 4.

9. Insurance

(a) *Workmen's Compensation Benefits*

The Contractor shall be provided workmen's compensation benefits in accordance with the Federal Employees Compensation Act.

(b) *Health and Life Insurance*

The Contractor shall be reimbursed for the cost of personal health and life insurance premiums not to exceed $175 per annum.

(c) *Insurance on Private Automobiles*

If the Contractor or his dependents transport, or cause to be transported, privately owned automobile(s) to the cooperating country, or any of them purchase an automobile within the cooperating country, the Contractor agrees to insure that all such automobile(s) during such ownership within the cooperating country will be covered by a paid-up insurance policy issued by a reliable company providing the following minimum coverages, or such other minimum coverages as may be set by the Mission Director, payable in U.S. dollars or its equivalent in the currency of the cooperating country: injury to persons, $10,000/$20,000; property damage, $5,000. The Contractor further agrees to deliver, or cause to be delivered to the Mission Director, the insurance policies required by this clause or satisfactory proof of the existence thereof, before such automobile(s) is operated within the cooperating country. The premium costs for such insurance shall not be a reimbursable cost under this Contract.

(d) *Claims for Private Personal Property Losses*

The Contractor shall be reimbursed for private personal property losses in accordance with AID Handbook 23, "Overseas Support", Chapter 10.

10. Travel and Transportation Expenses

(a) *General*

AID/Washington Office of Management Operations, or such other office as may be designated by that office, may furnish Transportation Requests (TR's) to the Contractor for transportation originating in the United States authorized by this Contract, and the executive or administrative officer at the Mission may furnish TR's for such authorized transportation which is payable in local currency or is to originate overseas. When transportation is not provided by Government-issued TR, the Contractor shall procure his own transportation, the costs of which will be reimbursed in accordance with the following:

(b) *Travel and Transportation*

(1) *U.S. Travel and Transportation*

The Contractor shall be reimbursed for actual transportation costs and travel allowances in the United States as authorized in the Schedule or approved in advance by the Contracting Officer or the Mission Director. Transportation costs and travel allowances shall not be reimbursed in any amount greater than the cost of, and time required for, economy-class commercial-scheduled air travel by the most expeditious route except as otherwise provided in paragraph (6) below, unless economy air travel is not available and the Contractor certifies to this in his voucher or other documents submitted for reimbursement.

(2) *International Travel*

(i) The Contractor shall be reimbursed for actual transportation costs and travel allowances from place of residence in the United States (or other location, provided that the cost of such travel does not exceed the cost of travel from the place of residence), to post of duty in the cooperating country and return to place of residence in the United States (or other location, provided that the cost of such travel does not exceed the cost of travel from the post of duty to the place of residence) upon completion of his duties. Such transportation costs shall not be reimbursed in an amount greater than economy-class commercial-scheduled air travel by the most expeditious route, except as otherwise provided in paragraph (b)(6) below and unless economy air travel is not available and the Contractor certifies to the facts in the voucher or other documents he submits for reimbursement. When travel to or from the cooperating country is by economy-class accommodations, the Contractor will be reimbursed for the costs of transporting up to 22 pounds gross weight of accompanied personal baggage in addition to that regularly allowed with the economy ticket, provided that the total number of pounds of baggage does not exceed that reqularly allowed for first-class travelers. Travel allowances shall be at the rate of $6 per day for not more than the travel time required by scheduled economy-class commercial air carrier using the most expeditious route and computed in accordance with the Federal Travel Regulations, as from time to time amended. One stopover en route for a period not to exceed 24 hours is allowable when the Contractor uses economy-class accommodations for a trip of 14 hours or more of scheduled duration. Such stopover shall not be authorized when travel is by indirect route for the convenience of the Contractor. Per diem during authorized stopover shall be paid in accordance with the Federal Travel Regulations, as from time to time amended.

(ii) *Unaccompanied Baggage*

Except as provided in the Schedule or approved by the Contracting Officer, the Contractor who is on a tour of duty of 90 days or more under the Contract shall be reimbursed for the cost of unaccompanied personal effects not to exceed 250 pounds gross weight via airfreight from place of residence in the United States (or other location, provided that the cost of such shipment does not exceed the cost of shipment from the place of residence) to post of duty in the cooperating country and return to place of residence in the United States (or other location, provided that the cost of such shipment does not exceed the cost of shipment from the post of duty to the place of residence) upon completion of his duties.

(iii) *Local Travel*

The Contractor shall be reimbursed at the rates established by the Mission Director for authorized travel in the cooperating country in connection with duties directly referable to work under this Contract. In the absence of such established rates, the Contractor shall be reimbursed for actual costs of authorized travel in the cooperating country if not provided by the cooperating government or the Mission in connection with duties directly referable to work hereunder, including travel allowances at rates prescribed by the Standardized Regulations (Government Civilians, Foreign Areas), as from time to time amended.

(iv) *Special International Travel and Third-Country Travel*

For special travel which (*1*) advances the purpose of the Contract, (*2*) is not otherwise provided by the cooperating government, and (*3*) has the prior written approval of the Contracting Officer or the Mission Director, the Contractor shall be reimbursed for (i) the costs of international transportation other than between the United States and the cooperating country and for local transportation within other countries, and (ii) travel allowances while in official travel status and while performing services under the Contract in such other countries at rates prescribed by the Standardized Regulations (Government Civilians, Foreign Areas), as from time to time amended.

(v) *Indirect Travel for Personal Convenience*

(*1*) When travel is performed by an indirect route for the personal convenience of the traveler, the allowable costs of such travel will be computed on the basis of the cost of economy class air fare via the direct usually traveled route between the authorized points of departure and destination.

(*2*) If such costs include fares for air or ocean transportation by foreign-flag carriers, approval for indirect travel by such foreign-flag carrier pursuant to paragraph (ix)(*1*) below must be obtained from the Contracting Officer or the Mission Director before such travel is undertaken, otherwise only that portion of travel accomplished by U.S.-flag carriers will be reimbursable within the above limitation of allowable costs.

(vi) *Delays En Route*

The Contractor may be granted reasonable delays en route while in travel status, not circuitous in nature, which are caused by events beyond the control of the Contractor. It is understood that if the delay is caused by physical incapacitation, the Contractor shall be eligible for such sick leave as is provided under GP Clause No. 5(b) of this Contract.

(vii) *Privately Owned Automobiles (POV)*

(*1*) If travel by POV is authorized in the Schedule or approved by the Contracting Officer, the Contractor shall be reimbursed for the cost of travel in his privately owned automobile at the rate per mile equal to the rate authorized a U.S. Government employee in equivalent circumstances, plus authorized per diem, if the automobile is being driven in connection with (A) authorized orientation, (B) authorized duties under this Contract, or (C) en route to or from the cooperating country provided that the total cost of the mileage and the per diem to the Contractor shall not exceed the total constructive cost of fare and normal per diem by (1) surface common carrier or (2) less than first-class air, whichever is the lesser

(*2*) Cost of the shipment of automobiles for Contract tours of duty of less than 1 year are not reimbursable under this Contract.

(viii) *Emergency and Irregular Travel and Transportation*

Actual transportation costs and travel allowances while en route, as provided in this section, shall be reimbursed under the following conditions:

(*1*) Subject to the prior written approval of the Mission Director, the costs of going from post of duty in the cooperating country to the United States or other approved location for the Contractor when, because of reasons or conditions beyond his control, the Contractor has not completed his required service in the cooperating country. The Mission Director may also authorize the return to the cooperating country of such Contractor.

(*2*) It is agreed that paragraph (viii)(*1*) above includes, but is not necessarily limited to, the following:

1. Need for medical care beyond that available within the areas to which the Contractor is assigned.

2. Serious effect on physical or mental health if residence is continued at assigned post of duty.

3. Serious illness, injury, or death of a member of the Contractor's immediate family. Travel shall be authorized in accordance with emergency visitation travel granted to U.S.-citizen direct-hire employees under Chapter 699 of the Standardized Regulations (Government Civilians, Foreign Areas).

4. Emergency evacuation, when ordered by the principal U.S. Diplomatic Officer in the cooperating country. Allowances at safe haven when authorized by the Mission Director shall be payable in accordance with established Government Regulations.

5. Preparation and return of the remains of a deceased Contractor.

(ix) *Preference for U.S. Flag Air Carriers (Jan. 1977)*

(*1*) Pub. L. 93–623 requires that all Federal agencies and Government contractors and subcontractors will use U.S. flag air carriers for international air transportation of personnel (and their personal effects) or property to the extent service by such carriers is available. It further provides that the Comptroller General of the United States shall disallow any expenditure from appropriated funds for international air transportation on other than a U.S. flag air carrier in the absence of satisfactory proof of the necessity therefor.

(*2*) The contractor agrees to utilize U.S. flag air carriers for international air transportation of personnel (and their personal effects) or property to the extent service by such carriers is available.

(*3*) In the event that the contractor selects a carrier other than a U.S. flag air carrier for international air transportation, he will include a certification on vouchers involving such transportation which is essentially as follows:

Certification of Unavailability of U.S. Flag Air Carriers

I hereby certify that transportation service for personnel (and their personal effects) or property by certificated air carrier was unavailable for the following reasons: (state reasons) *

*Note.—FPR 1-1.323-3, requires that expenditures for service furnished by a noncertificated air carrier generally will be allowed only when service by a certificated air carrier or carriers is "unavailable" as indicated by the June 17, 1975, Comptroller General's memorandum (B-138942) entitled "Guidelines for Implementation of Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974"; as amended on October 1980. The criteria contained in the amended memorandum are reproduced below:

(a) Passenger or freight service by a certificated air carrier is considered "available" even though:

(1) Service by a noncertificated air carrier can be paid for in excess foreign currency, or

(2) Service by a noncertificated air carrier is preferred by the agency or traveler needing air transportation, or

(3) Service by a noncertificated air carrier is more convenient for the agency or traveler needing air transportation.

(b) Passenger service by a certificated air carrier will be considered to be "unavailable".

