

Federal Register

Tuesday
June 16, 1981

Part II

International Development Cooperation Agency

Agency for International Development

AID Procurement Regulations;
Reinstatement of Appendices

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

41 CFR Ch. 7-1

[AIDPR Notice 81-6]

Reinstatement of the Appendices in the AID Procurement Regulations

AGENCY: Agency for International Development.

ACTION: Final rule.

SUMMARY: This AIDPR Notice amends the AID Procurement Regulations (AIDPR) to reinstate the AIDPR Appendices. The Appendices improve the quality and utility of the AIDPR by providing:

(1) Supplemental, background, and explanatory information that contributes by illustration or amplification to the understanding of AID Procurement Regulations;

(2) Forms which illustrate or must be used with certain aspects of regulatory text;

(3) Agency procedures that supplement the AIDPR text.

The Appendices do not amend or affect existing portions of CFR text, nor do they introduce any new requirements or restrictions into the AIDPR.

The Appendices bear self-explanatory subject titles, conform to a uniform system of designation for appendices throughout the AIDPR, and indicate or will indicate, when applicable, the specific regulatory provision to which the appendix is related.

EFFECTIVE DATE: June 16, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. V. Henry Walker, CM/SD/POL, Agency for International Development, Washington, D.C. 20523, (703) 235-9107.

SUPPLEMENTARY INFORMATION: The AIDPR Appendices were originally published within AID as manual orders, policy determinations, or similar issuances. They were incorporated into the CFR in 39 FR 36965 on October 16, 1974, and additional Appendices were added in 41 FR 21640 on May 27, 1976. They were removed from the CFR on June 8, 1978, 43 FR 24839, for distribution under the new AID Handbook system.

However, publication in the AID Handbook system proved inadequate as a means of communicating, to AID contractors and the general public, the policies and procedures in practice with respect to the AIDPR's.

Publishing the Appendices in the looseleaf, essentially internal Handbook system, as a separate issuance from the AIDPR, also proved as a practical

matter to be less than efficient for the purposes of AID procurement personnel, especially those serving overseas in AID missions.

Accordingly, this notice is issued to rejoin the AIDPR and AIDPR appendices in a single CFR publication, to be amended by Federal Register notices from time to time, with characteristically broad CFR availability for AID personnel, AID contractors, and the general public.

41 CFR Chapter 7 is amended as follows:

1. Add "Appendices" following the last entry in the table of Parts of the AIDPR.

PART 7-1—GENERAL

2. § 7-1.105-5 is revised as follows:

§ 7-1.105-5 Appendices.

Procurement policies and instructions which are essentially informational or procedural may be issued as Appendices to the AIDPR. Appendices are filed behind the main text of the AIDPR in a section entitled "Appendices." 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]).

3. Add a new Appendices Table of Contents following the main AIDPR text (Part 7-60) and Appendices A-L to read as follows:

Appendices

- Appendix A—Respective Role of Contracting and Other Personnel in the AID Procurement Process
- Appendix B—AID Contract Formats
- Appendix C—Contractor Performance Evaluation Report
- Appendix D—Notice to Cost-Reimbursement Type Contractors of Changes in Applicable Standardized Government Regulations
- Appendix E—Logistic Support Overseas to AID-Direct Contractors
- Appendix F—Direct AID Contracts With U.S. Citizens or U.S. Residents for Personal Services Abroad
- Appendix G—Contract Closeout Procedures
- Appendix H—Use of Collaborative Assistance Method for AID Direct Contracts for Technical Assistance
- Appendix I—Approval and Reporting Procedures for Contractor Proposed Salaries Including Those That Exceed The Statutory Limitation On Basic Pay of An FSR-1
- Appendix J—Resolution of Costs Questioned in Audit Reports
- Appendix K—AID's Academic Publication Policy
- Appendix L—Review and Certification of Procurement Regulations

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 authority), may bind the United States Government to a contract, or direct or authorize a contractor to proceed with work (see FPR § 1-1.207, § 1-3.801).

