

PROCUREMENT REFORM REPORT:

*Changing The Way We Do Business
Around The World*



USAID



**18 ELEMENTS
IN STREAMLINING
USAID'S PROCUREMENT
PROCESS**

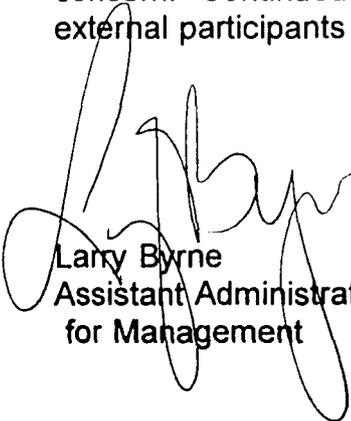


J. Brian Atwood
Administrator U.S. Agency for International
Development

We are pleased to present to you the Procurement Reform Report entitled: **Procurement Reform Initiatives: 18 Elements in Streamlining the U.S. Agency for International Development's (USAID) Procurement Processes**. This report responds to your call in your January 6, 1994, Memorandum for the Executive Staff, "to do more to improve the way we conduct our business in all delivery systems available to us . . . [and, that] our procurement activities must have integrity and be streamlined and responsive to the needs of the Agency."

USAID has been designated by the National Performance Review (NPR) as an Agency reinvention laboratory. Thus, the procurement reform effort has built upon the work of the NPR, and other related reports and recommendations to begin the groundwork for streamlining. Further, a broad based reengineering effort to overhaul the Agency's project design and implementation systems, along with Business Area Analyses, at the eight functional levels of operations in the Agency, has had a major impact on the procurement reform initiatives and is discussed herein.

The impact of procurement reform will be felt agency-wide. The support and cooperation provided by senior management in the Agency have led to successful implementation of the various streamlining efforts. It should be noted that participation and assistance by the private sector, including the Private Voluntary Organization (PVO) community, has been instrumental in identifying key areas of concern. Continued support of the reform initiatives by Agency personnel and external participants is vital to the complete success of a better procurement system.



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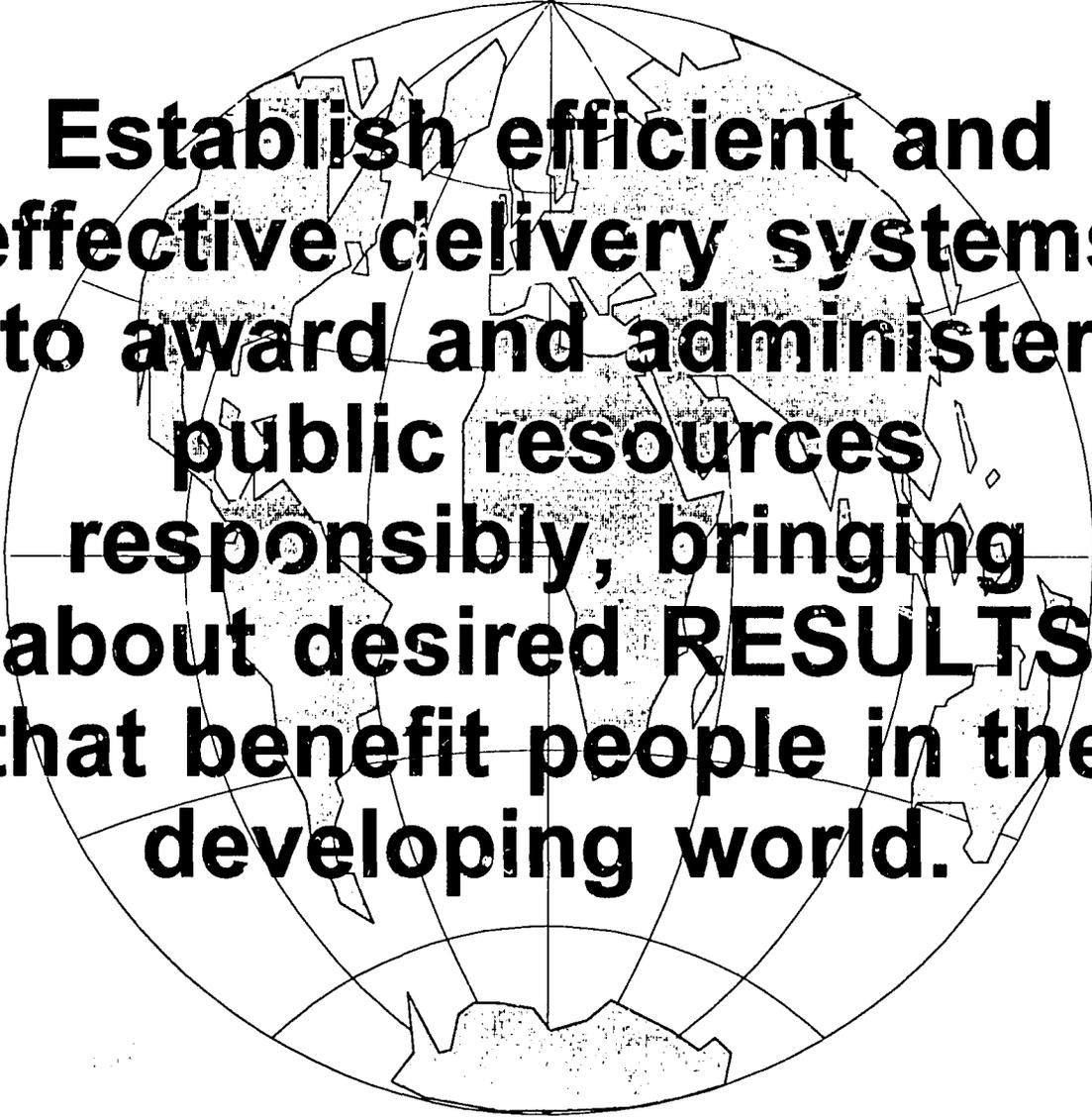
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WHY REFORM?

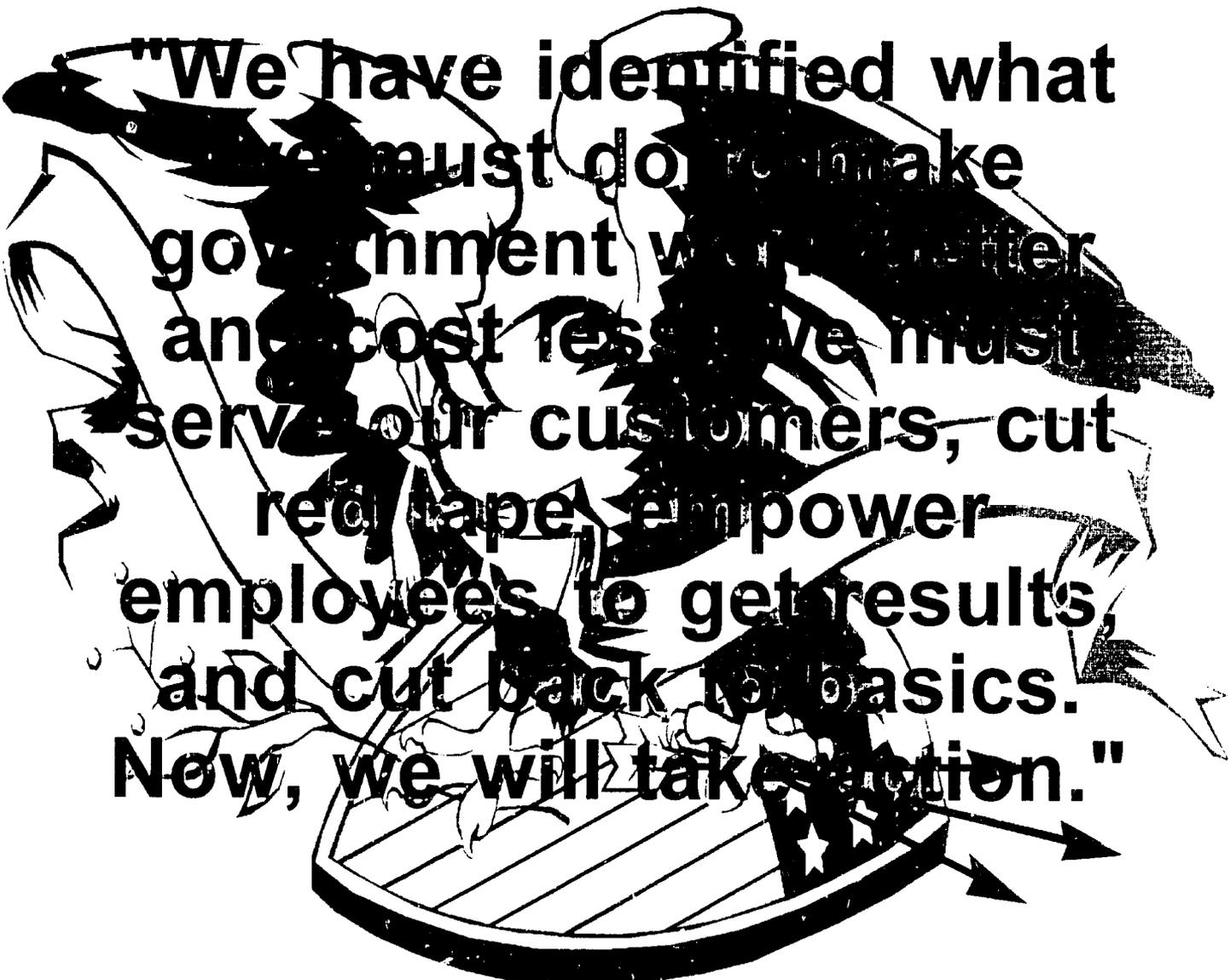
- ▶ **Respond to the concerns of The National Performance Review - Creating A Government that Works Better and Costs Less.**
- ▶ **Restore credibility to USAID's procurement and management systems.**
- ▶ **Redesign the procurement system to respond to the demands of a changing world and contribute to the Agency's new "RESULTS" orientation.**

THE PROCUREMENT REFORM MISSION STATEMENT



Establish efficient and effective delivery systems to award and administer public resources responsibly, bringing about desired RESULTS that benefit people in the developing world.

THE NATIONAL PERFORMANCE REVIEW



**"We have identified what
we must do to make
government work better
and cost less. We must
serve our customers, cut
red tape, empower
employees to get results,
and cut back to basics.
Now, we will take action."**

OVERVIEW

In late 1993, Vice-President Al Gore came to speak to the U.S. Agency for International Development (USAID), and stated that as part of the National Performance Review (NPR), USAID was to become one of the first reinvention laboratories. As a result, efforts were begun to streamline USAID's processes and systems.