(1) When certificated air carriers offer only first class service, and less than first class service is available from noncertificated air carriers, or

(2) When the traveler, while en route has to wait 6 hours or more to transfer to a certificated air carrier to proceed to the intended destination, or

(3) When any flight by a certificated air carrier is interrupted by a stop anticipated to be 6 hours or more for refueling, reloading, repairs, etc., and no other flight by a certificated air carrier is available during the 6 hour period, or

(4) When by itself or in combination with other certificated or noncertificated air carriers (if certificated air carriers are "unavailable") it takes 12 or more hours longer from the original airport to the destination airport to accomplish the agency's mission then would service by a noncertificated air carrier or carriers.

(5) When the elapsed traveltime on a schedule flight from origin to destination airports by noncertificated air carrier(s) is 3 hours or less and service by certificated air carrier(s) would involve twice such scheduled traveltime.

(*4*) The terms used in this clause have the following meanings:

(A) "International air transportation" means transportation of persons (and their personal effects) or property by air between a place in the United States and a place outside thereof or between two places both of which are outside the United States.

(B) "U.S. flag air carrier" means one of a class of air carriers holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board, approved by the President, authorizing operations between the United States and/or its territories and one or more foreign countries.

(C) The term "United States" includes the fifty states, Commonwealth of Puerto Rico, possessions of the United States, and the District of Columbia.

(x) The contractor shall include the substance of this clause, including this paragraph (x), in each subcontract or purchase hereunder which may involve international air transportation.

11. Payment

(a) Once each month (or at more frequent intervals, if approved by the paying office indicated on the Cover Page), the Contractor may submit to such office form SF 1034 Public Voucher for Purchases and Services Other Than Personal (original) and SF 1034-A (three copies), each voucher identified by the AID contract number, properly executed in the amount of dollars claimed during the period covered. The voucher forms shall be supported by:

(1) The Contractor's detailed invoice, in original and two copies indicating for each amount claimed, the paragraph of the Contract under which payment is to be made, supported when applicable as follows:

(i) *For compensation*—a statement showing period covered, days worked, and days when Contractor was in authorized travel, leave, or stopover status for which compensation is claimed. All claims for compensation will be accompanied by, or will incorporate, a certification signed by the Project Officer covering days or hours worked, or authorized travel or leave time for which compensation is claimed.

(ii) *For travel and transportation*—a statement of itinerary with attached carrier's receipt and/or passenger's coupons, as appropriate.

(iii) *For reimbursable expenses*—an itemized statement supported by original receipts.

(2) The first voucher submitted shall include a fully executed Form W-4,

Employees Withholding Exemption Certificate, to permit required withholding by AID, such as Federal Income Tax, F.I.C.A. deductions, and, when applicable, state income tax. The first voucher shall also account for, and liquidate the unexpended balance of, any funds theretofore advanced to the Contractor.

(b) A final voucher shall be submitted by the Contractor promptly following completion of the duties under this Contract but in no event later than 120 days (or such longer period as the Contracting Officer may in his discretion approve in writing) from the date of such completion. The Contractor's claim, which includes his final settlement of compensation, shall not be paid until after the performance of the duties required under the terms of this Contract has been approved by AID. On receipt and approval of the voucher designated by the Contractor as the "final voucher" submitted on form SF 1034 (original) and SF 1034–A (three copies), together with a refund check for the balance remaining on hand of any funds which may have been advanced to the Contractor, the Government shall pay any amounts due and owing the Contractor.

12. Conversion of U.S. Dollars to Local Currency

Upon arrival in the cooperating country, and from time to time as appropriate, the Contractor shall consult with the Mission Director or his authorized representative who shall provide, in writing, the policy the Contractor shall follow in the conversion of U.S. dollars to local currency. This may include, but not be limited to, the conversion of said currency through the cognizant U.S. Disbursing Officer, or Mission Controller, as appropriate.

13. Post of Assignment Privileges

(a) Health room services of the same type that are normally provided to AID direct-hire U.S. citizen employees are generally available for U.S. citizen contractor or subcontractor employees and their authorized dependents (regardless of citizenship) at the post of duty. These services do not include hospitalization, or predeparture or end of tour medical examinations. The services do include such medications as may be available, immunizations and preventive health measures, diagnostic examinations and advice, emergency treatment, and home visits as medically indicated.

(b) Privileges such as the use of APO, PX's, commissaries and officer's clubs are established at posts abroad pursuant to agreements between the U.S. and host governments. These facilities are intended for and usually limited to members of the official U.S. establishment including the Embassy, AID Mission, U.S. Information Service and the Military. Normally, the agreements do not permit these facilities to be made available to non-official Americans.

14. Security Requirements

(a) The provisions of the following paragraphs of this clause shall apply to the extent that this Contract involves access to classified information ("Confidential," "Secret," or "Top Secret") or access to administratively controlled information ("Limited Official Use"). Contractors that are not U.S. citizens shall not have access to classified or administratively controlled information.

(b) The Contractor (1) shall be responsible for safeguarding all classified or administratively controlled information in accordance with appropriate instructions furnished by the AID Office of Security, as referenced in paragraph (d) below and shall not supply, disclose, or otherwise permit access to classified information or administratively controlled information to any unauthorized person; (2) shall not make or permit to be made any reproductions of classified information or administratively controlled information except with the prior written authorization of the Contracting Officer or Mission Director; (3) shall submit to the Contracting Officer, at such times as the Contracting Officer may direct, an accounting of all reproductions of classified or administratively controlled information; and (4) shall not incorporate in any other project any matter which will disclose classified and/or administratively controlled information except with the prior written authorization of the Contracting Officer.

(c) The Contractor shall not permit any alien access to classified or administratively controlled information. The Contractor shall not permit any individual to have access to classified information or administratively controlled information without the prior written authorization of the Contracting Officer or Mission Director.

(d) The Contractor shall follow the procedures for classifying, marking, handling, transmitting, disseminating, storing, and destroying official material in accordance with the regulations in the Uniform Security Regulations (Foreign Affairs Manual, Chapter 5), a copy of which will be furnished by the Contracting Officer or Mission Director.

(e) The Contractor agrees to submit immediately to the Mission Director or Contracting Officer a complete detailed report, appropriately classified, of any information which the Contractor may have concerning existing or threatened espionage, sabotage, or subversive activity.

(f) The Government agrees that when necessary it shall indicate by security classification or administratively controlled designation, the degree of importance to the national defense of information to be furnished by the Contractor to the Government or by the Government to the Contractor and the Government shall give written notice of such security classification or administratively controlled designation to the Contractor and of any subsequent changes thereof. The Contractor is authorized to rely on any letter or other written instrument signed by the Contracting Officer changing a security classification or administratively controlled designation of information.

(g) The Contractor agrees to certify after completion of his assignment under this Contract that he has surrendered or disposed of all classified and/or administratively controlled information in his custody in accordance with applicable security instructions.

15. Contractor-Mission Relationships

(a) The Contractor acknowledges that this Contract is an important part of the U.S. Foreign Assistance Program and agrees that his duties will be carried out in such a manner as to be fully commensurate with the responsibilities which this entails.

(b) While in the cooperating country, the Contractor is expected to show respect for the conventions, customs, and institutions of the cooperating country and not interfere in its political affairs.

(c) If the Contractor's conduct is not in accordance with paragraph (b), the Contract may be terminated pursuant to the General Provision of this contract, entitled "Termination." The Contractor recognizes the right of the U.S. Ambassador to direct his/her immediate removal from any country when, in the discretion of the Ambassador, the interests of the United States so require.

(d) The Mission Director is the chief representative of AID in the cooperating country. In this capacity, he is responsible for the total AID Program in the cooperating country including certain administrative responsibilities set forth in this Contract and for advising AID regarding the performance of the work under the Contract and its effect on the U.S. Foreign Assistance Program. The Contractor will be responsible for performing his duties in accordance with the statement of duties called for by the Contract. However, he shall be under the general policy guidance of the Mission Director and shall keep the Mission Director or his designated representative currently informed of the progress of the work under the Contract.

16. Termination

This Contract may be terminated by the Contracting Officer:

(a) For cause, by giving not less than 10 calendar days advance written notice and a statement of reasons to the Contractor in the event (1) he commits a breach or violation of any of his obligations herein contained, (2) a fraud was committed in obtaining this contract, or (3) he is guilty (as determined by AID) of misconduct in the cooperating country. Upon such a termination, the Contractor's right to compensation shall cease when the period specified in such notice expires or the last day on which he performs services hereunder, whichever is earlier. No costs of any kind incurred by the Contractor after the date such notice is delivered to him shall be rembursed hereunder except cost of return transportation (not including travel allowances), if approved by the Contracting Officer. If any costs relating to the period subsequent to such date have been prepaid by AID, the Contractor shall promptly refund to AID any such prepayment as directed by the Contracting Officer.

(b) For the convenience of AID, by giving not less than 30 calendar days advance written notice to the Contractor. Upon such a termination, Contractor's right to compensation shall cease when the period specified in such notice expires except that the Contractor shall be entitled to return transportation costs and travel allowances and transportation of unaccompanied baggage costs at the rates specified in the Contract and subject to the limitations which apply to authorized travel status.

(c) For the convenience of AID, when the Contractor is unable to complete performance of his services under the Contract by reason of sickness or physical or emotional incapacity based upon a certification of such circumstances by a duly qualified doctor of medicine approved by the Mission. The Contract shall be deemed terminated upon delivery to the Contractor of a termination notice. Upon such a termination, the Contractor shall not be entitled to compensation except to the extent of any unused vacation or sick leave but shall be entitled to return transportation, travel allowances, and unaccompanied baggage costs at rates specified in the Contract and subject to the limitations which apply to authorized travel status.

17. Disputes (FPR Temp. Reg. 55) (May 1980)

(a) This Contract is subject to the Contract Disputes Act of 1978 (Pub. L. 95-563).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved in accordance with this clause.

(c)(1) As used herein, "claim" means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment or interpretation of contract terms, or other relief, arising under or relating to this contract.

(2) A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim for the purposes of the Act. However, where such submission is subsequently not acted upon in a reasonable time, or disputed either as to liability or amount, it may be converted to a claim pursuant to the Act.

(3) A claim by the Contractor shall be made in writing and submitted to the Contracting Officer for decision. A claim by the Government against the Contractor shall be subject to a decision by the Contracting Officer.