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 to him. 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 or his 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 meetings 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—AID Contract Formats

1. FPR and AIDPR Required Contract Clauses

FPR 1-7 and 1-16, and AIDPR 7-7 and 7-16 establish prescribed general provision clauses and contract cover pages for AID contracts.

2. General Provisions

(a) For administrative convenience, AID issues preprinted general provisions and additional general provisions, as shown in the list below:

AID Form No. and Title

1420-27H General Provisions—Contract for Participant Training

1420-41C General Provisions—Cost Reimbursement Type Contract

1420-41D Additional General Provisions—Cost Reimbursement Type Contract

1420-42C General Provisions—Fixed Price Technical Services Contract

1420-42D Additional General Provisions—Fixed Price Technical Services Contract

1420-23C General Provisions—Cost Reimbursement Contract with an Educational Institution

1420-23D Additional General Provisions—Cost Reimbursement Contract with an Educational Institution

(b) The preprinted general provisions and additional general provisions listed in paragraph 2(a), above, are preprinted as a convenience, to save typing and assembly time. Each AID contract negotiator and contracting officer is responsible for insuring that the contract contains the clauses required by the relevant sections of AIDPR 7-7 and FPR 1-7; the clauses set forth in AIDPR 7-7 and FPR 1-7 take precedence over equivalent clauses in the preprinted formats.

(c) The preprinted formats are updated as of October 1 of each year to bring them into conformance with the required clauses established in AIDPR Part 7-7 and FPR 1-7. Between such revisions, AID contract specialists are responsible for ensuring that the required clauses established in FPR 1-7 and AIDPR Part 7-7 are utilized.

3. Contract Schedules

Contract Schedule outlines have been prepared for optional use in developing the final contract schedule. The following outlines are available:

AID Form No. and Title

1420-41B Schedule—Cost Reimbursement Type Contract

1420-42B Schedule—Fixed Price Technical Services Contract

1420-23B Schedule—Cost Reimbursement Contract with an Educational Institution

4. Contract Cover Pages

Required cover pages are prescribed in FPR 1-16 and AIDPR 7-16.

5. Availability of Formats

The contract formats referenced herein are stocked by the AID Distribution Branch and by the Support Division, Office of Contract Management. Mission contracting offices should order their supply through AID Distribution; AID/W contracting offices, through the Support Division, Office of Contract Management.

Appendix C—Contractor Performance Evaluation Report

1. Purpose

(a) The Contractor Performance Evaluation Report (U-1423/1) is used to (1) provide a record of each contractor's performance for future evaluation purposes, (2) advise the contracting officer of the contractor's performance and provide the contracting officer with a basis for taking action, in consultation with the project manager, to avert or correct problems arising under the contract, (3) provide contracting officers and project managers with a means of evaluating

contractors under consideration for other AID contracts, and (4) establish and update the Agency's central contractor evaluation file.

(b) The central file, located in the Small Business Division (SDB/SB) of the Office of Small and Disadvantaged Business Utilization, AID/W, constitutes the only official record of the contractor performance evaluation reports available to AID/W or, Mission contracting officers and project managers for their use in evaluating contractors under consideration for other AID contracts. Before signing any new contract the AID/W or Mission contracting officer shall contact SDB/SB for information on the evaluation of past performance of the prospective contractor.

2. Applicability of the Evaluation Report (U-1423/1)¹

The U-1423/1 Report (form AID 1420-43) applies to all AID-direct contracts and task orders, regardless of duration, except the following:

(a) Contracts for normal administrative services by Mission contracting offices and the Office of Management Operations (SER/MO). Examples of administrative services are those provided by interpreters, janitorial or maintenance workers, etc.

(b) Contracts for Interpreter/Escort Services.

(c) Task Orders issued under Agreements with educational institutions when the price paid for training is published in a catalog.

3. Reporting Periods

(a) The initial report covers the first 6-month period of contractor performance from the date the contract is signed. The U-1423/1 Report is due within 30 days after the end of that period.