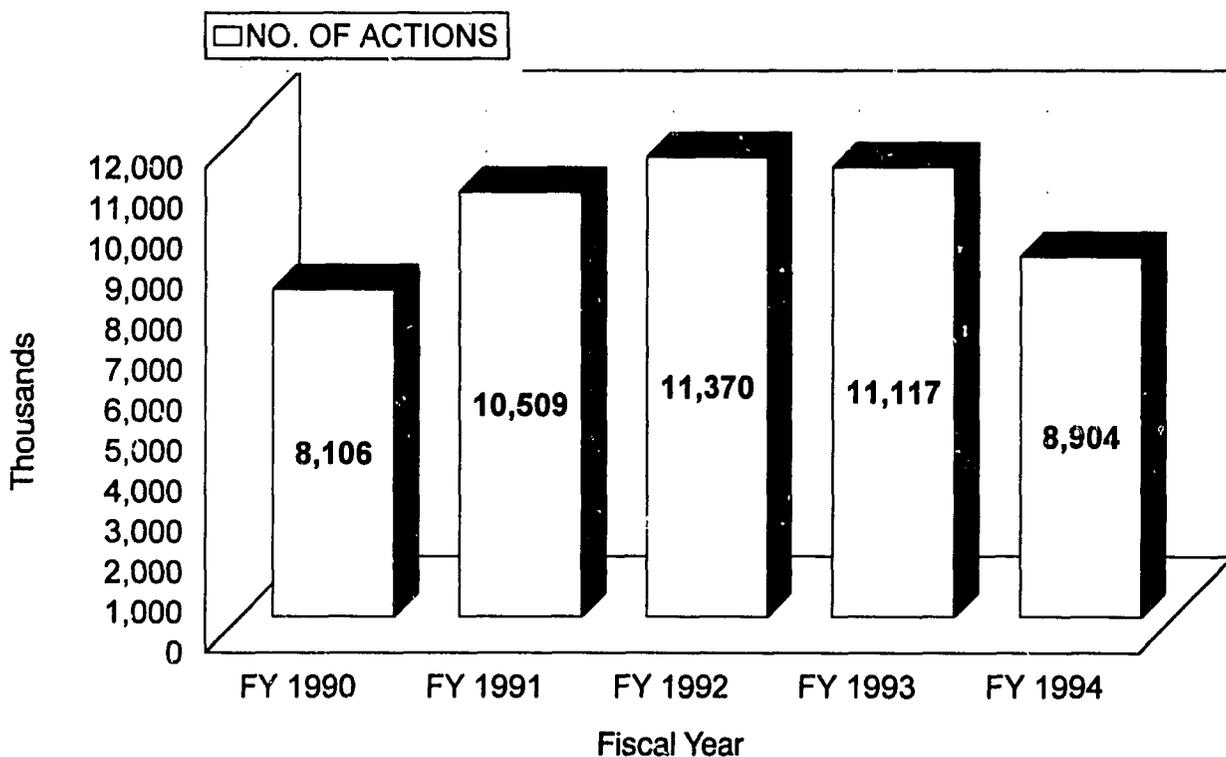
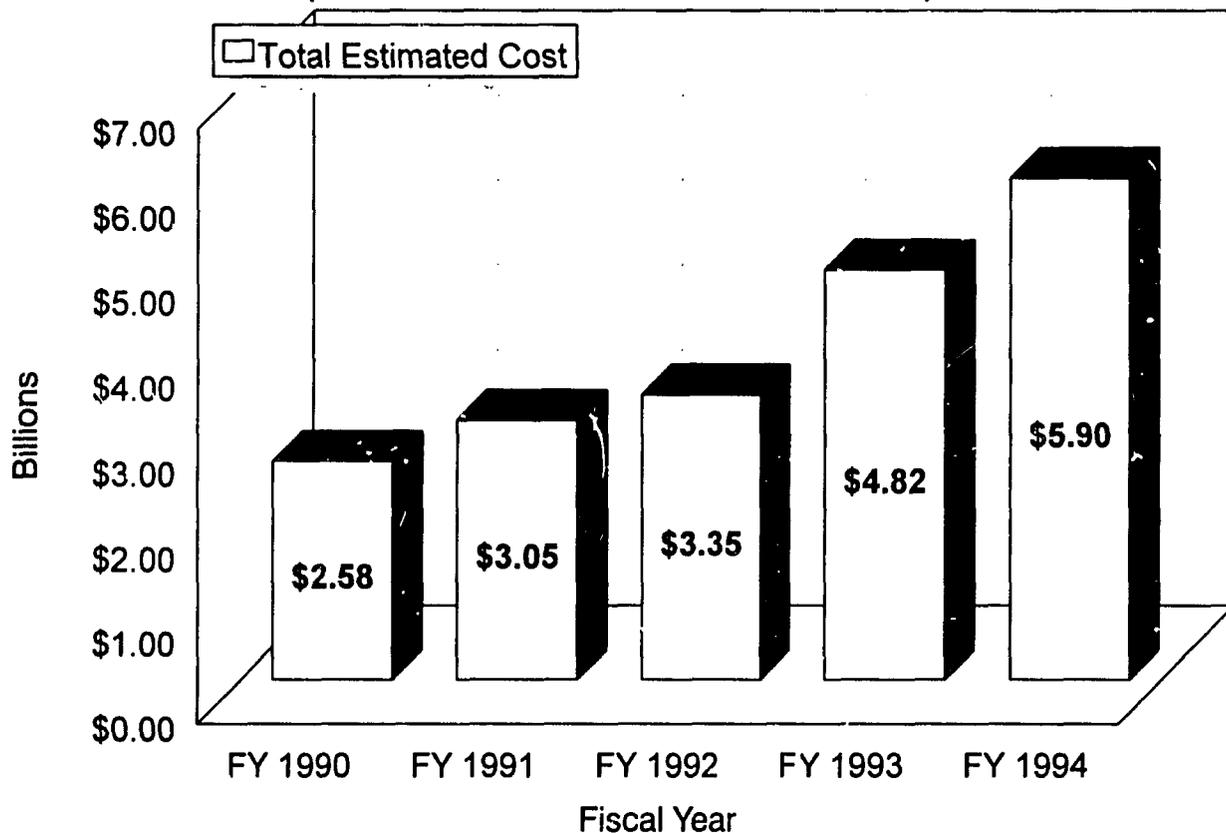
The reorganization efforts took several different forms: the reengineering laboratories in USAID/W; the country engineering laboratories (CELS) in the field; the Business Area Analyses (BAA); the Quality Council responsible for quality control of the Agency's reorganization efforts; and the Procurement Reform Unit. This report deals specifically with the work of the Procurement Reform Unit and the Acquisition and Assistance area of the BAA.

Procurement reform efforts are underway to address a comprehensive list of issues raised both internally and externally. In his January 6, 1994 Memorandum for the Executive Staff, the Administrator outlined 18 procurement initiatives for which the Procurement Reform Unit was tasked with coordination of resolution. These initiatives focussed on: transparency and openness with the public; efficiency of systems; automation of systems; recruitment; staffing and training; and establishing a better way of doing business.

Through this endeavor, the Agency is undertaking a full reassessment of burdensome regulations and outmoded procurement management systems. In the past, there has been a lack of consistency in contract/grant formats, terms, conditions, and interpretations. Onerous ad hoc technical and financial reports were often imposed on contractors and recipients. Routine administrative approvals took an inordinate amount of time for processing, and resulted in contractors and recipients either moving forward without necessary approvals or dramatically slowing project implementation. In an effort to respond to each of the issues noted above, a working group chaired by a coordinator, was created for each reform effort. These groups identified key problems with a particular system, and then outlined corrective actions.

USAID is committed to the efforts of carrying out the President's mandate for a more efficient government that costs less. The Agency will continue to change the way in which it operates, and improve its internal systems with input from all of its development partners.

**OVERVIEW OF TOTAL COSTS AND ACTIONS WORLDWIDE, FY 1990-94
(Technical Assistance and Commodities)**



EXECUTIVE SUMMARY

Procurement Reform No. 1: Establish a [Development Partners] Resource Group on USAID Procurement Streamlining

- ISSUE:** Create a more open and transparent system for the way in which the Agency does business.
- RECOMMENDATION:** Establish a Contractor/Private Voluntary Organization (PVO)/Grantee/Recipient Resource Group on USAID Procurement Streamlining.
- PROGRESS/STATUS:** Vendor Town Meetings have been held in Washington and Los Angeles. Future meetings for the Northern and Southern regions of the U.S. are currently in the planning stages. USAID has also set up a regular dialogue with the PVOs, Non-Governmental Organizations (NGOs) and the Professional Services Council (PSC) to discuss reform issues. Further, On April 11, 1995, the Administrator signed "Principles for Award of Assistance Instruments to PVOs and NGOs for Development and Humanitarian Assistance." As a result, Contract Information Bulletin (CIB) 95-18 was issued July 10, 1995, regarding limitation of substantial involvement clauses in cooperative agreements.

Procurement Reform No. 2: Organizational Conflicts of Interest (OCI)

- ISSUE:** Eliminate the appearance of unfair competitive advantage when a contractor that has designed a project, then bids and wins the award to implement that project.
- RECOMMENDATION:** Establish stricter controls on organizational conflicts of interest pursuant to Federal Acquisition Regulation (FAR) subpart 9.5.
- PROGRESS/STATUS:** Guidance in Contract Information Bulletin (CIB) 94 - 2 issued March 24, 1994, tightens procurement policy with respect to OCIs in the areas of project design, evaluation and audit matters. This guidance may be extended to include assistance instruments as well.

Procurement Reform No. 3: Procurement Integrity

- ISSUE:** Recurring violations of procurement integrity standards and procedures. Because USAID relies so heavily on contractors, nearly every employee in the Agency functions as a "procurement official." Therefore, appropriate behavior must be enforced through management and legal avenues.
- RECOMMENDATION:** Clarify and strengthen oversight and enforcement of procurement integrity statutes.
- PROGRESS/STATUS:** Training of all Agency personnel in procurement integrity regulations has begun and is ongoing. A General Notice addressing procurement integrity regulations was issued on February 2, 1995. M/OP is implementing the provisions of the Notice relating to collection of procurement official certifications by the Office of Administrative Management Services (M/AMS).
-

Procurement Reform No. 4: Performance Based Contracting Contracting for Results

- ISSUE:** Use of too many vague "term" (best efforts) contracts, with no requirements for quantifiable results.
- RECOMMENDATION:** Institutionalize a quantifiable contract approach to project implementation within USAID via the use of performance-based contracts.
- PROGRESS/STATUS:** The Administrator has stated that performance based contracting (PBC) shall be the preferred method to implement USAID projects. The Deputy Assistant Administrator for Management has initiated a pledge within the Agency where each regional and central bureau will ensure that at least one contract action will be performance based. The Agency is also participating in the Office of Federal Procurement Policy (OFPP) inter-Agency pilot program on PBC. Formal training in development of PBC Statements of Work (SOW) is also in process. PBC is being implemented where feasible by USAID Contracting Officers (COs).
-

**Procurement Reform No. 5: Project Evaluation
Past Performance**

- ISSUE:** Currently USAID has no quantifiable means to determine how well a contractor is performing under a contract, and no historical database on contractor past performance. OFPP has mandated that agencies use past performance information as an evaluation factor that can be weighted up to 25%.
- RECOMMENDATION:** Past performance of contractors must be included as an evaluation criteria in solicitation documents. The Office of Procurement (M/OP) should establish a data-base containing past performance of contractors for use as reference material.
- PROGRESS/STATUS:** Implementation of requirements of Federal Acquisition Circular (FAC) 90-26 effective May 31, 1995, which requires collection of past performance data, and the use of past performance as a source selection factor in awards expected to exceed \$1,000,000, has begun. A General Notice dated July 14, 1995, was issued providing procedures to COs and Project Officers (POs) on how they jointly conduct contractor past performance evaluations.
-

**Procurement Reform No. 6: Encourage Wider Participation
of Organizations in USAID Procurements
including Small and Disadvantaged Businesses**

- ISSUE:** Criticism as being a "closed shop," or being exclusive rather than inclusive, with respect to organizations seeking to be USAID's development partners.
- RECOMMENDATION:** Encourage wider participation of organizations in USAID procurements, including small and disadvantaged businesses.
- PROGRESS/STATUS:** A "Guide to Doing Business with USAID" was completed and is being made available to all requestors. CIB 95-7 dated February 16, 1995, was issued to ensure compliance with regulated subcontracting procedures. OSDDBU in conjunction with M/OP, is providing outreach conferences throughout the U.S.

**Procurement Reform No. 7: Contract Administration
and Enforcement**

- ISSUE:** Staffing deficiencies and inadequate procurement planning. Contract administration, in the areas of contract enforcement and monitoring, is not being done effectively.
- RECOMMENDATION:** Strengthen contract administration and enforcement of contract provisions by evaluating current systems, re-emphasizing the need for monitoring contract performance and overhauling internal contract administration procedures.
- PROGRESS/STATUS:** Contract administration software complete and being tested in various locations. Contractor past performance database in the planning stages. Agency implementation of PBC with its emphasis on performance monitoring, will facilitate better contract administration.