(d) For Contractor claims of more than $50,000, the Contractor shall submit with the claim a certification that the claim is made in good faith; the supporting data are accurate and complete to the best of the contractor's knowledge and belief, and the amount requested accurately reflects the Contract adjustment for which the Contractor believes the Government is liable. The certification shall be executed by the Contractor if an individual. When the Contractor is not an individual, the certification shall be executed by a senior company official in charge at the Contractor's plant or location involved, or by an officer or general partner of the Contractor having overall responsibility for the conduct of the Contractor's affairs.

(e) For Contractor claims of $50,000 or less, the Contracting Officer must render a decision within 60 days. For Contractor claims in excess of $50,000, the Contracting Officer must decide the claim within 60 days or notify the Contractor of the date when the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) The authority of the Contracting Officer under the Act does not extend to claims or disputes which by statute or regulation other agencies are expressly authorized to decide.

(h) Interest on the amount found due on a Contractor claim shall be paid from the date the claim is received by the Contracting Officer until the date of payment.

(i) Except as the parties may otherwise agree, pending final resolution of a claim by the Contractor arising under the Contract, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Contracting Officer's decision.

18. Release of Information

All rights in data and reports shall become the property of the U.S. Government. All information gathered under the Contract by the Contractor and all reports and recommendations hereunder shall be treated as confidential by the Contractor and shall not, without the prior written approval of the Contracting Officer, be made available to any person, party, or government, other than AID, except as otherwise expressly provided in this Contract.

19. Officials Not To Benefit

No member of or delegate to the Congress or resident commissioner shall be admitted to any share or part of this Contract or to any benefit that may arise therefrom.

20. Covenant Against Contingent Fees

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, AID shall have the right to annul this Contract without liability or in its discretion to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

21. Notices

Any notice, given by any of the parties hereunder, shall be sufficient only if in writing and delivered in person or sent by telegraph, telegram, registered, or regular mail as follows:

To AID:

Administrator
Agency for International Development
Washington, D.C. 20523
Attention: Contracting Office
(name of the cognizant Contracting Officer with a copy to the appropriate Mission Director)

To Contractor: At his post of duty while in the cooperating country and at the Contractor's address shown on the Cover Page of this Contract or to such other address as either of such parties shall designate by notice given as herein required. Notices hereunder shall be effective in accordance with this clause or on the effective date of the notice, whichever is later.

22. Reports

(a) The Contractor shall submit two copies of each written technical report prepared under the terms of this Contract (e.g., progress reports, final report, ect.) to the AID Reference Center, Agency for International Development, Washington, D.C. 20523. The title page of all reports forwarded to the AID Reference Center shall include the contract number, the project number and the project title which are set forth on the Cover Page of this Contract.

(b) When preparing reports, the Contractor shall refrain from using elaborate art work, multicolor printing and expensive paper/binding, unless it is specifically authorized in the Schedule of this Contract. Wherever possible, pages should be printed on both sides using single spaced type.

23. Use of Pouch Facilities (Dec. 1980)

(a) Use of diplomatic pouch is controlled by the Department of State. The Department of State has authorized the use of pouch facilities for AID Contractors as a general policy, as detailed in items (1) through (6) below. However, the final decision regarding use of pouch facilities rests with the Embassy or AID Mission. In consideration of the use of pouch facilities as hereinafter stated, the Contractor agrees to indemnify and hold harmless the Department of State and AID for loss or damage occuring in pouch transmission.

(1) Contractors are authorized use of the pouch for transmission and receipt of up to a maximum of 2 pounds per shipment of correspondence and documents needed in the administration of assistance programs.

(2) U.S. citizen Contractors are authorized use of the pouch for personal mail up to a maximum of one pound per shipment (but see (a)(3) below). Non U.S. citizen Contractors are not permitted use of the pouch for personal mail except and to the extent that such use may be authorized by the Chief of Mission.

(3) Merchandise, parcels, magazines, or newspapers are not considered to be personal mail for purposes of this clause, and are not authorized to be sent or received by pouch.

(4) Official and personal mail pursuant to (a) (1) and (2) above, sent by pouch, should be addressed as follows:

Name of individual (followed by letter symbol "C")
Name of post (USAID/)
Agency for International Development
Washington, D.C. 20523

(5) Mail sent via the diplomatic pouch may not be in violation of U.S. Postal laws and may not contain material ineligible for pouch transmission.

(6) AID contractors are *not* authorized use of military postal facilities (APO/FPO). This is an Adjutant General's decision based on existing laws and regulations governing military postal facilities and is being enforced worldwide. Posts having access to APO/FPO facilities and using such for diplomatic pouch dispatch may, however, accept official and personal mail for the pouch provided, of course, adequate postage is affixed when onward transmission (mail to other than

AID/W) through U.S. postal channels is required.

(b) The Contractor shall be responsible for compliance with these guidelines and limitations on use of pouch facilities.

(c) Specific additional guidance on use of pouch facilities in accordance with this clause is available from the Post Communication Center at the Embassy or AID Mission.

Attachment 3 to Appendix D—Form AID 1420–38, "Additional General Provisions"

ADDITIONAL GENERAL PROVISIONS

Contract with a U.S. Citizen or U.S. Resident for Personal Services Abroad

(To be used along with the General Provisions for a tour of duty of 1 year or more.)

Table of Contents

1. Definitions (Long Tour)

(a) "Dependents" means:

(1) *Spouse.*

(2) *Children* (including step and adopted children) who are unmarried and under 21 years of age or, regardless of age, are incapable of self-support.

(3) *Parents* (including step and legally adoptive parents) of the employee or of the spouse, when such parents are at least 51 percent dependent on the Contractor for support.

(4) *Sisters and brothers* (including step or adoptive sisters or brothers) of the Contractor, or of the spouse, when such sisters and brothers are at least 51 percent dependent on the Contractor for support, unmarried and under 21 years of age, or regardless of age, are incapable of self-support.

(b) "Traveler" also means dependents of the Contractor who are in authorized travel status.

2. Laws and Regulations Applicable Abroad

(a) *Conformity to Laws and Regulations of the Cooperating Country*

While in the cooperating country, the Contractor agrees he will make every effort to assure that his authorized dependents shall abide by all applicable laws and regulations of the cooperating country and political subdivisions thereof.

(b) *Purchase, Sale, Import, or Export of Personal Property or Automobiles*

To the extent permitted by the cooperating country, the purchase, sale, import, or export of personal property or automobiles by the Contractor's authorized dependents in the cooperating country shall also be subject to the same limitations and prohibitions which apply to U.S.-citizen direct-hire employee dependents.

3. Physical Fitness (Long Tour)

(a) *Predeparture*

The Contractor's authorized dependents shall also be required to be examined by a licensed doctor of medicine. The Contractor shall require the doctor to certify that, in the doctor's opinion, the Contractor's authorized dependents are physically qualified to reside in the cooperating country. A copy of the certificate shall be provided to the Contracting Officer prior to the dependent's departure for the cooperating country.

(b) *End of Tour*

The Contractor and his authorized dependents are authorized physical examinations within 60 days after completion of the Contractor's tour of duty.

(c) *Reimbursement*

The Contractor shall be reimbursed for the physical examinations mentioned in paragraphs (a) and (b) above as follows: (1) not to exceed $65 per examination for the Contractor's dependents of 12 years of age and over and (2) $25 per examination for Contractor's dependents under 12 years of age. The Contractor shall also be reimbursed for the cost of immunizations.

4. Leave and Holidays (Long Tour)

(a) *Vacation Leave*

With the approval of the Mission Director, and if the circumstances warrant, a Contractor may be granted advance vacation leave in excess of that earned but in no case shall a Contractor be granted advance vacation leave in excess of that which he will earn over the life of the Contract. The Contractor agrees to reimburse AID for leave used in excess of the amount earned during the Contractor's assignment under the Contract.

(b) *Military Leave*

Military leave of not more than 15 calendar days in any calendar year may be granted to a Contractor who is a reservist of the Armed Forces, provided that such military leave has been approved in advance by the Contracting Officer or the Mission Director.

(c) *Home Leave*

(1) Home leave is leave earned for service abroad for use only in the United States, in the Commonwealth of Puerto Rico, or in the possessions of the United States.

(2) A Contractor who is a U.S. citizen or U.S. resident and has served at least 2 years overseas, as defined in paragraph (c)(4) below, under this Contract, and has not taken more than 30 workdays leave (vacation, sick, or leave without pay) in the United States, may be granted home leave of not more than 15 calendar days for each such year of service overseas; provided, that the Contractor agrees to return overseas upon completion of home leave under an additional 2 year appointment, or for such shorter period of not less than 1 year of overseas service under the Contract as the Mission Director may approve in advance. Home leave must be taken in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States, and any days spent elsewhere will be charged to vacation leave or leave without pay.

(3) Notwithstanding the requirement in paragraph (c)(2) above, that the Contractor must have served 2 years overseas under this Contract to be eligible for home leave, Contractor may be granted advance home leave subject to *all* of the following conditions:

(i) Granting of advance home leave would in each case serve to advance the attainment of the objectives of this Contract;

(ii) The Contractor shall have served a minimum of 18 months in the cooperating country on his current tour of duty under this Contract; and

(iii) The Contractor shall have agreed to return to the cooperating country to serve out the remainder of his current tour of duty and an additional 2 year appointment under this Contract, or such other additional appointment of not less than 1 year of overseas service as the Mission Director may approve.

(4) The period of service overseas required under paragraph (c)(2), or paragraph (c)(3) above, shall include the actual days in orientation in the United States (less language training) and the actual days overseas beginning on the date of departure from the U.S. port of embarkation on international travel and continuing, inclusive of authorized delays en route, to the date of arrival at the U.S. port of debarkation from international travel. Allowable vacation and sick leave taken while overseas, but not leave without pay, shall be included in the required period of service overseas. An amount equal to the number of days of vacation and sick leave taken in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States will be added to the required period of service overseas.

(5) Salary during travel to and from the United States for home leave will be limited to the time required for travel by the most expeditious air route. The Contractor will be responsible for reimbursing AID for payments made during home leave if, in spite of the undertaking of the new appointment, the Contractor, except for reasons beyond his control as determined by the Contracting Officer, does not return overseas and complete the additional required service. Unused home leave is not reimbursable under this Contract.