(b) Thereafter, annual reports are prepared as part of the regularly scheduled project evaluation process and are submitted at the same time as the Project Appraisal Report (PAR) or equivalent.

(c) A final report is due within 30 days after the completion date of the contract. This report provides a summary evaluation of the whole period of contractor performance.

(d) If any contract is for a period of 6 months or less, the U-1423/1 Report is prepared and submitted within 30 days following the completion date of the contract.

4. Preparation and Distribution

(a) The project manager prepares the U-1423/1 Report.

(b) The initial report reflects the project manager's judgment based on observation and contractor progress reports. The final report is a synthesis of preceding evaluations and an overview of total performance.

(c) After completing the U-1423/1 Report, the project manager retains a copy in the official project file, forwards one copy to AID/W project support officer assigned to the project, and forwards the remaining two copies as follows:

(1) If the contract was executed by AID/W, both copies are sent to the Office of Contract Management, Support Division, Support

¹Filed as part of the original document.

Services Branch (CM/SD/SUP). The Support Services Branch records the date of receipt and forwards both copies to the cognizant contracting officer; or

(2) If the contract was executed by a Mission, both copies are sent directly to the cognizant contracting officer.

5. Contracting Officer Review and Approval

(a) The AID/W or Mission contracting officer signs both copies of Satisfactory or Outstanding Reports sent to him, forwards one copy to AID/W, SDB/SB, through CM/SD/FSR, and retains one for the contract file. By signing the report the contracting officer acknowledges receipt, review, and approval of the report.

(b) In the case of an Unsatisfactory Report, the contracting officer shall furnish the Contractor a copy of same and request his comments prior to reviewing and approving the report. Distribution of the approved report and the Contractor's comments shall be the same as in 5(a) above.

6. Central File Maintenance

SDB/SB is responsible for maintaining the Agency's official central file of Contractor Performance Evaluation Reports (U-1423/1).

Appendix D—Notice to Cost-Reimbursement Type Contractors of Changes in Applicable Standardized 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

(a) Educational institution contracts. The text of the clause is set forth in § 7-7.5502-12, "Notice of changes in regulations".

(b) Other than educational institution contracts. The text of the clause is set forth in § 7-7.5502-14, "Notice of changes in regulations".

4. Notice to Contractor Field Personnel

Notice of changes in Government travel and allowance regulations is sent to the contractor at his/her address shown on the cover sheet of the contract. Notice to the contractor's Chief of Party is supplied by:

(a) The contractor, in accordance with his/her 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) below).

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/SUP, 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/SUP.*—(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/PAV).

(2) Notifies SER/MO/PAV of all changes to the list using form AID 1420-2.

(c) *Distribution Branch, SER/MO/PAV.*—

(1) Prepares for mailing to each contractor, upon addition of its name to the SER/CM/SD/SUP 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/SUP distribution list all revisions to such regulations.

(3) Keeps the distribution list, J-27, updated as instructed by SER/CM/SD/SUP.

(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) above.)

(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 E—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 or provided in kind.

(b) *Arrangements for Logistic Support.*—The methods for provision of logistic support are given the following descending order of preference:

(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, at or prior to approval of each PIO/T that adequate and timely logistic support at reasonable cost cannot be assured through the other options. In such cases, the mission is encouraged to make such arrangements, wherever feasible, by drawing upon locally available firms and facilities rather than mission resources.

(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's) 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. Third country national employees of AID contractors are not U.S. citizens and thus are not eligible. 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 officers 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 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 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 F—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 not include services of the nature which are for performance by full-time Federal employees, such as the following:

(1) Negotiating on behalf of the United States with AID recipient countries, organizations or entities.

(2) Policy formulation.

(3) Planning, budgeting, and programming decisions which determine the allocation of resources available to AID.

(4) Supervising the execution of functions performed by U.S. Government personnel of AID or other Government agencies.

(5) Performance of internal functions such as personnel selection and administration, agency management, and congressional presentation.