**Procurement Reform No. 8: Strengthen Suspension and
Debarment Procedures**

- ISSUE:** Avoid vulnerabilities that can occur because contractors that should be legally ineligible to do business with the Agency have not been suspended or debarred.
- RECOMMENDATION:** Strengthen suspension and debarment procedures.
- PROGRESS/STATUS:** Guidance in CIB 94-6 dated April 15, 1994, was issued which outlined the procedures that the Agency will use if a firm is to be either suspended or debarred.
-

**Procurement Reform No. 9: Streamline Office of
Procurement Procedures**

- ISSUE:** Operating procedures contain many inconsistencies and redundancies.
- RECOMMENDATION:** Review standard operating procedures and documentation needs in order to reduce redundancies, inconsistencies, and provide better customer service.
- PROGRESS/STATUS:** All procurement processes reviewed and undergoing streamlining. CIBs issued regarding reduction of documentation and number of key personnel approvals required. Standardized language completed for RFPs and assistance instruments. A system for personnel and procurement system self certifications for contractors and recipients is currently being instituted. Also, a procurement handbook for all M/OP personnel is being written to provide consistency.
-

**Procurement Reform No. 10: Office of Procurement
Recruitment and Staffing Efforts**

- ISSUE:** Amount of funds processed per procurement specialist was over \$35 million in FY 1993, compared to the government-wide average of \$6.3 million. M/OP sustained a personnel turnover rate of approximately 30% annually versus the government-wide average of 10%.
- RECOMMENDATION:** Increase staffing recruitment through revamped intern programs, and explore methods to formally empower a greater number of M/OP staff to sign contract actions, thus providing better services to USAID customers.
- PROGRESS/STATUS:** Contract Specialist Intern recruitment complete. Recruitment of contract specialists at various grade levels complete. As a result of increased staffing, the number of actions/dollars per procurement specialist has decreased. All GS-13s provided with \$100,000 warrants. Certification programs for procurement and project personnel have been instituted.
-

Procurement Reform No. 11: Clarify Add-ons to Grants/Cooperative Agreements

- ISSUE:** Assistance instruments being improperly used for services of a contractual nature through the use of add-ons.
- RECOMMENDATION:** Appropriateness of add-ons should be reviewed to see if they should be discontinued for new awards or extensions to existing awards.
- PROGRESS/STATUS:** Revised guidance in Office of Procurement Administrative Memorandum (OPAM) 94-05 dated July 28, 1994, was issued, providing a better definition of when this mechanism should be used.
-

Procurement Reform No. 12: Reassess Buy-in Contracts and Consider Large Tasking Contracts

- ISSUE:** Projects are being implemented through buy-in contracts, which makes the financial aspects of the projects hard to control, and circumvents competition to a large degree.
- RECOMMENDATION:** Buy-in contracts should be compared and contrasted with the potential use of large umbrella contracts. A working group comprised of Management Bureau and other staff (e.g., budget, procurement and GC) should be established to examine this issue.
- PROGRESS/STATUS:** Buy-ins beginning to be phased out in favor of tasking contracts. Guidance CIB to be issued soon, taking into account alternative models identified in the reengineering report. M/OP has delegated the authority to do buy-ins to the field. Field support funding is in the experimental stages.
-

**Procurement Reform No. 13: Acquisition and Assistance
Business Area Analysis**

- ISSUE:** Use of a variety of automated systems that do not "talk" to each other, are cumbersome, and are riddled with redundancies.
- RECOMMENDATION:** Design a consolidated, automated, integrated acquisition and assistance system that eliminates redundancies, inconsistencies and streamlines the overall process.
- STATUS/PROGRESS:** Analysis of the various systems in the agency completed. Various software applications completed. User interface, demonstrations and training in progress Agency-wide. New system to be fully operational by October 1, 1995.
-

**Procurement Reform No. 14: Explore the Feasibility
of Expanding the Competitive Grant Program**

- ISSUE:** Implement USAID programs in a quicker, more efficient manner through the expanded use of competed assistance instruments;
- RECOMMENDATION:** Re-examine the Agency's current grant award process to reassess the roles of M/OP and the client project offices.
- STATUS/PROGRESS:** Guidelines have been developed for the expansion of the current competitive grant process, and are currently being incorporated into the grant handbook. M/OP now reviews all Requests For Applications (RFAs) for consistency and clarity.
-

**Procurement Reform No. 15: Training and Certification
Programs for Contract and Project Officers**

- ISSUE:** Procurement personnel were not being certified as required by Presidential Executive Order. Also, USAID Project Officers are not currently certified (through formal training) as project managers, therefore, projects are not being managed as efficiently as possible.
- RECOMMENDATION:** Contracting personnel must be certified to meet the requirements of federal standards for procurement officials. Implement an Agency Project Management Course through which Project Officers will be trained not only in management issues but in procurement processes as well.
- PROGRESS/STATUS:** Development of Agency Procurement Personnel certification system completed. Development of Project Officer management course completed, but actual training put on hold until the Operations BAA is completed, then course material will be revisited.
-

**Procurement Reform No. 16: USAID Procurement
Planning System**

- ISSUE:** Almost one half of the Agency's procurement transactions being completed in the fourth quarter of the fiscal year. Although required by the FAR, no Agency-wide procurement planning system in place.
- RECOMMENDATION:** Establish a central USAID procurement planning system to enhance project implementation and resource management.
- PROGRESS/STATUS:** Advanced Procurement Planning system created, and implemented in Washington in 1994. Implemented worldwide Fiscal Year (FY) 1995. Refined system to be implemented in FY 1996.
-

**Procurement Reform No. 17: Contract and Grant
Writing/Research System**

- ISSUE:** Inconsistencies in contract documents such as RFPs, RFAs, etc.
- RECOMMENDATION:** Institutionalize a worldwide contract writing and research system to ensure standardization of terms and conditions in solicitation documents, contracts, and assistance instruments.
- PROGRESS/STATUS:** Contract/assistance writing system purchased and customized for the Agency. Contract writing system implemented in USAID/W, and scheduled to be sent to the field in FY 95. Training of field Contracting Officers (CO) in process. Research system purchased and available to USAID/W M/OP personnel. DGS software has been linked with A&A software.

**Procurement Reform No. 18: Consolidate Incremental
Funding Modifications**

- ISSUE:** Funding delays hindering project implementation and causing cash flow problems.
- RECOMMENDATION:** Carefully examine the budget process and make a determination regarding consolidation of incremental funding modifications.
- PROGRESS/STATUS:** White paper completed. Management Bureau has examined the budget process and the USAID programming process, and will, during FY 96, implement a series of changes to minimize incremental funding actions and reduce needless paperwork.

Introduction

This report entitled: **Procurement Reform Initiatives: 18 Elements in Streamlining the U.S. Agency for International Development's Procurement Processes**, is broken down into individual sections containing a background, objective, discussion and result. The background provides an overview of the need for reform with a brief description of the preexisting problems. The objective explains, in depth, what each reform is expected to accomplish. The discussion deals with the problems encountered during implementation of the reform recommendations, the feasibility of the course of action taken, and continuing reform efforts. The result lists the benefits realized from each reform initiative.

There were five common themes into which each reform initiative was categorized. The reforms are not presented in numerical order, but grouped for clarity according to the following underlying themes or subjects:

**Setting the Stage - Transparency and Openness
with the Public**

Procuring for Results - A Better Way of Doing Business

The Human Element - Recruitment, Staffing and Training

Paving the Way - Efficiency of Systems

The Information Highway - Automation of Systems

Setting the Stage - Transparency and Openness with the Public

This topic encompasses procurement reform numbers:

- One:** Establish a Development Partners Resource Group on USAID Procurement Streamlining.
- Two:** Clarify Policy on Organizational Conflicts of Interest.
- Three:** Clarify Policy on Procurement Integrity.
- Six:** Encourage Wider Participation of Organizations in USAID Procurements, Including Small and Disadvantaged Businesses.
- Eight:** Strengthen Suspension and Debarment Procedures.
- Fourteen:** Explore the Feasibility of Expanding Competitive Grant Programs.

THEME:

The above initiatives address either working with the contractor/recipient community, or clarifying procurement policy in order to provide openness and transparency of systems that will end the appearance of USAID being a "closed shop," that tends to work and make decisions in a vacuum.

ESTABLISH A DEVELOPMENT PARTNERS RESOURCE GROUP ON USAID PROCUREMENT PROCUREMENT REFORM NO. 1

BACKGROUND:

USAID has frequently been harshly and unfairly criticized for having a procurement system which is overly complex and which favors incumbent contractors. Much of the criticism is unfair given that USAID has involved nearly 250 new organizations in international development activities during the last two years. The Agency has recognized the need to ensure that the procurement system is characterized by openness and fair play.

The cost implications of excessive red-tape, administrative approvals, and an overall system lacking in the uniform application of operating procedures could be staggering given the size of the USAID portfolio. USAID currently manages approximately \$10 Billion of ongoing contracts, grants and cooperative agreements. Even small reductions in administrative burdens placed on contractors and grantees could potentially result in millions of dollars being diverted from purely administrative functions to development activities.

Any overhaul of the USAID procurement system to increase efficiencies and reduce costs would require the expertise and contributions of USAID contractors and recipients, as well as other new organizations seeking to do business with the Agency. In order to best engage those organizations in the Agency's reform efforts, USAID decided to hold various issue sessions with the development community.

OBJECTIVE:

The objective of this procurement reform effort is to establish a Contractor/Recipient Resource Group on USAID procurement streamlining, to facilitate a more open and transparent system for the way in which the Agency does business.

DISCUSSION:

USAID has pursued the achievement of the goals of this reform through two initiatives -- contractor/recipient consultations and Vendor Town Meetings.

Contractor/Recipient Consultations

Following the "town meetings" various alliances of non-profit organizations, PVOs and profit-making firms have met with Agency management periodically. These groups share common issues of micro-management and the lack of standardization that affects all organizations types alike. A consortium of organizations largely universities and other non-profit organizations met with various officials of the Bureau of Management (M), highlighting the need for standardized contract requirements, uniform reports, and advanced approval of contractor/grantee procurement "systems" in lieu of ad hoc approvals. This consortium also called for timeliness standards to be set by M/OP for the processing of transactions and correspondence.

Officials of M, specifically M/OP, have also had meetings with the Professional Services Council (PSC), an association of profit-making international development firms, to discuss several procurement management issues. Of concern to the PSC were the implementation of performance-based contracting procedures, and how the Agency would implement the selection of contractors based in part on past performance. Several meetings were also held to seek clarification on the Agency's stringent new policies on organizational conflicts of interest.

The community of PVOs has raised several concerns regarding the management of USAID funded transactions. The fundamental concern goes to the heart of the involvement of USAID in the day-to-day management of cooperative agreements received by PVOs. The Advisory Committee on Foreign Voluntary Assistance (ACFVA) comprised of PVOs and Cooperatives, expressed potential upgrades to the Agency's procurement system. The PVOs feel that USAID involvement, as defined by the "substantial involvement" clause of the cooperative agreement should set forth rather minimal conditions and circumstances over which USAID personnel could correctly have management oversight. The PVOs have also seen the need for Agency guidelines which indicate how competitive assistance transactions are to be processed, and how procedures for debriefings and appeals could be established.

Vendor Town Meetings (VTMs)

USAID held its first VTM on March 30, 1994. Over **two hundred and fifty participants** discussed the Agency's need for and direction of procurement reform activities. Several senior level USAID officials attended, including the Administrator of the Agency. The purpose of these meetings is to provide a forum for an open exchange of information as well as suggestions for improving and streamlining the process of awarding and administering contracts, grants and cooperative agreements.