(6) To the extent deemed necessary by the Contracting Officer, a Contractor in the United States on home leave may be authorized to spend not more than 5 days in work status for consultation on-campus or at AID/Washington before returning to post of duty. Consultation at locations other than AID/Washington or on-campus, as well as any time in excess of 5 days spent for consultation, must be approved by the Mission Director or the Contracting Officer.

(7) Except as provided in the Schedule or approved by the Mission Director or the Contracting Officer, home leave is not authorized for third-country nationals.

5. Allowances (Long Tour)

The following allowances shall also be granted to the Contractor and his authorized dependents to the same extent, and on the same basis as, they are granted to AID employees and their dependents by the Standardized Regulations (Government Civilians, Foreign Areas), as from time to time amended:

	Applicable reference to standardized regulations
(a) Educational allowance	Chapter 270.
(b) Educational travel	Chapter 280.
(c) Separate maintenance allowances.	Chapter 260.

The allowances provided in paragraphs (a) through (c) above shall be paid to the Contractor in dollars or in the currency of the cooperating country in accordance with the practice prevailing at the Mission.

6. Travel and Transportation Expenses (Long Tour)

(a) *General*

Pursuant to paragraph (a) of Clause 10 of the General Provisions, when transportation is not provided by Government-issued TR for the items listed below, the Contractor shall procure his own transportation, the costs of which will be reimbursed in accordance with the following:

(1) *International Travel*

(i) International travel costs and allowances and stopovers for authorized dependents shall be reimbursed on the same basis as for the Contractor under General Provision Clause No. 10(b)(2)(i) of this Contract except that travel allowances for such dependents shall be at the rate of $6 per day for persons 11 years of age or over and $3 per day for persons under 11 years of age payable for not more than the travel time required by scheduled economy class commercial air carrier using the most expeditious route and computed in accordance with the Federal Travel Regulations, as from time to time amended.

(ii) *1.* All international ocean transportation of things which is to be reimbursed in U.S. dollars as authorized under this Contract shall be by U.S.-flag vessels to the extent they are available. When U.S.-flag vessels are not available, or their use would result in a significant delay, the Contractor may request a release from this requirement from the SER/COM, Transportation Support Division, Agency for International Development, Washington, D.C. 20523, giving the basis for the request.

2. All international air transportation of dependents shall be in accordance with paragraph (b)(9) of Clause 10 of the General Provisions, entitled "Preference for U.S. Flag Air Carriers."

(b) *Limitation on Travel by Dependents*

Travel costs and allowances will be allowed for authorized dependents of the Contractor and such costs shall be reimbursed for travel from place of abode in the United States to assigned station in the cooperating country and return, only if the dependent remains in the cooperating country for at least 9 months or one-half of the required tour of duty of the Contractor, whichever is greater, except as otherwise authorized hereunder for education, medical, or emergency visitation travel.

(c) *Delays En Route*

Dependents may be granted reasonable delays en route, not circuitous in nature, while in travel status, caused by events beyond the control of such dependents.

(d) *Travel by Privately Owned Automobile (POV)*

Notwithstanding the provisions of paragraph (b)(7) of Clause 10 of the General Provisions, if travel by POV is authorized in the Schedule or approved by the Contracting Officer, the Contractor shall be reimbursed for the cost of travel in his privately owned automobile at the rate per mile equal to the rate authorized a U.S. Government employee in equivalent circumstances, plus authorized per diem for the Contractor and for each of the authorized dependents traveling in the automobile if the automobile is being driven in connection with (1) authorized orientation, (2) authorized duties under this Contract, or (3) en route to or from the cooperating country as authorized in the Schedule; provided that the total cost of the mileage and the per diem paid to all authorized travelers shall not exceed the total constructive cost of fare and normal per diem by all authorized travelers by (i) surface common carrier or (ii) less-than-first-class air, whichever is the lesser.

(e) *Emergency and Irregular Travel and Transportation*

Notwithstanding the provisions of paragraph (b)(8) of Clause 10 of the General Provisions, actual transportation costs and travel allowances while en route, as provided in this section, will also be reimbursed under the following conditions:

(1) Subject to the prior written approval of the Mission Director, the costs of going from post of duty in the cooperating country to the United States or other approved location for the Contractor and authorized dependents, when because of reasons or conditions beyond his control, the Contractor has not completed his required service in the cooperating country or the dependent must leave the cooperating country. The Mission Director may also authorize the return to the cooperating country of such Contractor and/or his authorized dependents.

(2) It is agreed that paragraph (e)(1) above, includes but is not necessarily limited to the following:

(i) Need for medical care beyond that available within the area to which Contractor is assigned.

(ii) Serious effect on physical or mental health if residence is continued at assigned post of duty.

(iii) Serious illness, injury, or death of a member of a Contractor's immediate family or the immediate family of a dependent. Travel may be authorized in accordance with emergency visitation travel granted to U.S.-citizen direct-hire employees and their dependents under Chapter 699 of the Standardized Regulations (Government Civilians, Foreign Areas).

(iv) Emergency evacuation, when ordered by the principal U.S. Diplomatic Officer in the cooperating country. Transportation and travel allowances at safe haven and the transportation of household effects and automobile or storage thereof when authorized by the Mission Director shall be payable in accordance with established Government regulations.

(v) Preparation and return of the remains of a deceased Contractor of his dependents.

(f) *Transportation of Motor Vehicles, Personal Effects, and Household Goods*

(1) *General*

Transportation, including packing and crating costs, will be paid for shipment from Contractor's residence in the United States or other location (provided that the cost of transportation does not exceed the cost from the Contractor's residence) to post of duty in the cooperating country and return to the Contractor's residence in the United States or other location (provided that the cost of transportation does not exceed the cost to the Contractor's residence), (i) of one privately owned motor vehicle for the Contractor subject to the restrictions contained in paragraph (h) below, (ii) of personal effects of the Contractor, and (iii) of household goods of Contractor not to exceed the following limitations:

	Basic household furniture not supplied (pounds net weight)	Basic household furniture supplied (pounds net weight)
Contractor with dependents in cooperating country	7,500	2,500
Contractor without dependents in cooperating country	4,500	1,500

Note.—For the purpose of this Clause, "net weight" and "gross weight" are defined and determined in accordance with the provisions of Section 162.1 of the Uniform State/AID/USICA Foreign Service Travel Regulations.

The cost of transporting motor vehicles and household goods shall not exceed the cost of packing, crating, and transportation by surface common carrier. In the event that the carrier does not require boxing or crating of motor vehicles for shipment to the cooperating country, the cost of boxing or crating is not reimbursable. The transportation of a privately owned motor vehicle for a Contractor may be authorized as a replacement of the last such motor vehicle shipped under this Contract for such Contractor when the Mission Director determines, in advance, and so notifies the Contractor in writing, that the replacement is necessary for reasons not due to the negligence or malfeasance of the Contractor. The determination shall be made under the same rules and regulations that apply to authorized Mission U.S.-citizen direct-hire employees.

(2) *Unaccompanied Baggage*

The Contractor will be reimbursed for costs of shipment of unaccompanied baggage (in addition to the weight allowance above for household effects) not to exceed the following:

	Gross weight
Employee	250 lbs.
First dependent traveling	200 lbs.
Second dependent traveling	150 lbs.
Each additional dependent traveling	100 lbs.

This unaccompanied baggage may be shipped as air freight by the most direct route between authorized points of origin and destination regardless of the modes of travel used.

Unaccompanied baggage is considered to be those personal belongings needed by the traveler immediately upon arrival at destination.

(3) *Reduced Rates on U.S.-Flag Carriers*

Reduced rates on U.S.-flag carriers are in effect for shipments of household goods and personal effects of AID Contractors between certain locations. These reduced rates are available provided the shipper furnishes to the carrier at the time of the issuance of the Bill of Lading documentary evidence that the shipment is for the account of AID. The Contracting Officer will, on request, furnish to the Contractor current information concerning the availability of a reduced rate with respect to any proposed shipment. The Contractor will not be reimbursed for shipments of household goods or personal effects in amounts in excess of the reduced rates which are available in accordance with the foregoing.

(g) *Storage of Household Effects*

The cost of storage charges (including packing, crating, and drayage costs) in the United States of household goods of Contractor will be permitted, in lieu of transportation of all or any part of such goods to the cooperating country under paragraph (f) above, provided that (1) the total amount of household goods shipped to the cooperating country and stored in the United States shall not exceed 4,500 pounds net for each Contractor without dependents in the cooperating country and 7,500 pounds net for each Contractor with dependents in the cooperating country, and (2) at least 200 pounds net of household effects will be stored; quantities of less than 200 pounds net stored will not be reimbursed.

(h) *Transportation of Foreign-Made Motor Vehicles*

Reimbursement of the costs of transporting a foreign (non-U.S.) made motor vehicle will be made in accordance with the provisions of the Uniform State/AID/USICA Foreign Service Travel Regulations, as from time to time amended, on the same basis as a U.S. Government employee.

(i) *Home Leave Travel*

The Contractor shall be reimbursed for the cost of travel performed by Contractor and dependents for purposes of home leave, provided that such reimbursement does not exceed that authorized by the Uniform State/AID/USICA Foreign Service Travel Regulations.

(j) *Rest and Recuperation Travel*

If approved in writing by the Mission Director, the Contractor and his dependents shall be allowed rest and recuperation travel on the same basis as authorized U.S.-citizen direct-hire Mission employees and their dependents.

7. Orientation and Language Training

(a) Except as set forth in paragraph (b)(4) below, the Contractor shall receive a maximum of 2 weeks AID orientation before travel overseas. The dates of orientation shall be selected by the Contractor and approved by the Contracting Officer from the orientation schedule provided by AID.

(b) As either set forth in the Contracting Schedule, or provided in writing by the Contracting Officer, the following may be authorized taking into consideration specific job requirements, Contractor's prior overseas experience, or unusual circumstances, in connection with orientation of individual Contractors:

(1) Modified orientation,

(2) Language training,

(3) Orientation for Contractor's dependents at Contract expense,

(4) Waiver of orientation for individual Contractor.

(c) Transportation costs and travel allowances not to exceed one round trip from the Contractor's residence to place of orientation and return will be reimbursed, pursuant to Clause 10 of the General Provisions, entitled "Travel and Transportation Expenses," if the orientation is more than 50 miles from the Contractor's residence. Allowable salary costs during the period of orientation are also reimbursable.