(6) Contracts entered into pursuant to this authority may not exceed 5 years.

5. Executing a Personal Services Contract

Procuring 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 procuring 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 contract complies with the principles and approvals set forth in the AID Procurement Regulations, § 7-15.205-6, 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 procuring activity (see § 7-1.107 of the AID Procurement Regulations). 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 designee, audits the personal services contracts of all procuring activities for the purpose of insuring conformance to approved policy and standards.

7. Contract Provisions

The attachments referred to in paragraph 1(a) above are the personal services contract formats and clauses. They are:

Attachment A—AID form 1420-36, "Schedule";

Attachment B—AID form 1420-37, "General Provisions"; and

Attachment C—AID form 1420-38, "Additional General Provisions".

BILLING CODE 4710-02-M

ATTACHMENT A

AGENCY FOR INTERNATIONAL DEVELOPMENT
CONTRACT WITH A U.S. CITIZEN OR U.S. RESIDENT FOR PERSONAL SERVICES ABROAD

CONTRACT NO. _____

NEGOTIATED PURSUANT TO THE FOREIGN ASSISTANCE ACT OF 1961,
AS AMENDED, AND EXECUTIVE ORDER 11223

CONTRACT FOR	ESTIMATED CONTRACT AMOUNT
PROJECT NO.	
PROGRAM OFFICE	EFFECTIVE DATE
PROJECT OFFICER	ESTIMATED COMPLETION DATE
ADMINISTERED BY	ACCOUNTING AND APPROPRIATION DATA APPROPRIATION NO. ALLOTMENT NO. PIO/T NO.
CONTRACTING OFFICE NAME AND ADDRESS	CONTRACTOR (Name)
	Street Address
	City State ZIP Code

PAYING OFFICE

MAIL INVOICES TO (Original and three copies)

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 General Provisions shall control. To the extent of any inconsistency between the Schedule and the General Provisions, the Schedule shall control.

This Contract consists of this Cover Page, the Schedule of _____ pages, including the Table of Contents, and the General Provisions (form AID I420-37) dated _____, and, when appropriate, the Additional General Provisions (form AID I420-38) 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

Contract No. _____

TABLE OF CONTENTS**SCHEDULE**

The Schedule on pages 2 through 5 consists of this Table of Contents and the following Articles:

ARTICLE I	STATEMENT OF DUTIES
ARTICLE II	PERIOD OF SERVICE OVERSEAS
ARTICLE III	CONTRACTOR'S COMPENSATION AND REIMBURSEMENT IN U.S. DOLLARS
ARTICLE IV	COSTS REIMBURSABLE AND LOGISTIC SUPPORT
ARTICLE V	PRECONTRACT EXPENSES
ARTICLE VI	ADDITIONAL CLAUSES

GENERAL PROVISIONS

The following provisions, numbered as shown below, omitting number(s) _____, are the General Provisions (GP) of this Contract:

- | | |
|---|--|
| 1. Definitions | 12. Conversion of U.S. Dollars to Local Currency |
| 2. Laws and Regulations Applicable Abroad | 13. Post of Assignment Privileges |
| 3. Physical Fitness | 14. Security Requirements |
| 4. Workweek | 15. Contractor-Mission Relationships |
| 5. Leave and Holidays | 16. Termination |
| 6. Differential and Allowances | 17. Disputes |
| 7. Social Security and Federal Income Tax | 18. Release of Information |
| 8. Advance of Dollar Funds | 19. Officials Not to Benefit |
| 9. Insurance | 20. Covenant Against Contingent Fees |
| 10. Travel and Transportation Expenses | 21. Notices |
| 11. Payment | 22. Reports |

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 therefor 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 Cooperating 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) \$ _____

*Do not include the value of any costs to be paid or reimbursed in local currency.