A series of smaller follow-up workshops and seminars were held with USAID's development partners to further identify and focus on procurement issues of mutual concern to USAID and the Contractor/Recipient community. A second VTM was held in Los Angeles in December 1994 with nearly **two hundred participants**.

Attendees at these meetings have emphasized the need for the Agency to conduct its business openly and fairly. The Agency has proactively displayed its adherence to these principles in very tangible ways: moving to a fully functional Internet system for the dissemination of solicitations and procurement policies, establishing a USAID Procurement Ombudsman as a point of liaison, and standardizing procurement procedures. Future VTMs are currently in the planning stages.

RESULTS:

1.) Consultations have been conducted with the PVO community to identify specific steps to avoid micromanagement of its programs.

2.) Two VTMs have been held to date, with more to be held in the future.

3.) On April 11, 1995, the Administrator signed "Principles for Award of Assistance Instruments to PVOs and NGOs for Development and Humanitarian Assistance," submitted by the Advisory Committee on Foreign Voluntary Assistance. The principles embody those that reflect the Agency's philosophy of the respective roles of government and the private sector.

4.) CIB 95-18 issued July 10, 1995, regarding limitations of substantial involvement clause in cooperative agreements.

ORGANIZATIONAL CONFLICTS OF INTEREST PROCUREMENT REFORM NO. 2

In recent years, due to recent staffing constraints, USAID has increasingly relied on contractors, not only to implement projects, but also to design, evaluate and audit those projects. This reliance has led to issues of organizational conflicts of interest (OCI), and the appearance of such conflicts in three principal areas:

- 1.) Design - a firm that has designed a USAID project wishes to be eligible for the competition to implement the project;
- 2.) Evaluation - a firm that has evaluated USAID contractors/projects under contracts with USAID, seeks to do consulting work with the Agency;
- 3.) Audit - a firm which has audited USAID contractors under contract with USAID seeks to do USAID consulting work.

The attached CIB 94-2 (Attachment 1) was issued to tighten procurement policy with respect to each of the three areas noted above.

January 3, 1994

Contract Information Bulletin 94 - 2

As you know, USAID has increasingly relied over recent years on contractors, not only to implement projects, but also to design, evaluate and audit those projects. This reliance has led to issues of organizational conflicts of interest (OCI), and the appearance of such conflicts, in the following three principal areas:

1. where a firm which has designed a USAID project wishes to be eligible for the competition to implement the project;
2. where a firm which has evaluated USAID contractors/projects under contracts with USAID, seeks to do consulting work with the Agency;
3. where a firm which has audited USAID contractors under contract with USAID seeks to do USAID consulting work (sometimes in competition with the audited firms).

One obvious way to reduce such conflicts is for USAID to perform its design, audit and evaluation work with its own personnel, rather than rely on contractors. Some Missions and offices have been able to do this effectively. Use of USAID personnel for design, audit and evaluation work wherever feasible is strongly encouraged.

Where limited OE resources will not allow such reductions in the use of outside contractors, OCI concerns are expected to be continued or exacerbated in the future. To meet these concerns, more effectively, CIB 94-2 tightened procurement policy with respect to each of the three areas noted above.

1. DESIGN/IMPLEMENT CONFLICT

General FAR Principles on OCI

FAR 9.501 states that an OCI exists if a person is "unable or potentially unable to render impartial assistance or advice to the Government, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage." FAR 9.504(a) provides that the Contracting Officer is to identify potential OCIs as early in the acquisition process as possible and is to avoid, neutralize or mitigate significant conflicts before contract award. FAR 9.504(e) requires the Contracting Officer to award

the contract to the apparent successful offeror unless an OCI is determined to exist that cannot be avoided or mitigated.

Apart from the above-noted OCI principles of avoiding conflicting roles that would give a contractor an unfair competitive advantage or might bias its judgment, the FAR contains a very specific provision applicable to design contractors. FAR 9.505-2(b)(1) dictates that if a contractor prepares, or assists in preparing, a work statement to be used in competitively acquiring services, "or provides material leading directly, predictably and without delay to such a work statement," then the contractor is prohibited from supplying those services (subject to several minor exceptions). This provision was found to have been violated by USAID in the GIC case (GIC Agricultural Group, Comp. Gen. Decision No. B-249075, October 21, 1992). The FAR also contains a specific example relevant to the technical assistance USAID contracts customarily call for:

Company A receives a contract to prepare a detailed plan for scientific and technical training of an agency's personnel. It suggests a curriculum that the agency endorses and incorporates in its request for proposals to institutions to establish and conduct the training. Company A may not be awarded a contract to conduct the training.¹

USAID Policy on Preclusion of Design Contractor

In the past, while USAID Contracting Officers have allowed design contractors to bid on the related implementation contracts where steps were taken to mitigate the inherent OCI,² M/OP has determined that it is appropriate to take a stricter position with respect to the interpretation, and enforcement, of the FAR's OCI provisions applicable to design contractors. Henceforth, where it is contemplated that, under a new USAID contract solicitation, a contractor will have a substantial role in the design of a project/activity by providing USAID with "material leading directly, predictably and without delay" to a work statement for the implementation of the project/activity, that

¹ FAR 9.508(g)

² Mitigation steps have often included some or all of the following: disclosing the project paper prepared by the design firm to all interested potential offerors; treating the design firm's project paper as merely a draft, subject to the substantial revision by USAID project officers; limiting the design firm's access to, or role in formulating sensitive information (particularly, budget and financial data); not allowing the design firm to write the statement of work for the implementation contract or PIO/T; crafting the evaluation criteria for the implementation contract so the design firm will not be seen to have an unfair competitive advantage; and being alert to guard against possible bias in the project paper to favor the capabilities of the design firm in the implementation work.

contractor will generally be precluded from the implementation contract.³ The design contractor will be notified of such preclusion through inclusion in the design contract of an OCI provision.

With respect to currently existing design contracts and solicitations for new contracts which have been issued prior to the date hereof, M/OP has decided not to apply this stricter policy to such contractors. Rather, the prior OCI policy (which had been set forth in CIB 93-2) will continue to apply to such contractors:

"Contracting officers must be sensitive to the OCI present in this context and may allow the design firm to compete for the related implementation contract only if the Contracting Officer is satisfied that steps, appropriate under the particular circumstances, have been taken to mitigate or neutralize the OCI effectively, and the contract file has been documented to reflect this."

The FAR phrase, "material leading directly, predictably and without delay," has not been precisely defined, but USAID policy is not to interpret it broadly, such that the great majority of new design contracts will be subject to the preclusive policy envisioned by the FAR. In the GIC case, for example, USAID argued to the GAO that the changes made by the Mission in the work statement prepared by the contractor and the eight months which elapsed between the time of the submission of the contractor's report and the issuance of the implementation RFP indicated that the "directly, predictably and without delay" standard had not been met, but the GAO disagreed. In light of the substantial OCI risks of biased design and unfair competitive advantage present in the design/implement context, the preclusive policy is to be applied to design contracts involving particular contemplated projects where a single contractor is responsible for the design of the project/activity, even if the design contract does not call for the contractor to prepare a work statement for the project/activity, so long as the design work contemplated reasonably appears to be for "material leading directly, predictably and without delay to such a work statement." Only in the case of very preliminary and general design work, not foreseeably connected to particular projects/activities, should the design contractor not be precluded from the implementation contract. In such cases, the general FAR Subpart 9.5 principles on OCI still apply, and the Contracting Officer must apply those principles to the particular facts (as Contracting Officers will do to "grandfathered" design contracts per the paragraph immediately above).

When design and implementation are competed together, this preclusive policy is not applicable. The possibility of unfair competitive advantage would not be at issue when the implementation phase is competed at the same time as the design.

³ An exception from this preclusion policy would be where more than one contractor has been involved in preparing the work statement, in which case, under FAR 9.505-2(b)(1)(iii) the design contractors need not be precluded from the implementation contract.

The potential OCI issue would be whether the contractor can render impartial assistance or advice to the Government.

A Contracting officer may request a waiver of this new, preclusive policy from the Agency Competition Advocate (ACA) (M/PPE, USAID/W) if he/she determines that it is in the best interests of USAID to allow the design contractor to compete for the implementation contract. Application for such a waiver may be made either prior to the issuance of the design solicitation. The ACA may approve the waiver, per FAR 9.503, in a particular contract situation, upon the ACA's determination that application of the preclusive policy would not be in USAID's interest. In this connection, the ACA will not accept vague assertions that without a waiver quality implementation firms will not be willing to bid for the design contract or that preclusion will lead to a disconnect between design and implementation of a project/ activity. Although such fears have been often stated as underpinning USAID's prior more lenient policy, it is unclear that they are realistic, and Federal law as set forth in FAR 9.505-2(b)(1) generally calls for preclusion, suggesting that the OCI risks outweigh these unproven concerns. In considering a waiver, however, the ACA may consider that in some narrow, specialized areas there would not be adequate competition for the implementation contract without the design contractor. In addition, some areas such as construction and other infrastructure projects, are sufficiently well-defined that the ACA may determine that they are not susceptible to the risks of biased design and unfair competitive advantage. The ACA will also consider the likely efficacy of any proposed OCI mitigation steps, such as those noted in footnote #2. It should be noted, however, that waivers are expected to be rare, as the intention of this CIB is truly to change AID's policy with respect to design/implement OCI, such that preclusion of the design contractor shall be the rule and waiver the rare exception.

2. EVALUATE/CONSULT CONFLICT

Contracts calling for outside firms to evaluate USAID projects raise several OCI concerns. If the evaluation contract calls for the contractor to evaluate a current or likely competitor (as is often the case), the evaluation contractor may have an interest in criticizing the performance of the implementing firm, believing that a critical evaluation will hurt the chances of the firm in securing any follow-on contract or other work in that sector of expertise.⁴ The risks of a biased, unfavorable review are heightened in cases where the evaluation contractor and the evaluated firm have a history of bad relations with each other. On the other hand, an evaluation contractor may have a tendency toward the opposite bias if it perceives that a favorable review will curry favor with USAID and improve its position with respect to obtaining further

⁴ Cf. FAR 9.505-3, which states: "Contracts involving (a) technical evaluations of other contractors, offers or products...shall not generally be awarded to a contractor that would evaluate, or advise the Government concerning, its own products or services, or those of a competition, without proper safeguards to ensure objectivity and protect the Government's interests."

USAID consulting work. Apart from these possible biases, an evaluation contractor may, during the course of the evaluation of a project, glean competitively useful information from the incumbent firm.

The Agency has determined that the best safeguard against these dangers is for the evaluation contractor to be precluded by the Contracting Officer from furnishing other services to USAID in the same sector as the project to be evaluated (except for design services⁵ or other evaluation services) during the three-year period after the last evaluation services are provided by the evaluation contractor. The Contracting Officer is to determine the appropriate precluded "sector" for this purpose (e.g., health, agriculture, economics, perhaps confined in some infrequent cases to the project's geographical area), so as to avoid the likelihood that the evaluation contractor will compete against the firm to be evaluated. As with the design/implement policy discussed above, this preclusive policy will apply prospectively through inclusion in new solicitations for evaluation contracts of a provision substantially as set forth in Appendix 2. It is contemplated that, as the existing USAID evaluation contracts wind down, they will be replaced with fewer, but larger, evaluation contracts with this preclusion feature, thus giving USAID a reliable pool of evaluation contractors whose objectivity will be above reproach.

This preclusive policy will also be subject to waiver by the Agency Competition Advocate (ACA) (M/PPE, USAID/W) when the ACA determines, pursuant to FAR 9.503, that its application would not be in USAID's interest. While the ACA retains discretion to determine when such a waiver would be in USAID's interest, it is envisioned that waivers would be extremely rare, with the most likely justification being that without the evaluation contractor there would not be adequate competition for the particular procurement at issue.