8. Post of Assignment Privileges (Dependents)

(a) Health room services of the same type that are normally provided to AID direct-hire U.S. citizen employees are generally available for U.S. citizen contractor or subcontractor employees and their authorized dependents (regardless of citizenship) at the post of duty. These services do not include hospitalization, or predeparture or end of tour medical examinations. The services do include such medications as may be available, immunizations and preventive health measures, diagnostic examinations and advice, emergency treatment, and home visits as medically indicated.

(b) Privileges such as the use of APO, PX's, commissaries and officer's clubs are established at posts abroad pursuant to agreements between the U.S. and host governments. These facilities are intended for and usually are limited to members of the official U.S. establishment including the Embassy, AID Mission, USICA, and the Military. Normally, the agreements do not permit these facilities to be made available to non-official Americans.

9. Termination

If the Contract is terminated for the convenience of the Government pursuant to Clause 16 of the General Provisions, the Contractor shall also be entitled to return transportation costs and travel allowances for authorized dependents, transportation of motor vehicle, personal effects, and household goods, if any or all of the above are authorized in this Contract, subject to the limitations which apply to such costs.

Appendix E—Contract Closeout Procedures

1. Purpose

This appendix establishes procedures for the orderly and expeditious closeout of completed AID/W and Mission direct contracts.

2. Closeout Procedures

(a) For the purpose of this appendix, the "closeout phase" is defined as the period of time extending from the date the work has been completed by the contractor (including submission of all reports required under the contract) until all remaining administrative actions have been satisfactorily accomplished and the contract file is retired. The closeout procedures are administered by the Support Services Branch, Office of Contract Management (CM/SD/SS).

(b) AID organizational elements accomplish their respective responsibilities during the closeout phase as follows:

(1) *Fixed-price contracts.* Within 4 months after the contractor has completed the work.

(2) *Cost-reimbursement contracts.* Within 21 months after the contractor has completed the work.

(c) Contract records are not officially retired by the contracting office until the closeout phase is completed.

3. Responsibility

(a) *Contracting office.* The contracting officer is responsible for:

(1) Identifying outstanding closeout actions.

(2) Contacting other offices within AID having responsibilites during the closeout phase for status information.

(3) Assuring that all closeout actions have been accomplished as evidenced by the information provided by responsible offices on the checklist form.

(4) Initiation of follow-up measures, as necessary, on administrative actions which have not been completed within a reasonable time.

(5) Submitting any contract file to the Office of the General Counsel for review when he/she feels that: (i) Litigation may be involved, or (ii) there is a legal problem which GC should comment on before the contract is closed out.

(b) *Other AID offices.* Other AID offices (e.g., the technical office, Inspector General, AID/W or Mission Security, AID/W paying office or Mission Controller, and the Mission) are responsible for:

(1) Accomplishing administrative actions on a work-completed contract as expeditiously as possible.

(2) Providing completed checklist forms or other status information as requested by the contracting officer in accordance with the procedures in this appendix.

4. Procedures

(a) As soon as feasible, but not more than 90 days after completion of the work under a contract (including receipt of all reports required thereunder), the contracting officer, or his/her designated representative, reviews the contract records to identify the outstanding closeout actions which must be accomplished prior to retiring the contract.

(b) The contracting officer or his/her designated representative (CM/SD/SS for AID/W) prepares and sends two copies of Form AID 1420-15, Contract Closeout Checklist, to each of the indicated AID action offices as follows:

Part I—AID/W Technical Office (Form AID 1420-15A).

Part II—AID/W Security or Mission Security Office (Form AID 1420-15B).

Part III—AID/W IG Audit (Form AID 1420-15C).

Part IV—AID/W Paying Office or Mission Controller (Form AID 1420-15D).

Part V—Mission (Form AID 1420-15E).

(c) The above checklists are sent concurrently to the action offices indicated. Each action office returns one copy of the completed part of the checklist to the contracting officer by the date indicated on the form. Additional remarks or comments by the action office may be attached to their reply. In closing out a mission contract, it may be necessary to obtain certain information from AID/W offices before completing the checklist. If an office indicates on the checklist that one or more items are still pending, they forward the second and final signed copy of the checklist when all of their outstanding actions have been completed.

(d) The contracting officer, or his/her designated representative, follows up periodically on outstanding administrative actions that have not been accomplished within a reasonable period of time.

(e) The contracting officer shall certify to the security office when the contractor has given notification that all classified information in the contractor's possession has been properly disposed of or retained (see Part VI, item 8 of Form AID 1420–15F).

(f) When the contracting officer has received the completed, certified checklists from the other action offices, he/she completes Part VI, the Contracting Office Checklist (Form AID 1420–15F), assembles all checklist parts in order, signs the certification in paragraph B of Part VI, and places the document in the contract file. The signed checklist and support data then constitute the necessary authority to officially retire the contract file.

5. Availability of Contract Closeout Checklist

The six part contract closeout checklist, Form AID 1420–15, is stocked by the AID Distribution Branch (MO/PUM) and by the Support Division, Office of Contract Management. Mission contracting offices should order their supply through the AID Distribution Branch (MO/PUM); AID/W contracting offices, through the Support Division, Office of Contract Management.

Apendix F—Use of Collaborative Assistance Method for AID Direct Contracts for Technical Assistance

1. Introduction

(a) AID direct contracts for technical assistance are now classified in one of three categories depending on the source selected to perform the services. They are:

(1) Architect/engineer services provided with a technical assistance project;

(2) Services to be performed by an educational/nonprofit institution; and

(3) Services to be performed by commercial contractors, or others, as a result of competitive negotiation.

(b) Procurement policies and procedures for architect/engineer services are contained in the AID Acquisition Regulations (Subpart 736.6). Services to be performed by commercial contractors, or others, as a result of competitive negotiation will now be procured under policies and procedures contained in FAR 15.4.

(c) For the procurement of services to be performed by educational institutions, international research centers, or cooperative development organizations, there are two Subparts to the AIDAR. The first of these, 715.613–70, Educational Institution and International Research Center Selection Procedure will be used whenever it has been determined that required services or relationships necessary for the successful performance of the project are available only from an educational institution or international research center (except contracts negotiated under 715.613–71, Collaborative Assistance Selection Procedure).

(d) The second of these, 715.613–71, Collaborative Assistance, introduces an additional approach for obtaining services from educational institutions, international research centers, or cooperative development organizations, and is the major concern of this appendix.

2. Purpose

This appendix describes an alternative contractual relationship known as the collaborative assistance approach for the following purposes:

(a) Increasing the joint implementation authority and responsibility of the contractor and the LDC;

(b) Encouraging more effective collaboration between all participating parties (AID, host country, and contractor) at important stages, including the design stage, of a technical assistance project.

3. Policy

The collaborative assistance approach represents an alternative method for long-term technical assistance which involves professional collaboration with educational institution, international research center, or cooperative development organization contractors and LDC counterparts for a problem-solving type activity to develop new institutional forms and capabilities, to devise operating systems and policies, and to conduct joint research and development—including training. In such an activity, the difficulty in defining, in advance, precise and objectively verifiable contractor inputs and long-term project content as a basis for payment usually requires a flexible approach to project design, contracting, and project implementation. Such flexibility is also essential to the collaborative style which is responsive to LDC desires in problem areas of great complexity and varying uncertainty. Other types of technical assistance, which are usually shorter in term are amenable to more precise definition in advance, or involve closely defined and relatively standardized services, or are otherwise more analogous to commodity resource transfers, may be suitable for other contracting methods, e.g., certain forms of institution building, on-the-job training, resource surveys, etc. The collaborative assistance method is an approved method for providing technical assistance when used in accordance with the circumstances outlined above, and with the guidelines set forth in paragraph 4, below.

4. Implementation Procedures

(a) *Introduction.* This paragraph 4, provides background information, guidelines and procedures to effect the implementation of the policy set forth in paragraph 3 of this appendix.

(b) *Conditions and practices.* In order for this policy to work effectively even when the proposed activity fits the criteria described under Policy, there must also be:

(1) Acceptance of the notion that the host country, in consultation with the contractor, is in the best position to make tactical, day-to-day decisions on project inputs within agreed-upon limitations and output expectations;

(2) Sufficient trust and respect between the Agency and the contractor to allow this flexible implementation authority;

(3) A direct-hire project monitor with appropriate background to be knowledgeable of progress and to assist in an advisory and facilitative capacity, both during and between periodic reviews. In addition, the following important conditions must be met:

(i) Adequate preproject communication between, and identification of assistance required by, the host government and USAID;

(ii) Full joint planning and improved project design ("Joint" as used herein refers to the primary parties, i.e., the collaborating institutions, as well as the host government and USAID. In some instances, it can also include other donors.);

(iii) Careful contractor selection, i.e., matching of the contractor's technical and managerial capabilities to the anticipated requirements of the overseas activity;

(iv) Establishment of relationships between host country, AID and contractor staff to include host country leadership, flexible implementation authority, and effective management by the contractor;

(v) Improved joint project evaluation, feedback, and replanning; and

(vi) Simplified administrative procedures and greater reliance on in-country logistical support.

(c) *Project Stages and Contractor Involvement.* In the long-term technical assistance projects as described above, there are four discrete but sometimes overlapping decision stages which take place—with the principal contractor usually involved in the last three.

(1) *Problem analysis and project identification.* After the host government has indicated a desire for U.S. collaboration on a particular problem and the AID field mission has determined that the proposed activity is consistent with its program goals and priorities, considerable effort is usually necessary to refine further the project purpose and type of assistance required and provide a basis for contractor selection. This is a crucial step and is focused on results sought—on what the prospective contractor is expected to produce in relation to resources to be used and to project purpose. It should result in a clear understanding of what the LDC wants, and an overall plan which includes agreement on specific objectives or outputs, acceptable types of activities and inputs and an initial budget—resulting in project documentation. At this step, AID makes decisions it cannot delegate on what it will support and at what cost. If needed to supplement its direct-hire expertise, AID can use outside consultants

for analysis and advice but retains the ultimate decision for itself in collaboration with, but independent of, the requesting host government. (Normally, the proposed contractor for project definition and subsequent implementation should not have been involved in the problem analysis and project identification stage as a consultant to either the host country government, host institution, or USAID. If a potential contractor has been so involved, particular care must be taken to prevent actual or apparent organizational conflicts of interest in the procurement that follows. This could require at a minimum, a careful assessment and complete documentation of reasons for selection.)