Total Estimated Costs (lines 1 thru 8) \$ _____

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 B

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
2. Laws and Regulations Applicable Abroad
3. Physical Fitness
4. Workweek
5. Leave and Holidays
6. Differential and Allowances
7. Social Security and Federal Income Tax
8. Advance of Dollar Funds
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20. Covenant Against Contingent Fees
21. Notices
22. Reports
23. Use of Pouch Facilities

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 jet-economy, 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 or 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 or 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 shall 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 paragraphs (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*

(i) *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. Trans-

portation 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 regularly 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 this 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)*

(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.

*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". The criteria contained in the memorandum are reproduced below:

(a) Passenger or freight service by a certificated air carrier is considered "available" even though:

(1) Comparable or a different kind of service by a noncertificated air carrier costs less, or

(2) Service by a noncertificated air carrier can be paid for in excess foreign currency, or

(3) Service by a noncertificated air carrier is preferred by the agency or traveler needing air transportation, or

(4) 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 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

(2) 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

(3) 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 than would service by a noncertificated air carrier or carriers.

(4) 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.

(x) The contractor shall include the substance of this clause, including this paragraph (x), in each sub-contract 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. DOLARS 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 are generally available for Contractor 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 reimbursed 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 this 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, etc.) 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 occurring 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 mili-

tary 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 C

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)

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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 \$85 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 co-

operating 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 or 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	7500	2500
Contractor without dependents in cooperating country	4500	1500

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:

	<u>Gross weight</u>
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 Contract 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 are generally available for Contractor's authorized dependents 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 this 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.

AID 1420-38 (12-80)

BILLING CODE 4710-02-C

Appendix G—Contract Closeout Procedures**1. Purpose**

This Appendix G 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/SUP).

(b) AID organizational elements accomplish their respective responsibilities during the closeout phase as follows:

- (1) *Fixed-Price Type Contracts.* Within 4 months after the contractor has completed the work.
- (2) *Cost-Reimbursement Type 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 responsibilities 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 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 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 designated representative (CM/SD/SUP 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 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 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 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 form 1420-15, is stocked by the AID Distribution Branch (MO/PAV) and by the Support Division, Office of Contract Management. Mission contracting offices should order their supply through the AID Distribution Branch (MO/PAV); AID/W contracting offices, through the Support Division, Office of Contract Management.

Appendix H—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 Procurement Regulations (AIDPR 7-4.10). 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 Subpart 7-4.56, General Selection Procedures, in the AID Procurement Regulations.

(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 AID Procurement Regulations. The first of these, Subpart 7-4.57, 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 7-3.211 and Subpart 7-4.58, Collaborative Assistance).

(d) The second of these, Subpart 7-4.58, 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. above.

(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:

(1) Adequate preproject communication between, and identification of assistance required by, the host government and USAID;

(2) 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.);

(3) Careful contractor selection, i.e., matching of the contractor's technical and managerial capabilities to the anticipated requirements of the overseas activity;

(4) Establishment of relationships between host country, AID and contractor staff to include host country leadership, flexible implementation authority, and effective management by the contractor;

(5) Improved joint project evaluation, feedback, and replanning; and

(6) 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 below 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 identification 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 thoroughly 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 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 project purpose and outputs—as long as he/she remains within the total contract amount and 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 dollars cost 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 him/her to clear responsibility of 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.

Attachment 1 to Appendix H—Guidelines for Preparation of, and Response to, Requests for Expression of Interest (REI) Under the Collaborative Assistance Method

A. Length and Level of Detail

An Expression of Interest should include more than just a short letter expressing interest, but should not be in the detail of a technical proposal (RFTP). The Expression of Interest Document 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 REL.

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 attachment 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 attachment. Often AID will identify the need for cooperation and suggest such an effort in the REL. Even if AID does not suggest collaboration, joint efforts with a description of the cooperation would be an appropriate way to respond to an REL.

Appendix I—Approval and Reporting Procedures for Contractor Proposed Salaries Including Those That Exceed the Statutory Limitation on Basic Pay of an FSR-1

1. Purpose

This appendix does the following:

(a) Provides guidelines for the use of prudent judgement when considering salaries, especially salaries exceeding the FSR-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/SUP;

(d) establishes a semiannual report of salary approvals for the Deputy Administrator.