3. AUDIT/CONSULT CONFLICT

Contracts calling for outside contractors to audit USAID contractors also raise OCI concerns. There is at least the possible appearance of a conflict when a firm under contract audits a USAID contractor and contemporaneously or shortly thereafter competes with that contractor for USAID consulting work. Such a situation presents at least the theoretical danger that the firm, in auditing its competitor, can gain an unfair competitive advantage in learning sensitive cost data.⁶

⁵ Although evaluation contractors will not be precluded generally from design activities, they will be precluded, under Appendices 1 and 2, from evaluating their own designs.

⁶ USAID faced such a difficult situation recently, when the consulting division of a USAID IQC audit firm submitted a proposal for a USAID consulting contract in competition with that submitted by the USAID contractor being audited by the firm's audit division. The firm being audited strenuously objected to the audit firm's participation, alleging that it obtained proprietary data and learned how to prepare a proposal in the course of attempting to audit the contractor. Although the Contracting

M/OP has determined that the best safeguard against these awkward real or perceived conflicts issues is for the audit contractor to be precluded from furnishing other services to USAID (except for other audit services) during the three-year period after the last audit services are provided by the audit contractor. Given that, as in the evaluation/consult conflict area, this is an admittedly stringent remedy, this preclusive policy will apply only prospectively, through inclusion in new solicitations for audit contracts of a provision substantially as set forth in Appendix 3. As with evaluation contracts, it is contemplated that, as the existing USAID audit contracts wind down, they will be replaced with a smaller number of larger audit contracts with this preclusion feature, thus ensuring that there will be no conflict appearance issues in this connection in the future.

Again, this preclusive policy will be subject to waiver by the Agency Competition Advocate (ACA) (M/PPE, USAID/W) when the ACA determines, per FAR 9.503, that its application would not be in USAID's interest. Although the ACA retains discretion to determine when such a waiver would be in USAID's interest, it is envisioned that waivers would be extremely rare, with the most likely justification being that without the audit contractor there would not be adequate competition for the particular procurement at issue.

[The following questions are those frequently asked in regards to the Agency's clarified OCI policy. They have been included for informational purposes.]

Do the requirements in CIB 94-2 apply to individuals, whether contractor employees, independent contractors, or PSCs?

No. Individuals who work on design, evaluation or audit contracts that are covered by the guidelines in CIB 94-2 are not restricted from working under any implementation contracts by the terms of CIB 94-2 regardless of whether they worked as PSCs, independent contractors, or as employees of a contractor organization. AID employees, however, whether direct hire or PSCs, would be restricted under the post-employment provisions of the Procurement Integrity Act from working on a contract for which they were a procurement official.

Situations may arise, of course, where a contracting officer believes that some type of restriction is necessary with regard to an individual. Again, this new policy

Officer determined that there was no evidence to suggest that the audit firm abused its position by making use of the audit information in preparing its proposal (and indeed there was reasonable evidence to the contrary), the case suggested that such participation in consulting work by an audit firm can lead to difficult "appearance of conflict" issues.

does not prevent contracting officers from exercising such discretion. It is possible that, in order to protect the integrity of the procurement process, a contracting officer may determine if necessary to preclude an independent contractor who worked on design from participating in proposal preparation for the implementation contract. It may even be necessary to disqualify a firm employing an individual who had worked on design. For example, this might be appropriate where a PSC wrote the statement of work, had access to USAID's budget and cost estimates and other inside information and then shared all this information with a firm proposing for the implementation award. This would probably be precluded by various provisions of the Procurement Integrity Act, thus creating a situation serious enough to warrant disqualification.

Do the requirements in CIB 94-2 apply to existing IQCs or Buy-in contracts?

Not automatically. Because the existing contracts did not contain the prohibitions when they were competed, it is more appropriate for the cognizant contracting officer to determine case-by-case for each delivery order whether potential OCI exists and what remedies can be applied. While the contracting officer may decide that it is necessary to preclude a contractor from participating in a particular procurement in order to avoid OCI, he or she may determine that another remedy is adequate to mitigate potential OCI.

How will contracting officers know which contractors are precluded from which contracts?

At present, the only "system" is to rely on the contractors. In the future, this information should be available through the automated system being developed under the current Acquisition and Assistance Business Area Analysis.

Are all affiliates, divisions, sub-organizations, etc., of a contractor affected by a restriction?

This question cannot be answered across-the-board. On one end of the spectrum, organizations which are not separate legal entities from the restricted contractor should be subject to the same restrictions. At the other end, organizations which are affiliated in name only should not be subject to restrictions. In cases where the relationship is not so clear cut, you may request guidance from the Agency Competition Advocate.

Are design contractors precluded from implementation when more than one works on the design?

Contractors generally need not be precluded from competing for the implementation contract if more than one prime contractor is involved in the design

work, provided that none of the contractors could be said to control the final design. FAR Subpart 9.5 rules on avoiding OCI still apply, and contracting officers continue to have discretion to preclude multiple design team members if an OCI problem exists that cannot be mitigated despite the exception applying. Contracting officers should be careful to authorize multiple firm arrangements for design work only when there are bona fide, objective reasons to engage more than one contractor in the design work.

Does the use of subcontractors by the design contractor mean that the prime and subcontractors need not be precluded from the implementation contract?

No. The FAR states that preclusion is not required when more than one contractor was involved in doing the work. Our interpretation is that "one contractor", when read in context with the purpose and scope of FAR conflict of interest coverage, would include the prime contractor and any subcontractors whose professional work product led directly, predictably, and without delay to the statement of work. Therefore, the prime contractor and subcontractors should be precluded unless a waiver has been authorized.

How are the preclusion requirements applied to consortia?

We presume that each member of a consortium has full access to the work product of the consortium. Absent compelling evidence to the contrary (e.g., a statement from the consortium that only specified members participated), every member of the consortium should be precluded whenever the consortium is precluded from implementation because of evaluation or audit work it has performed.

For design work, we consider the situation analogous to the prime/sub contractor relationship under a design contract. Thus, every member of the consortium would be precluded unless there is compelling evidence that the member did no professional work which led directly, predictably, and without delay to the statement of work.

What types of evaluation contracts are subject to the requirements of the CIB?

The requirements apply to direct contracts for evaluations of contractors or of a project or program activity. They do not apply to evaluations of a Mission's portfolio - a program review or strategic assessment - nor do they apply to widespread program sector evaluations. The restrictions also do not automatically apply to evaluations of grants or cooperative agreements. Remember, however, that even where the CIB restrictions do not apply, OCI issues may well still exist that must be mitigated.

How is a "sector" defined for purposes of the evaluation restrictions?

The contracting officer has leeway to determine the appropriate definition of a sector depending on the circumstances. The restriction should be based on whether the contractor would be likely to compete against firms which is has evaluated or audited, or whether the firm is likely to gain information from firms which it has evaluated or audited which would be useful to it in future procurements. The sector may be somewhat narrowly defined (such as agricultural marketing, child survival), and it may also be reasonable to limit the prohibition to a particular region provided it covers the areas where OCI is likely to arise, as described in the first paragraph of the "Evaluate/Consult Conflict" in CIB 94-2. Questions that come up in a particular case may be addressed to the Agency Competition Advocate.

Following are clarifications of other issues concerning the design/implementation policy:

To the extent a contractor is precluded from being a prime contractor, it is also precluded from being a subcontractor.

The DAP and DAD contracting mechanisms may still be used. Whenever design and implementation are covered in the same contract, the preclusion is not applicable.

PROCUREMENT INTEGRITY PROCUREMENT REFORM NO. 3

Guidance on procurement integrity had not been issued for several years. It was uncertain whether procurement integrity certifications were being obtained from individuals who were likely to be procurement officials. Further, there was no indication that reported violations were being followed up to any extent, and no agency-wide training on procurement integrity had been provided for years.

The objective of this reform effort is to prevent recurring violations of procurement integrity standards and procedures. Because USAID relies so heavily on contractors, nearly every employee in the Agency functions as a procurement official, therefore, appropriate behavior must be enforced through management and legal avenues.

A General Notice on procurement integrity was issued on February 2, 1995, which established a new procedure to assure that procurement officials sign a procurement integrity certification when personnel enter the Agency, or move to a new post. The General Notice provides basic guidance on procurement integrity issues and establishes Assistant Inspector General/Office of Investigations (AIG/I) as the appropriate office to investigate possible violations of the procurement integrity requirements. As this general notice is the crux of the procurement reform effort in this area, it is reprinted in its entirety as an attachment (see Attachment 2).

Attachment 2

This General Notice is issued to advise and remind all employees and contractors working on USAID premises, both personal and non-personal services contractors, of the provisions of the Procurement Integrity legislation (41 U.S.C. 423) and the implementing regulations (Federal Acquisition Regulation (FAR) 3.104) (collectively, the "PI Law").

As described below, the PI Law prohibits certain conduct (including soliciting or discussing post-Government employment, offering or accepting a gratuity, and soliciting or discussing proprietary or source selection information) by "procurement officials" and "competing contractors" during the conduct of any Federal agency procurement. It also sets forth certain post-employment restrictions on procurement officials. Violations of the PI Law are subject to civil and criminal penalties (including fines of up to \$100,000 and imprisonment of up to five years) and to adverse personnel action by USAID (including reprimand and termination of the employee's employment).

I. Who is a "Procurement Official"?

"Procurement official" means any official or employee of USAID (including PSCs, individual nonpersonal services contractors, contractor employees and others advising USAID about any procurement) who has participated personally and substantially in any of the following activities for a particular procurement --

- (1) Drafting a specification or a statement of work for that procurement;
- (2) Review and approval of a specification or statement of work developed for that procurement;
- (3) Preparation or development of a procurement or purchase requests for that procurement;
- (4) Preparation or issuance of a solicitation for that procurement;
- (5) Evaluation of bids or proposals for that procurement.

II. Certificate Requirement for Procurement Officials

In accordance with the PI Law, no one may serve as a procurement official for USAID unless he or she has executed the Procurement Official Certificate (see Attachment) attesting to his/her familiarity with the principal procurement integrity

requirements and undertaking to comply with them. An executed Procurement Official Certificate is required of all individuals proposed to act as procurement officials for USAID procurement, including USAID employees, PSCS and consultants.

The management/administrative staff of each Bureau or independent office and the Executive Office in each Mission is to assure that every individual in the organization who may act as a procurement official (this will be most professional employees of the Agency) has signed a copy of the Procurement Official Certification. The management/administrative staff or Executive Office should retain the certificates. Agency Contracting Officers may periodically refer to these offices for confirmation of who has signed a procurement integrity certificate. Contracting Officers will continue to request separate certificates from members of technical review panels. Whenever an individual is assigned to a different Bureau, independent office or Mission, the management/administrative staff or Executive Office should request that person to sign a new copy of the certificate.

Given the importance of the PI Law, periodic reminders of the provisions of the PI Law are appropriate, so re-execution of the Procurement Official Certificate will be required approximately every two years. The Bureau for Management will issue biennial reminders of the PI Law and certificate requirements.