Normally, there will need to be some mutual interaction between the overall planning stage outlined here and the detailed planning and design work which follows in the next phase. There will usually be some overlap, with preliminary decisions in this stage providing a basis for selection of implementing agents for stage (2) which in turn proceeds through some preliminary planning to guide completion of stage (1) as a basis for long-term contracting.

(2) *Project definition.* At this stage, having selected the implementing agent, the U.S. and LDC organizations which will be collaborating in carrying out the project are encouraged to work out, to their mutual satisfaction, the particulars of what to do and how to do it (i.e., detailed project design) within the context of LDC leadership and responsibility and the general agreements and budget reached in stage (1). The emphasis here is on the technical approach to be utilized and the scheduling and management of project inputs. This may involve a short-term reconnaissance and/or an extensive period of detailed joint planning and feeling out of what is feasible during a preliminary operating phase of the project, possibly lasting as much as a year or more. This stage recognizes the importance, for the problem-solving or ground breaking types of technical assistance, of involving the U.S. and LDC implementing organizations together as soon as the detailed design work begins. AID's role here is to facilitate, not direct, the joint planning, assure consistency with prior agreements or concur in changes, affirm that the implementing parties have agreed on a reasonable project design, and prepare or cause to be prepared the documentation required for stage (3), including any amendments that might be required to the project documentation. If and when a decision is made by the host government and AID to proceed into the operating phase with the same contractor, the U.S. intermediary should be treated as a cooperating partner in the negotiation of the subsequent long-term operating agreement(s) with the host government, host institution and AID.

(3) *Implementation.* The results of the approach outlined in the stage above should include, in addition to a better understanding and more meaningful commitment by all parties, the following specific products:

(i) A jointly developed life-of-project design which reflects the commitment of all parties and includes clear statements of purpose, principal outputs, eligible types of activity and expenditure limits, critical assumptions, and major progress indicators;

(ii) A workplan and input schedule for the first two years or at least as long as the expenditure period for the next obligation of project funds;

(iii) Provisions for any administrative support, special services or other inputs by the host country, contractor, and/or AID; and

(iv) A plan for periodic joint evaluation and review or progress and subsequent workplans, normally annually, with the participation of all parties.

Appropriate elements of these agreements and understandings are now embodied in a contract for project implementation, as described in paragraph (d)(3)(i) of the section on Contracting Implications. This contract allows the U.S. intermediary to apply its judgment, reflecting close collaboration with its LDC colleagues, in adjusting the flow of AID-financed inputs and in making other operational decisions with a minimum of requirements for prior AID approvals or contract amendments as long as the contractor stays within the bounds of the approved overall plan and budget. In this phase, AID will give technical assistance contractors the authority and responsibility for using their specialized expertise to the fullest extent in the scheduling and managing of project inputs.

(4) *Monitoring, joint evaluation and replanning.* With increased flexibility and responsibility for implementation placed with the technical assistance contractor, the host government, and/or institutional collaborator, improved and timely progress reporting and periodic, joint, and structured reviews of results and evolving plans are imperative as a basis for monitoring and evaluating contractor performance, revalidating or adjusting project design, and for determining future funding levels and commitments.

Both the contractor's annual report and the joint review should be structured within the framework of purpose, outputs, performance indicators, etc., originally established in the project indentification phase—as modified by detailed project design—and reflected in the Project Agreement and other pertinent documentation. The field review will normally serve as the occasion for discussing changes in or additions to previously agreed-to workplans as well as proposing changes in purpose, types of activities authorized and budgets which require contract amendment. Obviously, the appropriate host government, host institution, and senior contractor officials should be thorougly involved in the process, which will have to be adapted to the conditions within specific projects and countries. An important USAID responsibility is to assure that there is appropriate host country participation in developing and improving project plans prior to new obligations of funds. The special requirements and responsibilities of the various parties shall also be reflected in the project agreement and contract terms and in guidelines on the content of annual reports, evaluation procedures, etc.

Standard checking on services actually delivered as a basis for reimbursement will be continued including appropriate audit of expenditures.

(d) *Contracting implications.* The principal elements of change in present contracting practices, as detailed below, are earlier selection and involvement of the prime contractor, contracting by major stages of project design and operations, minimizing the need for precontract negotiations and contract amendments and AID approvals, and providing technical assistance contractors with the authority and responsibility needed to manage implementation within the approved program bounds.

(1) *Selection.* The early involvement of the contractor in the definition stage of a long-term technical assistance project, after AID decides what it wants to undertake in stage (1), does not alter the Agency's responsibility to select its contractors carefully and in full compliance with appropriate contracting regulations and selection procedures. What is required here is that contractor selection be carried out at an earlier stage than has sometimes been the Agency practice in the past or with other types of contracts and in anticipation that the contractor, assuming adequate performance, will participate in all subsequent phases until final completion.

(2) *Contracting stages.* In contracting, the initial design stage should be separated from the longer term implementation stage without any AID commitment to undertake the second until it has exercised its independent judgment based on the product of the first plus any outside expert appraisal it and the host country want to use.

The long-term implementation stage itself may be further subdivided into contract periods which permit time between predetermined events for analysis, determination of new project requirements, and evaluation of performance prior to initiating the next phase by contract amendment/extension. If, for any reason, such an examination does not appear to warrant project continuation, then termination of the project and/or contract would be the next step.

(3) *Flexible implementation authority.* While good project design will eliminate or diminish many operational problems, the very nature of long-term technical assistance requires flexible implementation within agreed purposes, ultimate outputs, types of activity and available financing. With these key variables for AID management control established, contracts should be written so as to minimize the need for amendments and AID approval of changes in input particulars. This can be facilitated, both for the USAID, host country, institution, and the contractor by:

(i) *Retention of operational plan in contract and removal of workplan.* The contract narrative will contain the life-of-the-project Operational Plan, consistent with the project design as developed in stage (2) and reflected in the project documentation (and subsequent amendments thereto). The Operational Plan includes a statement of the purpose to be achieved, the outputs to be produced by the contractor and the types of activities to be undertaken, the more significant indicators of progress, a general description of the type of inputs that are authorized and intended to be provided during the life of the project, and the overall budget.

In order to allow adjustments at the implementation level without going through the contract amendment process, the detailed but short-term workplan containing specific descriptions and scheduling of all inputs such as numbers and types of staff, participants, commodities, etc., and specific activities, will not be a part of the contract. It is a working document to be modified in the field when the situation demands. The latest version will be available as a supporting document to justify proposed new obligation levels. Normally, the workplan and derived budget will cover a rolling two year period, i.e., each year another yearly increment is added after review and approval.

(ii) *Budget flexibility.* To support this implementation flexibility, contract budget or fiscal controls will be shifted from fixed line items for each input category to program categories, permitting the technical assistance contractor to adjust amounts and timing to achieve previously approved types of activity. This same type of flexibility should apply to any local currency supplied for project operations and/or contractor staff support. While an essential corollary to eliminating the workplan from the contract, this is not a unique procedure under cost reimbursement type contracts when the contractor has demonstrated adequate management capability.

(iii) *Negotiation of advance understandings.* To permit university and international research center contractors to manage their activities in accordance with their own policies and procedures and thereby sharpen their management responsibility while achieving substantial savings in time and reduced documentation, AID may negotiate advance understandings with its technical assistance contractors on dollar costs and administrative procedures that would be included by reference in its subsequent contracts. Upon receipt of a request from the contractor that their policies be reviewed and approved for usage in their contract in lieu of the standard terms and conditions, CM/SOD/OSC, AID/W will initiate negotiations of such policies in an expeditious manner. The approved policies will be used in all relevant relations involving the Agency and respective contractors in lieu of traditional contract standard provisions, whenever this may be appropriate. This does not apply to local currency costs and host government procedures which must be negotiated in each case.

The purpose of the practices listed above is not only to give a qualified contractor the authority to adjust the composition and timing of inputs but to assign to it clear responsibility for managing such resources, as the evolving circumstances require, to achieve the agreed-upon outputs on a cost efficient basis. It should also reduce the delay and paperwork involved in frequent but minor contract amendments, and approvals. For the agency as a whole, both in the Mission and in AID/W, these have involved a large workload and cost.

(e) *Role of AID.* Nothing in this appendix is intended to delegate, diminish or otherwise modify AID's final responsibility for the prudent management of public funds and its own programs. Rather in withdrawing from the day-to-day involvement in and responsibility for the management of adjustment of the flow of inputs during the implementation, the best use of limited agency staff and time can be devoted to protecting the public interest in gaining maximum results from the funds appropriated for technical assistance by:

(1) Seeking optimum identification in terms of LDC priorities and U.S. capabilities;

(2) Mobilizing and selecting the best U.S. professional talent to design and carry out the project;

(3) Monitoring what is happening to assure adequacy of processes, get a feel of results, assure actual delivery of inputs being financed;

(4) Assuring that the attention of AID's implementation agents and LDC colleagues stay well focused on project purpose and results to be achieved (outputs) and the relation to these of what is being done and actual results;

(5) Providing intermediaries adequate authority and responsibility to adjust inputs promptly and sensitively to the evolving project situations.

Attention to these considerations, and to achievements of the preimplementation conditions prescribed above, should greatly increase the chances for successful project completion and impact on a cost effective basis, which is the final measurement of prudent management.

Appendix F—Guidelines for Requests for Expressions of Interest (REI) Under the Collaborative Assistance Method

A. Length and Level of Detail

A request for xpression of Interest (REI) should include more than just a short letter expressing interest, but should not be in the detail of a technical proposal (RFTP). The REI is not the only source of information that can or should be used for selection, but at least a minimum level of information should be contained in each document. A ten page paper that responds to the selection criteria included in every REI should be sufficient for evaluation purposes. The selection criteria should specify the technical inputs required for successful execution of the project and normally require a response in three general areas:

1. A description of the institution's capability to address the problem described in the REI.

2. Any related experience, whether in the country or region or in the problem area.

3. A demonstrable commitment of the institution to support the project.

The responses should address the capability, experience, and commitment to the particular project.

B. Specific Personnel Information

The response should specify within the areas set out in the selection criteria the following planning and personnel factors.