2. Procedures

(a) *Salary Approvals*.—In accordance with Handbook 14, AID Procurement Regulations 7-15.205-6(b)(2), contracting officer approvals of salaries exceeding the FSR-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 FSR-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 though approval of salary levels above the FSR-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 FSR-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 FSR-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 minimum 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 FSR-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 FSR-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 the FSR-1 level are required to be sent to SER/CM/SD/SUP. 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 FSR-1 maximum level will be sent to the Deputy Administrator of AID by the Office of Contract Management.

Appendix J—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 the 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), below). If no evidence of satisfactory resolution is received by six months, 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

¹Contracting Officers often request audit advice and assistance in evaluating Contractor's proposals prior to award. FPR 1-3.811(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 FPR 1-3.811(b), constitutes response to a pre-award audit survey.

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 FPR 1-1.318 and AIDPR 7-1.318, and as provided in FPR 1-1.402 and AIDPR 7-1.452-1, 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), above), or to question a Contracting Officer's decision regarding questioned costs (see paragraph 3.b.(4), above), 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 new 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 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 3b(2), above) 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, below). 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/SUP. CM/SD/SUP will log in the audit report, recording the recommendation numbers and established due dates for all recommendations assigned to SER/CM. CM/

SD/SUP will then transmit the audit, through the cognizant division chief, to the Contracting Officer with action responsibility.

(c) CM/SD/SUP 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/SUP advised on the current status of open recommendations by providing CM/SD/SUP with a copy of official audit-related correspondence between the Contracting Officer and the RIG. Any necessary follow up by CM/SD/SUP 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 AIDPR 7-1.318-1 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/SUP).

(b) If the contractor responds to the Contracting Officer's letter identifying questioned costs, but an acceptable settlement is not achieved within 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/SUP). See also paragraph 5b(4), below, 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:

(1) 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 advice 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/SUP). See also paragraph 5b(4), below, 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), below.

(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 (sustained 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/SUP, 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), above).

(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/SUP).

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 AA/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 AIDPR 7-1.318-1, pursuant to the Disputes Clause, such decisions must be cleared by GC or the cognizant Mission or Regional Legal Advisor.

Appendix K—AID's Academic Publication Policy

Academic Publication

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 dissociate 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 reasonable 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 negotiations.

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.

Appendix L—Review and Certification of Procurement Regulations

1. Purpose

This AIDPR appendix formalizes procedures for the review and certification of proposed AID Procurement Regulations, promulgated by AIDPR Notices, as required by Office of Federal Procurement Policy (OFPP) Policy Letter 80-5.

2. Background

OFPP Policy Letter 80-5 requires, in pertinent part, that: "a. Heads of executive departments and establishments shall assure that no procurement regulation is promulgated within their respective agencies unless a written determination is made, under review procedures established by the agency head, that such regulation would not be inconsistent with the policies set forth in paragraphs (1) through (8) of Section 2 of the Act. (The Office of Federal Procurement Policy Act, Pub. L. 93-400, as amended by Pub. L. 96-83), or with policy directives issued by the Administrator (OFPP) under 6(h) of the (OFPP) Act. The required determination shall accompany the publication of any such procurement regulation in the *Federal Register* and shall also accompany promulgation directly to Federal Agencies. With respect to acquisition

regulations, the required determination shall be the responsibility of the principal acquisition official."

By letter dated August 19, 1980, the Deputy Assistant Administrator, Bureau for Program and Management Services, acting as the "principal acquisition official" for AID, advised the Administrator, OFPP, of the review and certification procedure to be followed by AID for the AIDPR. This Appendix formalizes the procedure established in DAA/SER's August 19 letter.