III. Prohibited Conduct by Procurement Officials and Others

During the conduct of any USAID procurement, the PI Law prohibits USAID Procurement Officials from:

- (1) soliciting money or any other thing of value from any representative of a competing contractor;
- (2) engaging in any employment/business opportunity discussions with any representative of a competing contractor;⁷ or

⁷ Two exceptions to this bar should be noted. First, the prohibition on engaging in employment discussions ceases to apply after (a) in the case of a USAID employee or PSC serving as a procurement official, the date when such individual leaves USAID service, or (b) in the case of contractor personnel, consultants and other advisors serving as procurement officials, the date when such individuals cease to act on behalf of, or provide advice to, USAID concerning the procurement. Second, under the PI Law, a USAID procurement official may seek a recusal from participating in a procurement in order to discuss future employment or business opportunities with a competing contractor. One is eligible for possible recusal if one has not participated personally and substantially in evaluating bids or proposals, in selecting sources, or conducting negotiations; or in the case of a contract amendment one has not participated personally and substantially in the evaluation of the proposed amendment or in its negotiation. The Head of the Contracting Activity (HCA) may grant recusal requests upon the HCA's determination that an eligible procurement official's further

3) disclosing any proprietary or source selection information to anyone other than a person authorized by the Administrator or the Contracting Officer to receive such information.

The term "competing contractor" means any entity or individual that is, or is reasonably likely to become, a competitor for or recipient of a contract or subcontract under a procurement, and includes all persons acting on behalf of such entity or individual. There are corollary prohibitions in the PI Law applicable to competing contractors. As a technical point, these prohibitions apply "during the conduct of any Federal agency procurement of property or services," which begins on the earliest date on which an identifiable, specific action is taken for a procurement to satisfy a specific Agency need and ends on the date of the award or modification of a contract or the cancellation of the procurement.

IV. Non-Disclosure of Proprietary and Source Selection Information

Of the three principal PI prohibitions, USAID compliance with the last -- non-disclosure of proprietary and source selection information -- appears to be most in need of significant improvement. Although good working relationships between USAID and contractor/PVO personnel are important, **IT IS IMPERATIVE THAT ALL USAID PROCUREMENT OFFICIALS AND OTHER EMPLOYEES POSSESSING PROPRIETARY OR SOURCE SELECTION INFORMATION ADHERE TO THE PI LAW'S REQUIREMENTS PROHIBITING DISCLOSURE OF SUCH INFORMATION.** The non-disclosure requirement applies not only to procurement officials, but also to all other persons who have access to such information.

(a) Proprietary Information

"Proprietary information" means information contained in a bid or proposal or otherwise submitted to USAID by a competing contractor in response to the conduct of a USAID procurement, or in an unsolicited proposal, that has been marked by the contractor as proprietary information in accordance with applicable law and regulation. This could include sensitive cost data or other closely held sensitive data of the contractor.

(b) Source Selection Information

"Source selection information" ("SSI") is information which is prepared or developed for use by USAID to conduct a particular procurement and --

participation is not essential to the procurement and that the recusal will not jeopardize the procurement's integrity.

(1) The disclosure of which to a competing contractor would jeopardize the integrity or successful completion of the procurement; and

(2) Is required by statute, regulation or order to be secured in a source selection file or other facility to prevent disclosure.

(c) FAR-Defined SSI

The FAR lists nine specific categories of SSI:

(1) Bid prices submitted in response to a Federal agency solicitation for sealed bids, or lists of those bid prices prior to public bid opening;

(2) Proposed costs or prices submitted in response to a Federal agency solicitation (for other than sealed bids), or lists of those proposed costs or prices;

(3) Source selection plans;

(4) Technical evaluation plans;

(5) Technical evaluations of proposals;

(6) Cost or price evaluations of proposals;

(7) Competitive range determinations which identify proposals that have a reasonable chance of being selected for award of a contract;

(8) Rankings of bids, proposals, or competitors; and

(9) The reports and evaluations of source selection panels (i.e., technical panels).

All such information is SSI, whether or not marked as such.

(d) Marking and Segregation of Other SSI

In addition, agencies are allowed to designate other information as SSI if it meets the two general standards noted above and is marked as SSI. USAID has determined that the information in PIO/Ts and PIO/Cs is covered by the procurement integrity rules.

The Agency has also determined to extend the requirements concerning non-disclosure of SSI to the process of competing/negotiating delivery orders and task orders which obligate funds under indefinite quantity and requirements type contracts. While non-disclosure requirements of the law cease with the award of a contract, competition and negotiation of delivery and task orders under multiple-award contracts raise many of the same needs for confidentiality as during the initial award process.

In addition to the PI Law's requirements to safeguard proprietary and source selection information, it should be noted that under AID Acquisition Regulations (AIDAR) USAID employees are also required not to disclose any information that might give any potential contractor an unfair competitive advantage, or dilute USAID's negotiating position with potential contractors.

(e) Release of SSI After Contract/Order Award

The sensitivity of source selection information is time-limited. We are only required to protect SSI prior to contract award, or for delivery and task orders, prior to the signing of the order. Protection of SSI does not require security classification and, if it is reasonable to do so in a particular case, it can be released with the approval of the Contracting Officer.

V. Post-Employment Restrictions Under the PI Law

Two additional restrictions apply to USAID employees (including PSCs) who leave USAID after serving as procurement officials in connection with a particular acquisition:

(a) Restrictions on Negotiating with USAID. For two years after such individual's last personal and substantial participation in the procurement, the individual may not participate at all on behalf of a competing contractor in any negotiations leading to award, modification or extension of that contract; and

(b) Restrictions on Working Under the Contract. For two years after such individual's last personal and substantial participation in the procurement, the individual may not participate personally and substantially in the performance of that contract.

These post-employment restrictions applicable to procurement officials are separate and apart from the general employment restrictions applicable to Government employees (principally set forth in 18 U.S.C. 207 and 208), which are not addressed here.

ENCOURAGE WIDER PARTICIPATION OF ORGANIZATIONS IN USAID PROCUREMENTS

PROCUREMENT REFORM NO. 6

BACKGROUND:

There has been a widespread perception among potential contractors, particularly small, minority, and women-owned businesses, as well as small Non-Governmental Organizations (NGOs), that USAID in recent years has become a "closed shop." This perception can result in decreased competition for USAID activities, and a general lack of confidence by the vendor community in the fairness of the agency's procedures. It can also impede the attainment of important socio-economic goals. As a result, USAID through a variety of avenues, particularly the use of INTERNET, has sought to increase competition to ensure that this perception is eliminated.

OBJECTIVE:

The objective of this procurement reform is to encourage wider participation of organizations in USAID procurements, including small and disadvantaged businesses, to increase competition and dispel the notion of the Agency being a "closed shop," or being exclusive rather than inclusive, with respect to organizations seeking to be our development partners.

DISCUSSION:

M/OP's actions to improve competition and increase participation have focused on three areas:

1. **Streamlining and Standardization**

One of the major reform efforts underway is streamlining M/OP's procedures and making them more standardized. This will encourage broader participation of organizations in USAID procurement. This initiative is important because greater consistency in procurement processes and procedures will enable new organizations, who may not know how procedures work, to be more competitive with those organizations that do. It should also create a greater perception of fairness and rationality, thereby encouraging organizations to become development partners with USAID. These streamlined systems will facilitate a more efficient and effective procurement process for both USAID and contractors/recipients. It should also be noted that more consistency in contractual terms and conditions will simplify and shorten the learning curve associated with bidding on USAID procurements, thus also facilitating involvement of new organizations in Agency programs.

2. Internet

Technology has continued to play a central role in the expansion of USAID business opportunities on a national level. The Agency has decided to use electronic media to make information more readily available. In an effort to reach a broader public audience, the Agency has been posting general contracting information on the Internet, and has expanded that information to include procurements worldwide. Organizations and individuals will have quicker access to, and retrieval of, procurement forecasts, bids and solicitation documents.

Internet has an estimated 20 million users worldwide, and is a quick means for potential vendors to view what USAID requires without having to request this information through the mail. The Agency hopes that with expanded use of Internet, mailing of unwieldy solicitation documents which may run 100 - 300 pages in length, can be reduced. Agency officials also hope that vendors that have not participated in USAID procurements in the past, will become aware of opportunities that are available through the Internet. In addition, many of the vendors that currently do business with the Agency are using Internet, and are very interested in continuing to receive procurement information electronically.

In an effort to expose more US businesses and individuals to USAID competitive procurement opportunities, M/OP has posted Commerce Business Daily (CBD) announcements and competitive solicitations and applications on the Agency's Gopher and File Transfer Protocol (FTP) system. Other information relating to procurement such as Contract Information Bulletins (CIBs), Procurement Reform News, and FY 1994 and 1995 Procurement Forecasts have also been posted on the Internet. These forecasts contain information relating to expected FY 94 and 95 competitive procurements, including a subject description of the action and the expected date of issuance. To date, M/OP has posted nearly 75 CBD announcements, 25 competitive RFPs or RFAs and 20 award notices.

USAID formally instituted the policy of posting solicitation information on Internet on September 15, 1995 for Washington issued solicitations, and on February 27, 1995 for field issued documents. Although it is too early to tell what impact Internet has had on the Agency, we can safely say that USAID is on the information superhighway. It is anticipated that someday the USG will become PAPERLESS, and current advancements in electronic communications increase the likelihood that this will soon become a reality. USAID seeks to be a leader in this process.

3. Small and Small Disadvantaged Business Utilization

The Agency is committed to encouraging broader participation of small and small disadvantaged businesses in the procurement process. Many USAID contracts contain requirements for subcontracting with small business firms, small

disadvantaged business concerns, and disadvantaged enterprises (formerly known as Gray Amendment organizations). In the past, systems for monitoring and enforcement of such requirements have been weak. Contract Information Bulletin No. 95-7 implemented stronger requirements for monitoring of subcontracting plans.

Competition for USAID procurements may, in many instances, be set-aside for (limited to) small business concerns, small disadvantaged business concerns, and/or disadvantaged enterprises. In some cases, competition is not required at all. Greater use of these authorities will create opportunities for wider participation in USAID procurements.

Prior to announcement of procurement opportunities, The Office of Small and Disadvantaged Business Utilization (OSDBU) reviews the requirement, and recommends small and disadvantaged business participants for each procurement. It should be noted that many procurements exceeding \$500,000 require offerors to submit a plan for subcontracting to small businesses and small disadvantaged businesses, and/or to subcontract at least 10% to disadvantaged enterprises. It is not uncommon for offerors to meet these requirements by utilizing small and/or disadvantaged travel agencies. While this technically satisfies the requirements, it does not provide real opportunities for substantive involvement by new small businesses, small disadvantaged businesses and disadvantaged enterprises in the foreign assistance program. Yet subcontracting with an experienced and larger prime contractor is one of the best ways for new organizations to become involved. Subcontracting minimizes their bid and proposal costs incurred in often futile efforts to compete head-on with experienced contractors, and minimizes the risks associated with their inexperience. At the same time, the subcontractor has the opportunity to "learn the ropes" by collaborating with the prime contractor.

M/OP is committed to ensuring that subcontracting requirements are applied so as to provide substantive subcontracting opportunities, thus encouraging wider participation of small and disadvantaged businesses in USAID procurements. M/OP also fully supports and participates in OSDBU outreach conferences. OSDBU conducts these conferences each year to attract small businesses, small disadvantaged businesses, and disadvantaged enterprises in a variety of cities around the country. OSDBU has also issued with M/OP input, the "Guide to Doing Business with the U.S. Agency for International Development." This guide is key in helping new organizations find out more information about USAID projects and the procurement process.

RESULTS:

1.) M/OP has taken specific steps in streamlining/standardizing office procedures. These efforts include but are not limited to: installation of a contract

writing system which provides uniform contract documents, various CIBs on procedures such as reducing the need for unnecessary approvals, and creating handbooks for M/OP that contain uniform procedures.

2.) Through the use of Internet the Agency has made great strides in opening the perceived "closed shop," in that here has been an increase in the number of new firms doing business with the Agency.

3.) Issuance of CIB 95-7 dated February 16, 1995, ensures compliance with regulated subcontracting procedures.

4.) OSDBU in conjunction with M/OP, is providing outreach conferences throughout the U.S.

5.) OSDBU issuance of the "Guide to Doing Business with the U.S. Agency for International Development," provides useful information to those vendors seeking to do business with the Agency.