1. The design team plan and the scope of work for each member.

2. A list of candidates for the design team and their credentials.

3. A list of possible candidates for long-term assignment to the project. (Since there has been no project design, the specific technical assistance slots and technical responsibilities are vague. But it is expected that at least half of the personnel needs can be estimated early in the project. The institution should make its best guess for the team and present to the Agency the persons or types of persons with whom they are likely to contract.)

C. Multiple Institution Submissions

Joint effort on the part of several institutions is encouraged when appropriate. A single institution may submit an expression of interest for part of the project without knowledge of other collaborators or it may submit information in response to A and B of this Appendix as part of a suggested collection of institutions. In either case, a proposed plan for cooperation is necessary.

However, such joint efforts must specify the division of responsibilities for the planning and personnel factors indicated in B of this Appendix. Often AID will identify the need for cooperation and suggest such an effort in the REI. Even if AID does not suggest collaboration, joint efforts with a description of the cooperation would be an appropriate way to respond to an REI.

Appendix G—Approval and Reporting Procedures for Contractor Salaries

I. Purpose

This appendix does the following:

(a) Provides guidelines for the use of prudent judgment when considering salaries, especially salaries exceeding the FS–1 maximum salary limitation (5 U.S.C. 5308 and Pub. L. 95–66);

(b) Establishes procedures for justification of salary approvals;

(c) Prescribes procedures for control numbers and submission of copies of salary approvals to SER/CM/SD/SS;

(d) Establishes a seminannual report of salary approvals for the Deputy Administrator.

2. Procedures

(a) *Salary approvals.* In accordance with 731.205–6, 731.311–6, and 731.703, contracting officer approvals of salaries exceeding the FS–1 rate are to be based upon a memorandum from the technical office approved by the Assistant Administrator or Mission Director having program responsibility for the contract. The reasonableness of proposed salaries exceeding the FS–1 level must be evaluated by the appropriate technical office in terms of the technical competence required, scope of supervisory responsibilities involved, and the relationship of the proposed salary level to the individual's customary salary level for similar work. Even thorough approval of salary levels above the FS–1 rate are justified primarily by the Assistant Administrator or Mission Director having program responsibility, it is the contracting officer's responsibility to scrutinize increases as a matter of business acumen whenever AID negotiations deal with any salaries payable under contracts. Increases in the FS–1 statutory salary limitation are not, and shall not be by themselves, a basis for upward salary revisions of contractor employees. Proposals for such revisions should be considered normally when contracts are renewed, and must be carefully reviewed and negotiated to ensure that increases are not automatically granted without corresponding increases in the quality or quantity of services rendered. Salaries below the FS–1 maximum level should also be fully justified, even though formal approval procedures may not be involved. Personnel compensation negotiated and payable under AID contracts should be at the mimimum levels necessary to attract needed technical services in a competitive market. Rates should be determined by the "market place" where the types of services are obtained. Using such criteria, very few salaries can be expected to approach or exceed the FS–1 level.

Actual discussions with contractors concerning salaries should be held only by persons authorized to negotiate and execute contracts. (See AIDPR Appendix A.)

(b) *Justification of Approvals.* There will be cases where the services required are so unique and highly specialized that few persons are available to perform them. In such instances, if justifications for exceptional salaries are needed, particularly where the salary would exceed the FS–1 level, the project officer will be consulted. If no alternative can be found, the project officer will prepare a salary justification to support the negotiator's action. It is the negotiator's responsibility to see to it that such cases are fully justified and that a complete record of the rationale is included in his memorandum for the contract file.

3. Approval Control Numbering and Submission to SER/CM

Copies of all approvals of salaries that exceed that FS–1 level are required to be sent to SER/CM/SD/SS. To assist SER/CM in determining that they are receiving all copies from each approving office, approving officials will have a consecutive control number starting each fiscal year assigned to each approval by their office, the record of which will be maintained separately from other approval documents.

4. Semiannual Report to the Deputy Administrator

Commencing with March 31, 1978, a semiannual report listing all salary approvals that exceed the FS–1 maximum level will be sent to the Deputy Administrator of AID by the Office of Contract Management.

Appendix H—Response to Audit Recommendations

1. Purpose

This appendix establishes consolidated procedures for responding to post-award audit reports. The procedures in this appendix are not applicable to pre-contract audit surveys.[1]

2. Applicability

The procedures set forth in this appendix apply to all audit recommendations concerning costs questioned under AID-direct contracts whether the recommendation is assigned to SER/CM, or to a Mission or Area Contracting Officer.

3. The Role of the Inspector General

(a) *Legislative and procedural requirements.* Public Law 96–304, July 8, 1980 (Section 305) requires that audits involving questioned costs be resolved within six months. Further, OMB Circular A–73, Audit of Federal Operations and Programs, requires that each agency establish policies and procedures for prompt and proper resolution of audit recommendations, and establish standards for such policies and procedures. The Administrator has approved procedures for audit follow-up and resolution, as recommended by the Inspector General (IG).

(b) *IG responsibilities.* (1) The IG and Regional Inspectors General (RIG) are responsible for tracking and following up on audit recommendations to insure prompt and proper resolutions, and for reporting on monetary recoveries resulting from audit reports. Following receipt of the contracting officer's disposition of the substance of an audit recommendation, the IG and RIG are responsible for determining whether or not to officially close the recommendations.

(2) If the cognizant RIG has not received satisfactory evidence of resolution of an audit recommendation within four months of issuance, the RIG will request a status report from the office assigned action responsibility (see also paragraph 5b(3) of this appendix). If no evidence of satisfactory resolution is received by six month, the IG follows up directly with the cognizant Assistant Administrator. The IG may request the Deputy Administrator to take action on any recommendation open for more than six months.

(3) If the cognizant RIG does not agree to an action office's disposition of an audit recommendation, the RIG will first attempt to resolve the issue with the action office. If this is unsuccessful, the issue will be referred to the IG, who will attempt resolution with the cognizant office head or Assistant Administrator. If the issue cannot be resolved at this level, it can then be referred by IG to the Deputy Administrator for decision. (See also paragraph 4.b., concerning the role of the contracting officer.)

(4) If the cognizant RIG questions a contracting officer's decision not to seek recovery of audit questioned cost, the RIG may submit the issue to the cognizant Regional Legal Advisor, or to the General Counsel's Office. (See also paragraph 4.b., concerning the role of the contracting officer.)

4. The Role of the Contracting Officer

(a) Pursuant to the Contract Disputes Act of 1978 (41 U.S.C. 601–613), as implemented in FAR Part 33, and as provided in FAR 1.6 and Subpart 701.6 of the AIDAR, contracting officers have the authority to negotiate and enter into settlements with contractors of costs questioned under audit reports. With this authority goes the responsibility for insuring that such settlements are properly justified and documented, and promptly executed.

(b) A negotiated settlement of questioned costs, executed by the contractor and the contracting officer; or a contracting officer's final decision pursuant to the disputes clause (in the event questioned costs are not settled by negotiated agreement), are final, subject only to a contractor's appeal, either under the provisions of the Disputes Act, or to the Courts. Regardless of internal controls, such as IG or RIG's right to maintain a recommendation as open (see paragraph 3.b(3) of this Appendix, or to question a contracting officer's decision regarding questioned costs (see paragraph 3.b(4) of this Appendix), the contracting officer's decision as between the Government and the contractor is final, subject to established methods of contractor appeal. Authority to negotiate settlements, or make final decisions on questioned costs rests with duly delegated contracting officers alone.

5. Procedures

In order to insure that resolutions of audit recommendations are properly justified and documented, the following procedures are established:

(a) *General.* (1) Copies of all correspondence concerning resolution of an audit recommendation must be promptly sent to the cognizant RIG. All correspondence provided to the cognizant RIG should include the contractor's name, the contract number(s), and the audit report and recommendation number(s).

(2) In transmitting post-award audit reports to action offices, the RIG's attached memoranda shall identify each contract by its number and request an initial written response within 30 days. Under the Agency's audit recommendation follow-up system, the RIG's are following up to insure that action offices provide the 30-day responses. The IG is required to provide a copy of the initial response to several Congressional Committees. It is recognized that the initial response to audit reports questioning contract costs takes the form of a notification to the contractor by the contracting officer. The cognizant RIG will accept copies of the contracting officer's notification as the initial response to the audit report if:

—The notification clearly indicates the title and/or number of the audit report.

—The notification covers all the cost issues raised in the audit report. If it does not, the cognizant RIG requires a separate memorandum explaining the contracting officer's position on the remaining cost issues.

(3) Action offices have six months from receipt of an audit recommendation to resolve that recommendation; however, every effort will be made to resolve the recommendation within 120 days of its receipt. The contracting officer is responsible for keeping the cognizant RIG informed regarding the status of open audit recommendations in accordance with the

[1] Contracting officers often request audit advice and assistance in evaluating contractor's proposals prior to award. FAR 15808(b) requires the contracting officer to provide a copy of the memorandum of negotiation to the auditor (the cognizant RIG) when a pre-award survey has been performed, to inform the auditor of the disposition and usefulness of the pre-award survey. Provision of a copy of the memorandum of negotiation to the cognizant RIG, pursuant to FAR 15.808(b), constitutes response to a pre-award audit survey.

procedures established in this Appendix. If for any reason a recommendation cannot be resolved within the 120 day period, the contracting officer must so advise the cognizant RIG in writing, giving the reasons. This notification is to be provided as soon as possible, but in any event at least two weeks before expiration of the 120 day period. The contracting officer is also responsible for insuring that RIG's four-month follow-up (see paragraph 3.b(2) of this Appendix is promptly answered. For details on RIG's four and six month follow-up procedures, see paragraph 3.b(2), above.

(4) Responses to audit recommendations must be in writing, properly documented to clearly explain the action taken. When the contracting officer is satisfied that action on a recommendation has been completed, and the file properly documented, he or she should specifically request that the cognizant RIG consider the audit recommendation closed (see paragraph 6 of this Appendix). The cognizant RIG should be requested to notify the contracting officer promptly, in writing, if for any reason they are not prepared to officially close the recommendation, providing the reasons. Such notice should identify the contract number and refer to the contracting officer's last correspondence.

(b) *Audit recommendations questioning costs under AID direct contracts.* (These procedures are mandatory for audit recommendations assigned to SER/CM. It is recommended that they be applied, suitably adapted, to audit recommendations assigned to Missions which have been delegated contracting authority or to an area contracting officer).