3. Procedure

(a) Every proposed policy, regulation, procedure, or form to be promulgated in the AIDPR shall be carefully reviewed by the Policy Branch in the Office of Contract Management (CM/SD/POL) to insure that the proposed action is consistent with paragraphs (1) through (8) of Section 2 of the OFPP Act, and with policy directives issued by OFPP under Section 6(h) of the OFPP Act (for brevity, hereinafter referred to as the OFPP Act and OFPP policy directives), as required by OFPP Policy Letter 80-5.

(b) Only those policies, regulations, procedures, or forms found in the initial review by CM/SD/POL to be consistent with the OFPP Act and OFPP policy directives will be prepared for promulgation in the AIDPR. The results of this initial review may be appealed to the Assistant General Counsel for Contracting and Litigation (GC/C&L), and ultimately to the Deputy Assistant Administrator Bureau for Program and Management Services (DAA/SER), whose decision is final.

(c) Policies, regulations, procedures, and forms are incorporated into the AIDPR by AIDPR Notices, signed by DAA/SER. AIDPR Notices are prepared by CM/SD/POL and forwarded to DAA/SER by Action Memorandum from the Director of the Office of Contract Management. CM/SD/POL will include a summary of their review, and a statement that CM/SD/POL finds the proposed AIDPR Notice is not inconsistent with the OFPP Act and OFPP Policy directives in the Action Memo. CM/SD/POL will also prepare a determination for signature by DAA/SER, to accompany the AIDPR Notice, stating that the proposed AIDPR Notice is not inconsistent with the OFPP Act and OFPP policy directives (sample determination attached).

(d) Proposed AIDPR Notices and their covering Action Memos are reviewed by GC/C&L before being presented to DAA/SER. GC/C&L will, as part of their review, consider CM/SD/POL's finding that the proposed AIDPR Notice is not inconsistent with the OFPP Act and OFPP policy directives. GC/C&L clearance of the Action Memo will serve as an objective confirmation of CM/SD/POL's finding. In the event that

GC/C&L and CM/SD/POL do not agree on the finding that a proposed AIDPR Notice is not inconsistent with the OFPP Act and OFPP policy directives, they will attempt to reconcile their opinions. If no agreement can be reached, the Director, SER/CM will present the respective positions to DAA/SER for final decision.

(e) The determination (sample attached) prepared for DAA/SER's signature must accompany proposed AIDPR Notices when they are submitted for publication to the *Federal Register*.

Attachment to Appendix L

Determination

As required by paragraph 4a of OFPP Policy Letter 80-5, I hereby determine that [AIDPR Notice] has been reviewed against the policies set forth in paragraphs (1) through (8) of Section 2 of the Office of Federal Procurement Policy Act (Pub. L. 93-400 as amended by Pub. L. 96-83, hereinafter referred to as the Act), and policy directives issued by OFPP under Section 6(h) of the Act. Based on this review, I hereby determine that [AIDPR Notice] is not inconsistent with the policies set forth in paragraphs (1) through (8) of Section 2 of the Act, and policy directives issued by OFPP under Section 6(h) of the Act.

John F. Owens,

Deputy Assistant Administrator, Bureau for Program and Management Services.

Authority: This AIDPR Notice is issued pursuant to 41 CFR 7-1.104-4.

Determination

As required by paragraph 4a of OFPP Policy Letter 80-5, I hereby determine that AIDPR Notice 81-6 has been reviewed against the policies set forth in paragraphs (1) through (8) of Section 2 of the Office of Federal Procurement Policy Act (Pub. L. 93-400 as amended by Pub. L. 96-83, hereinafter referred to as the Act), and policy directives issued by OFPP under Section 6(h) of the Act. Based on this review, I hereby determine that AIDPR Notice 81-6 is not inconsistent with the policies set forth in paragraphs (1) through (8) of Section 2 of the Act, and policy directives issued by OFPP under Section 6(h) of the Act.

Dated: June 2, 1981.

John F. Owens,

Deputy Assistant Administrator, Bureau for Program and Management Services.

[FR Doc. 81-16994 Filed 6-15-81; 8:45 am]

BILLING CODE 4710-02-M