SUSPENSION/DEBARMENT PROCUREMENT REFORM NO. 8

BACKGROUND:

USAID's system of suspension/debarment was cumbersome. The Agency was unable to get firms suspended and debarred in a timely manner. As one of the procurement reform efforts, this system was examined to speed up the process of suspending/debarring firms or individuals where such action was necessary to protect the interests of the Government.

The following is a listing of what is required for debarment by an agency pursuant to FAR 9.406-2. The debarring official may debar a contractor (bases for suspension are similar) for any of the following reasons:

- Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public contract or subcontract;
- Violation of Federal or State antitrust statutes relating to the submission of offers;
- Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- Intentionally affixing a label bearing a "Made in America" inscription to a product sold in or shipped to the U.S., when the product was not made in the U.S.;
- Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a government contractor or subcontractor;
- Violation of the terms of a Government contract or subcontract so serious as to justify debarment such as
 - Willful failure to perform in accordance with the terms of one or more contracts or,
 - A history of failure to perform, or of unsatisfactory performance of one or more contracts

- Violations of the Drug-Free Workplace Act of 1988 as indicated by:
 - The offeror's submission of a false certification;
 - The contractor's failure to comply with its certification; or
 - Such a number of contractor employees having been convicted of violations of criminal drug statutes occurring in the workplace, as to indicate that the contractor has failed to make a good faith effort to provide a drug-free workplace.

OBJECTIVE:

The objective of this reform is to enable USAID to avoid vulnerabilities that can occur because contractors that should be legally ineligible to do business with the Agency have not been properly suspended or debarred. Thus, the suspension and debarment procedures should be strengthened.

DISCUSSION:

A committee composed of representatives from M/OP, the General Counsel and the Office of the Inspector General reviewed the existing suspension and debarment procedures. A single point was designated to which action requests should be referred. Further, responsibilities of the individual offices involved in the process were clarified and each office was charged with improving responsiveness.

Pursuant to FAR 9.406-3 "Agencies shall establish procedures for the prompt reporting, investigation, and referral to the debarring official of matters for that official's consideration." CIB No. 94-6 dated April 15, 1994, lists the Agency's review procedures for debarment/suspension.

It should be noted that suspension/debarment is only one of several available administrative actions that the Agency might take in particular cases. Changes in contract policy or regulation, bills for collection, offset, termination for default, or other administrative measures may be appropriate depending upon the circumstances of the case.

RESULT:

A new procedure was established and promulgated streamlining procedures and clarifying inter-office responsibilities, thus closing this procurement reform issue.

EXPLORE FEASIBILITY OF COMPETITIVE GRANTS PROCESS PROCUREMENT REFORM NO. 14

BACKGROUND:

The Federal Grant and Cooperative Agreement Act of 1977, the basic law relating to assistance instruments, requires the Federal government to "encourage competition, where deemed appropriate, in the awards of grants and cooperative agreements." USAID's implementing guidance in Chapter 2, Part 2 of Handbook 13 (HB 13), indicates that "competition is to be used to the maximum practicable extent for the award of grants or cooperative agreements." As part of this Chapter, the Agency requires that the use of sources derived from other than a competitive basis be justified.

The Agency invites submission of assistance funding proposals by issuing Requests for Applications (RFAs). The handbooks do not provide a format for an RFA, nor describe its content. Part 2C of HB 13 states that the RFAs are prepared by the technical office in collaboration with the grant officer, *or by the grant officer.*

Currently, the majority of the RFAs are prepared by the cognizant technical office, not the M/OP. The lead time associated with the preparation of the RFA and the processing of the application up to the actual negotiation of the funding and final terms and conditions varies greatly between the bureaus, offices within a bureau and within projects in these offices. The lead-times can vary from as quickly as 90 days to more than 10 months. Given that some complaints have been received regarding the methods used to distribute assistance, the Director of the M/OP asked the committee to determine whether the Agency and the PVO community might better be served by conducting the source selection process within the M/OP and repealing the delegation to the project offices.

OBJECTIVE:

The objective of this reform effort is to examine the competitive grant process that the Agency currently uses to reassess the roles of M/OP and the client project offices.

DISCUSSION:

A team consisting of three individuals (two COs and one person from the Policy Staff) reviewed the current procedures, the assistance application and award methodology in several other Federal agencies, and the suitability of current or other procedures to USAID needs, and made recommendations concerning these items. Numerous meetings were held over a six month period. After the meetings and several times during the period, recommendations were made to the Director of M/OP regarding the team's findings.

Information was received from a wide range of Federal agencies. These included, but are not limited to the following:

- * Department of Energy
- * National Institute of Health
- * Department of Education
- * Department of Health and Human Services
- * National Academy of Science

In reviewing and discussing the input from the various agencies, it was learned that all of them had the technical office responsible for the requirement do the "solicitation" for the agency's requirement. The procurement office in the department or organization had minimal involvement in the solicitation and selection of the recipient of the assistance instrument. The procurement office was responsible principally for the execution of the instrument. The only organization that had its procurement office conduct the entire process was the Department of Education, and this was primarily for state block grants. The other agencies saw no need for conducting the entire process in the procurement office.

The team then contacted the grant officers in M/OP in order to determine if they were aware of program areas in their client offices that could be better served by a competitive process conducted by M/OP. The USAID offices that employ a competitive grants program are University Center (UC) and Health (both in Global), Bureau for Humanitarian Response (BHR), Near East Bureau (NE), East Europe and Newly Independent States (ENI). These grant programs are being run by the bureaus themselves from advertising through the selection of the recipient. If M/OP is involved at all, it is to analyze the cost proposals and award the grants.

The team considered the idea of having M/OP conduct the entire competitive grants process from advertising through award. However, it was thought that there were more disadvantages than advantages in doing this. First, M/OP does not have an adequate number of personnel to properly award and administer the number of actions that are currently processed throughout the year. The resources required for the competitive grants programs now administered in the project offices is between

one and five Full-time Equivalents (FTE) to conduct the administrative process from advertising through selection (this does not include the technical evaluation).

Second, the team found that the process should remain in the bureaus as it is presently, because the bureaus perceive this as allowing them more control over their own requirements. Such an action would be consistent with the emphasis on empowerment, and streamlining operations systems by finding ways to do things more quickly and efficiently. The project offices feel that if the competitive grants programs were moved to M/OP their needs would then compete with the needs of other programs, since contract specialists handle several programs. It would appear that M/OP could not administer the program any quicker or any more efficiently. Moving the competitive grants program to M/OP would seem to run counter to all streamlining efforts, and there is little or nothing to be gained by any change in this area.

RESULTS:

The team considered the responses from the USAID project offices to be valid concerns and agreed that, in the spirit of procurement reform, to conduct the process entirely in M/OP would be a step backward, not forward. However, the team found that the process could be improved. The problem seemed to be a matter of the method used rather than who was conducting the process. Each office had an established set of procedures for conducting the process. However, they varied from one office to another, both in terms of quality and coverage. In order to maintain the integrity of the grants process, to provide consistency and to make the process more transparent, the committee recommended the following:

1.) Create more guidance for RFA's in Handbook 13, particularly with regard to the content of RFA's as well as the information to be submitted with proposals in order to reduce the amount of time it takes M/OP to award the grant after it is received. The guidelines would also address assurances, compliances, and budget information to be submitted. This is currently being done.

2.) Grant officers in M/OP should review the RFA before it is released by the bureaus for clarity (this is being now being done). Early coordination helps prevent problems, and the use of improper instruments.

3.) The action memorandum accompanying the PIO/T requesting grant award should list the methodology used by the bureau in the source selection, noting reasons if award is made to other than the highest ranked grantees.

Procuring for Results - A Better Way of Doing Business

This topic encompasses procurement reform numbers:

Four: Performance Based Contracting - Contracting for results.

Five: Project Evaluation - Past Performance.

USAID is committed to achieving results for its development efforts. In conjunction with the Agency's Development Partners, USAID wants to ensure that those in the developing world are provided with opportunities to use their limited resources in the most beneficial way. Better contracts that hold contractors accountable for results will enable this to happen.

PERFORMANCE BASED CONTRACTING "CONTRACTING FOR RESULTS" PROCUREMENT REFORM NO. 4

BACKGROUND:

Performance based contracting (PBC) is defined by the Office of Federal Procurement Policy (OFPP) as "structuring all aspects of an acquisition around the purpose of the work to be performed as opposed to either the manner by which the work is to be performed or broad or imprecise statements of work." In other words, PBC emphasizes objective, measurable performance requirements and quality standards in developing statements of work, selecting contractors, determining contract type and incentives, and performing contract administration -- a focus on outputs rather than inputs.

Another area of change in the procurement arena is the move from Level-of-Effort (LOE) contracts, which emphasize inputs, to Performance Based Contracts (PBC), which emphasize outputs, or results. In accordance with directives from Congress and the NPR, USAID is focusing on "RESULTS" and therefore, must utilize the types of instruments that ensure that desired strategic objectives will be achieved. In the past, USAID, like many other Federal agencies, would prescribe inputs to be obtained under contracts with broad objectives. Through utilization of PBC as the preferred method of contracting, USAID will shift emphasis to crafting contracts that hold the contractor(s) responsible for accomplishing specific, measurable objectives.

On April 9, 1991, OFPP issued Policy Letter 91-2, which established policy for the Government's acquisition of services by contract. The policy letter emphasized the use of performance requirements and quality standards in defining contract requirements, source selection, and quality assurance. OFPP stated that, "This approach [performance based contracting] provides the means to ensure that the appropriate performance quality level is achieved, and that payment is made only for services that meet contract standards."

OBJECTIVE:

USAID's procurement reform objective for PBC is to institutionalize a quantifiable contract approach to project implementation within USAID via the use of more performance-based contracts, and a reduction of the number of contracts that are satisfied by the provision of contractor labor inputs.

DISCUSSION:

Why should USAID be using PBC?

During FYs 93 and 94 the total estimated cost of USAID technical services contracting was \$1,770,806,228 and \$2,229,596,019, respectively. These amounts represent 38.5% and 40.5%, respectively, of the total estimated cost for all actions executed worldwide.

PBC is a better way of getting results. Its aim is "to improve the value of contracting services by emphasizing objective, measurable mission-related OUTPUT terms rather than HOW the work is to be performed."

In an era of shrinking resources in which dollars must produce results, the Agency has to demonstrate to the public that it is spending resources responsibly and efficiently. Using a performance based approach will allow USAID to present more success stories, because we will be able to show results achieved through contracting.

On October 13, 1994, the Administrator pledged to OFPP to make PBC the Agency's preferred method of acquiring services. The Administrator's pledge and the commitment to make PBC USAID's preferred method of contracting was announced to the Agency in a general notice dated October 25, 1995. With the Agency's renewed emphasis on getting development results, PBC is a tool the Agency can use to attain these results contractually.

If USAID has not been using PBC, what has the Agency been doing?

The majority of USAID's development assistance projects are implemented through the use of acquisition and assistance instruments. When the Agency wishes to **acquire** a good or service, a contract is selected as the appropriate legal instrument. When the Agency wishes to **support** a program for a public purpose, a grant or cooperative agreement is selected as the appropriate instrument. In acquisition the need is described in the form of a requirement or a statement of work.

The majority of USAID requirements are for technical services. PBC is not a contract type. It is a method of describing the requirement. For years USAID has been purchasing technical services using cost-plus-fixed-fee (CPFF), term contracts, commonly known as level-of-effort (LOE) contracts. In FYs 93 and 94 USAID executed 499 and 445 LOE form contracts with a total estimated cost of \$845,229,907 and \$1,026,884,230, respectively. USAID spent over a billion dollars buying effort (inputs) during FY 93.

There are two types of CPFF contracts: **TERM** and **COMPLETION**. They are alike in that they are both cost reimbursement type contracts, but they differ in what they require of the contractor.