(1) *Documentation and control.* (a) All correspondence to and from the cognizant RIG shall specify the contract number, contractor's name, audit report number, and recommendation number, plus the amount of the questioned costs allowed or sustained as disallowed by the contracting officer.

(b) All incoming audits containing recommendations for action by SER/CM are to be immediately submitted to CM/SD/SS. CM/SD/SS will log in the audit report, recording the recommendation numbers and established due dates for all recommendations assigned to SER/CM. CM/SD/SS will then transmit the audit, through the cognizant division chief, to the contracting officer with action responsibility.

(c) CM/SD/SS will establish a tickler file of recommendations assigned to SER/CM, and will provide internal reminders and follow-ups.

(d) The contracting officer will keep CM/SD/SS advised on the current status of open recommendations by providing CM/SD/SS with a copy of official audit-related correspondance between the contracting officer and the RIG. Any necessary follow up by CM/SD/SS to update data for preparation of reports shall be made through the cognizant division chief.

(2) *Notification, negotiation, and settlement.* (a) Within two weeks after receipt of the audit report, the contracting officer shall formally notify the contractor by letter of the costs questioned. This notification shall require the contractor to respond to the contracting officer within 30 calendar days of receiving the letter. If warranted in the circumstances, invite the contractor to participate in negotiations to arrive at a mutually acceptable resolution of such costs. If no response has been received within 30 calendar days following the initial notification to the contractor of the questioned costs, issue a follow-up letter to the contractor requesting a response within 20 calendar days. In this follow-up the contractor should be advised that failure to respond within the specified period will result in the issuance of a final decision, pursuant to the disputes clause of the contract. If no response is received 20 calendar days after the follow-up letter, the contracting officer makes a final decision in accordance with FAR 33.011 regarding the questioned costs and issues, in writing, the appropriate contracting officer's decision as authorized in the Disputes clause of the contract. A copy of each letter, and any decision, shall be sent to the cognizant RIG (and, when the audit recommendation is assigned to SER/CM, to CM/SD/SS).

(b) If the contractor responds to the contracting officer's letter identifying questioned costs, but an acceptable settlement is not achieved with a reasonable period of time (normally, 3 months from the date of initial notification), the contracting officer shall consider negotiations to have reached an impasse. The contracting officer shall then issue the appropriate decision as authorized in the disputes clause of the contract. A copy of this decision must be sent to the cognizant RIG (and, when the audit recommendation is assigned to SER/CM, to CM/SD/SS). See also paragraph 5b(4) of this Appendix regarding notification of the Controller.

(c) Normally, the contractor will respond to notification of questioned costs, and a mutually acceptable settlement can be negotiated. Such negotiated settlements must be documented for the contract file by the contracting officer. The written record must include:

(i) The initial audit findings, in detail, including all questioned costs, item by item.

(ii) The contracting officer's position, as reflected in the notification to the contractor, on each of the audit findings, and questioned costs. If there are any differences between the contracting officer's position and that of the audit, these must be explained, showing exactly what the differences are, why, and how they were arrived at (including discussions, comments, and advise or clearances by other offices).

(iii) A final summary analysis showing the audit finding; the contracting officer's initial position; the contractor's response; subsequent positions of both parties, and final resolution. This must be in sufficient detail to permit any reasonable person to understand what the issues were, how much was involved, what items were adjusted (plus how much and why), what the final resolution was, and why.

A copy of this written record, clearly marked to indicate the audit report and recommendation number(s) must be sent to the cognizant RIG (and, when the audit recommendation is assigned to SER/CM, to CM/SD/SS). See also paragraph 5b(4) of this Appendix, regarding notification of the Controller.

(3) *Collection.* The preferred method of collection is through the issuance of a Bill for Collection, in accordance with Agency policy on cash management. Use of any other collection method must be coordinated in advance with FM/PAD. Bills for Collection are issued by the Controller in accordance with the procedures set forth in paragraph 5b(4) of this Appendix.

(4) *Notification of the controller.* (a) When a settlement has been negotiated, or a final decision has been issued pursuant to the disputes clause, it remains to collect the amount determined due to AID (substained disallowances). The contracting officer is responsible for notifying the Controller to issue a Bill for Collection. A copy of this notification must be sent to the cognizant RIG, and to IG/PPP (and to CM/SD/SS, for audits assigned to SER/CM).

(b) The notification to the Controller must contain the following information:

(i) Identification of the contract/task order/work order, providing the contract number, and the contractor's name and address;

(ii) The most recent accounting and appropriation data (PIO/T number and allotment number, etc.);

(iii) The amount due to AID;

(iv) The applicable audit and recommendation number(s); and

(v) A copy of the contracting officer's negotiated settlement or final decision pursuant to the disputes clause (see paragraph 5b(2) of this Appendix).

(c) The notification must request that a copy of the Bill for Collection be sent to the cognizant RIG, IG/PPP, and the contracting officer. The contracting officer is responsible for following up to insure that the Bill for Collection has been issued, and that a copy is in fact provided to the cognizant RIG and to IG/PPP, and is placed in the contract file.

(d) If the Contractor appeals the final decision pursuant to the disputes clause, the contracting officer must promptly notify the Controller to suspend collection pending resolution of the appeal. Suspension action by the Controller shall be taken in consultation with the Office of the General Counsel, pursuant to Delegation of Authority No. 80. The contracting officer is responsible for notifying the Controller regarding resolution of any appeal.

6. Closing Audit Recommendations

When the contracting officer has completed all action required by an audit recommendation in accordance with the procedures established in this appendix, he/she shall request that the recommendation be considered officially closed. The memorandum to the cognizant RIG shall specifically identify the audit report and recommendation number(s), summarize the actions taken, and explain why the recommendation(s) should be considered closed, providing sufficient evidence to permit the cognizant RIG to make a reasonable decision. For audit recommendations involving questioned costs which result in sustained disallowances, RIG and IG/PPP will accept a copy of the issued Bill for Collection as evidence to close a recommendation. A copy of the request to close a recommendation shall be sent to IG/PPP (and, for audits assigned to SER/CM, to CM/SD/SS).

7. Clearances

(a) *General.* All proposed post-award audit responses, whether to internal audits prepared by the IG, or to GAO audits, prepared by SER/CM are to be cleared in accordance with M/AAA/SER requirements in effect at the time the response is prepared. Responses prepared by Mission or Area contracting officers will be cleared in accordance with applicable Mission and Bureau procedures.

(b) *Final decisions pursuant to the disputes clause.* If settlement of an audit requires a final decision by the contracting officer in accordance with FAR 33.011, pursuant to the disputes clause, such decisions must be cleared by GC or the cognizant Mission or Regional Legal Advisor.

Appendix I—AID's Academic Publication Policy

1. Statement of Policy

This is a statement of AID policy on publication, or release to parties other than those specifically authorized, of unclassified materials gathered or developed under contracts with academic institutions.

2. Underlying Principles

AID favors and encourages the publication of scholarly research as well as the maximum availability, distribution, and use of knowledge developed in its program.

This policy statement does not deal with material that is classified for security reasons. It does deal with considerations of national interest, not of sufficient gravity to warrant security classification, but serious enough to affect adversely the conduct of U.S. assistance programs. Consequently, in addition to the requirements of courtesy, propriety, and confidence which normally guide scholars in their work, there should also be consideration of the potential repercussions of publication on the successful execution of development and other cooperative programs in which the United States and foreign countries are involved.

3. Operational Definitions

The Agency draws a distinction between two kinds of manuscripts which a scholar may wish to publish:

(a) A report which is prepared and delivered to the Agency under the terms of the contract (a "contract manuscript"); and

(b) An article or book based upon experience and information gained under an AID contract but not prepared or delivered under the contract (a "non-contract manuscript").

There are two kinds of actions, to be specified in the contract, which the Agency can take upon notification of a contractor's desire to publish:

(a) Comment only, under which AID and the foreign government involved may review the manuscript, and have their comments considered seriously by the contractor prior to publication; and

(b) Authorization for release, which AID may withhold if reconciliation between the national interest and the author's interest is impossible.

4. Policy Statements

(a) AID, as a general rule, will not require an academic institution to obtain permission to publish the written work produced under a contract. It will ask for the opportunity to review the manuscript for comment only, prior to publication.

In the case of a contract manuscript, AID reserves the right to disclaim endorsement of the opinions expressed; if it is a noncontract manuscript, AID reserves the right to disassociate itself from sponsorship or publication.

(b) On the other hand, AID may reserve the right of authorization for release in those exceptional cases where conditions exist making it reasonably foreseeable, in light of the contract's scope of work and the manner and place of performance, that the written work to be prepared and delivered under the contract may have adverse repercussions on the relations and programs of the United States. Where this right is reserved, it must be so specified in the contract. In determining where to reserve such right, AID will consider all relevant factors, including:

(1) The extent to which prompt and full performance of the contract will require access, facilitated by reason of the contract, to information not generally available to scholars;

(2) The extent to which the work involves matters of political concern to foreign countries, particularly where any substantial part of the work is to be performed therein;

(3) The extent to which, by reason of AID's close involvement and cooperation in the performance of the contract, the work product may be so identified with AID itself as to prevent effective disclaimer of AID endorsement thereof;

(4) The extent to which the objective of the contract is to provide advice to AID or to a foreign government of immediate operational significance in the conduct of the AID program or the implementation of governmental programs in the host country;

(5) The desires of the host country.

5. Implementation

The successful implementation of this policy on publication rests on a thorough understanding and acceptance of these principles by AID and the prospective contractor. The actual publications provision for a particular contract, then, would be so worded as to reflect the agreement reached in the contract negotations.

AID's concern with noncontract manuscripts is related to the identification of a manuscript with the U.S. Government. This concern will be modified by the passage of time following termination of the contract.

In the normal case of prepublication review for AID comment, the institution will submit a copy of the manuscript not later than the date of submission to the publisher. This gives the Agency time to comment if it is deemed appropriate. However, in the case of review for authorization, timely notification of AID's response will be given, consistent with the size of the manuscript and the number and location of the parties involved.

The Agency will make every effort to expedite this review procedure in accordance with the underlying principle described at the beginning of this policy statement.

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