CPFF-TERM contracts (LOE) only require that the contractor provide its best efforts to attain the contract objective. The contractor is only obliged to provide the stated LOE for a specific period of time as a condition for payment of the entire fixed fee. Although most of these contracts attempt to achieve a result or specified level of performance, they do not legally bind the contractor to deliver any end-product or reach a definite goal. LOE contracting usually involves describing the how, and the specifying who should carry out the work statement, rather than describing WHAT is required at completion, i.e. outcome. The LOE contract typically states the types of personnel, the educational levels of those individuals, and the number of years working in a particular technical expertise. This means telling the contractor how it should get the job done by stating the types of persons desired, rather than expressing what it is they are to accomplish. For too many years, USAID has relied on LOE contracting to get results without holding contractors legally accountable for an end product or result.

CPFF-COMPLETION contracts require the contractor to complete activities or tasks and deliver the end product within the estimated cost, if possible, as a condition for payment of the entire fixed fee. Completion contracting is considered performance based contracting, because the contract document requires explicit performance standards and indicators (benchmarks), and requires that the contractor deliver an end product, i.e., report, assessment, technology transfer, etc.

Initially, the most likely candidates for PBC are those activities for which there is historical data, baselines or which are follow-on activities. At the inception of the activities a LOE type contract may have been appropriate, but with the collection of information over the years it seems probable that a completion type contract could be written.

The Agency has embarked on a campaign to focus on results. Creating and measuring change in developing country conditions will be more visible if technical service requirements are expressed in the form of a performance based approach. The activities and expected results will be clearer. The macro level strategic objective will be able to be broken into various activities (micro tasks) for which contractors (partners) can be held accountable and legally bound to provide.

It is probable that some USAID activities will move from a cost reimbursement-completion type contract, to a fixed price contract where the contractor is held to performance and delivery at a specific price within a definite period of time. However, given the relative risks and uncertainties of work in developing countries, many contracts will have to continue on a cost-reimbursable basis.

What is the key to PBC?

The key to all of this is knowing **WHAT** is required or knowing the desired result. It starts as soon as the project officer (requestor) knows that there is a need, and understands **WHAT** is required to fulfill that need. If the result that is to be achieved can be determined, this leads to a performance based statement of work, which will result in a performance based contract.

Involvement by the contracting community (private industry and partners) is crucial to the success of performance based contracting. Preparing draft solicitations, which may or may not include performance standards and indicators, is an important aspect of achieving success with performance based contracts. If industry is involved in the development of the performance standards and indicators for a particular activity, the quality of the proposals received will be better, and the contract will be easier to administer. The contractor will have had an opportunity to review, and comment on, the applicability and attainment of the standards and the reasonableness of the indicators.

What are the elements of a performance based statement of work?

Writing a performance based statement of work for technical services, i.e., democratization, privatization, environmental degradation, institution building, etc., will take more thought. It will require the requestor to know and understand **WHAT** is required, and then be able to provide standards and indicators against which the contractor will be measured.

The following explanation of a performance based statement of work and its elements has been taken from OFPP memorandum, "Government-wide Guidance on Contract Administration," March 15, 1991, Allan V. Burman, Administrator.

"A clear, well-defined statement of work can best be developed through the use of performance-based criteria. This means that the requirement should be carefully analyzed and divided into tasks to be performed by the contractor. These tasks should be expressed in terms of "what" is to be the required output, and not "how" the work is to be accomplished. The tasks should also be expressed in clear, concise, and enforceable terms. The clearer and more specific the tasks, the less chance solicitation and contract administration problems will arise.

After the tasks are delineated, performance indicators, performance standards, acceptable quality levels, and a sampling method should be developed for each task. Performance indicators are characteristics of the tasks that can be objectively measured. Performance standards are objective measures of the work output that can be used to determine

acceptability of the work. Performance standards can be determined by any number of objective criteria (e.g., quantity, quality, timeliness). Acceptable quality levels are the allowable number of variances from the performance standards, beyond which the performance is considered unacceptable. The sampling method describes how the government will determine whether acceptable quality levels are achieved.

The development of a performance-based statement of work facilitates the selection of a contract type that results in the appropriate level of responsibility and risk of performance on the contractor. Contracting activities will find that a number of their requirements can be converted from cost reimbursement to fixed price, or from term (level of effort) to completion. This should be particularly true for routine requirements and for follow-on requirements where the contracting activity has gained sufficient experience from the prior acquisitions to enable a sharpening of the statements of work and surveillance plans.⁸

The government should not mandate a methodology to accomplish a task, rather the work statement should describe the desired outcome and state intermediate indicators of progress (benchmarks) toward task accomplishment. This is really just an updated expression in the service context. The basic traditional procurement principle for goods is that performance specifications are superior to design specifications. It is also crucial to have a means of measuring what the contractor is providing to the government in order to know when the service is acceptable or unacceptable.

Requirements must be within the manageable interest of the contractor. The contractor must have control over movement toward attaining the result. If there are too many assumptions or external factors that would impede the contractor's ability to attain the result, then the result may not be contractible. If the Agency thinks on a micro rather than macro level when developing the statement of work, then it will be contracting for tasks that will produce results that ultimately lead to the achievement of a strategic objective.

In the results oriented approach the focus is on what methods (tactics) or means should be used to achieve the result, not focusing so much on the specific effort it will take to get that result. Attached are several examples of how PBC fits in with the strategic objective approach to obtaining results.

⁸Holbrook & Kellogg, Desk Guide to Preparing Statements of Work, 1992, Reference 1.

What has been done at USAID to spread the word?

PBC is mandated by the Office of Federal Procurement Policy. For this reason, much of the promotion for PBC has come from the Office of Procurement. The following is a list of major events relating to PBC.

Chronological Listing of Major Events Related to PBC

January 6, 1994	Performance Based Contracting included as one of the Agency's major efforts of Procurement Reform
June 6, 1994	USAID issued the Agency's pledged procurement - RFP OP/B/AEP-94-001, Development Information Research and Reference Services
August 10, 1994	Administrator indicated via letter to OFPP that the Agency would participate in the Government-wide pilot program
October 25, 1994	USAID General Notice Issued to all Agency personnel stating that PBC is the preferred method of acquiring services
November 9, 1994	USAID participated in Inter-Agency Meeting at OFPP on PBC
November 15, 1994	Memo sent from the Assistant Administrator for Management to all Regional and Global Assistant Administrators regarding commitment to PBC and providing guidance
December 9, 1994	First meeting held with all M/OP Contracting Officers and some project personnel regarding PBC and draft guidance for the Agency
January 9, 1995	M/OP, along with Bureau Procurement Reform Coordinators, met with industry to discuss PBC
January - April 1995	PBC seminars conducted by M/OP with Washington and field based project personnel

How does PBC fit in with other reform efforts?

PBC relates to several other Agency reform efforts. Specifically, business area analysis software development, reengineering, past performance as a source selection factor, and wider participation in USAID activities are most dramatically impacted by PBC.

The Acquisition and Assistance (A&A) software discussed later in this report facilitates the ability for project and contracting personnel to communicate early and often in the development of a requirement. The automated aspects of the Agency corporate system will allow a requester (project officer) to plan and share an acquisition with a contracting officer before the requirement's statement of work is developed. Team work and collaboration is an important part of making performance based contracting the choice when contracting for services at USAID. The A&A software and other business area software pieces that make up the corporate system, and the use of a performance based approach to service contracting, will assist in the attainment of the Agency's core values: customer focus, results orientation, empowerment and accountability, and teamwork.

Past performance, discussed under reform no. 5 will be a major factor in the selection of a successful contractor who can fulfill a performance based contract. Past performance is an indicator of future performance. If the offeror has a history of poor or unsuccessful performance in a particular sector, then the offeror will be determined to be at risk for completion of performance under some future activity in that sector. Good or successful past performance indicates that the offeror's future performance will be as good as or better than that of the past. The offeror should then be rewarded for this past performance and be considered a more likely candidate to successfully complete a performance based contract. The Agency is committed to using successful past performance as a criterion for receipt of future awards. In order to successfully measure that performance, the contract must clearly state what outcome is required.

With a shift from input to output contracting - term to completion contracting - it is likely that the Agency will see proposals from offerors who would not have made proposals in the past. PBC encourages new, innovative approaches to sustainable development. Just providing bodies (effort) won't be enough.

PBC will lead to changes that will effect not only the Agency, but its customers and partners as well.

RESULTS:

1.) M/OP is in the process of obtaining formal training for all project and contract personnel. The training will be provided in-house and will be customized to

meet the needs of USAID. Both project and contract personnel are expected to sit side-by-side in the training session so as to develop and understand the others' role in the development of a performance based contract.

- 2.) Interim guidelines on PBC have been issued.
- 3.) The Agency is participating in the OFPP Government-wide pilot program.
- 4.) PBC is being implemented where feasible by USAID COs.

SAMPLE ACTIVITY I

Strategic Objective: Increase the literacy rate of XX city by 10% within five years

Intermediate Result I: Training of 75 additional teachers

Tactic I: Technical assistance

Tools I: Institutional Contractor

Activities: To locate, provide facilities and learning tools for 75 additional teachers who will be presented for acceptance to the local school district in XX city at the end of a 36 month period

- ▶ **Performance Standards:**
 - At the end of 36 months 75 new teachers presented for acceptance to the local school district for placement in the school system within XX city (teacher acceptance criteria has been agreed upon and is a part of the contract SOW)
- ▶ **Performance Indicators (benchmarks):**
 - Within 6 months of contract execution the contractor has identified candidates and training facility
 - Within 9 months candidate interviews are complete and training of 75 teachers has commenced and all learning tools have been provided
 - Within 18 months contractor has identified schools within the school district where each teacher could be placed.
 - Within 30 months the contractor has tested and been able to pass 95% of the trainees.
 - Within 36 months the contractor has graduated 75 new teachers and has presented them to the school district for placement.
- ▶ **Acceptable Quality Level:** If < 60 of the 75 teachers are accepted by the local school district for placement in the school district the contractor's performance will be considered unacceptable
- ▶ **Sampling Method:** Documentation provided by the local school district which provides the teachers name and the school in which they have been placed.

The statement of work for the intended result "train 75 additional teachers" would not specify who or how the contractor would go about achieving the result, it would state that "The Contractor shall locate, provide facilities and learning tools for 75 additional teachers who will be presented for acceptance to the local school district in XX city at the end of a 36 month period." During the competitive proposal process the offerors would provide their approach to attaining the result. During the technical evaluation process the technical review team would be looking for the best approach. The team would take into consideration such factors as realism - Can the proposed approach really be carried out in the environment in XX city? - past performance - How successful has the contractor been in the past with similar projects? - and eventually cost - All things considered, is the proposed cost in-line with the proposed approach and can we afford it?

Other Intermediate Results:

Intermediate Result II: 25% increase in attendance at formal schooling for children ages 6-12 years.

Intermediate Result III: Availability of 100 new jobs for literate individuals in the city of XX.

SAMPLE ACTIVITY II

Strategic Objective: Reduce by 25% the number of measles cases in village X.

Intermediate Results I: Immunize 1,000 children in village X

Tactic I: Procure immunization services

Tools I: Institutional Contractor

Activity: Immunize with the MMR all pre-school and elementary school age children in village X.

▶ **Performance Indicators:**

80% of all pre-school and elementary school age children are immunized within a 24 month period

▶ **Performance Standards (benchmarks):**

- 200 children immunized during the first 6 months on contract period
- 300 children immunized during the 2nd 6 month period of the contract
- 500 children immunized during the last 12 months of the contract

▶ **Acceptable Quality Level:**

- < than 150 immunized during the first 6 months of the contract is considered unacceptable
- < than 800 immunized during the entire contract period

▶ **Sampling method:**

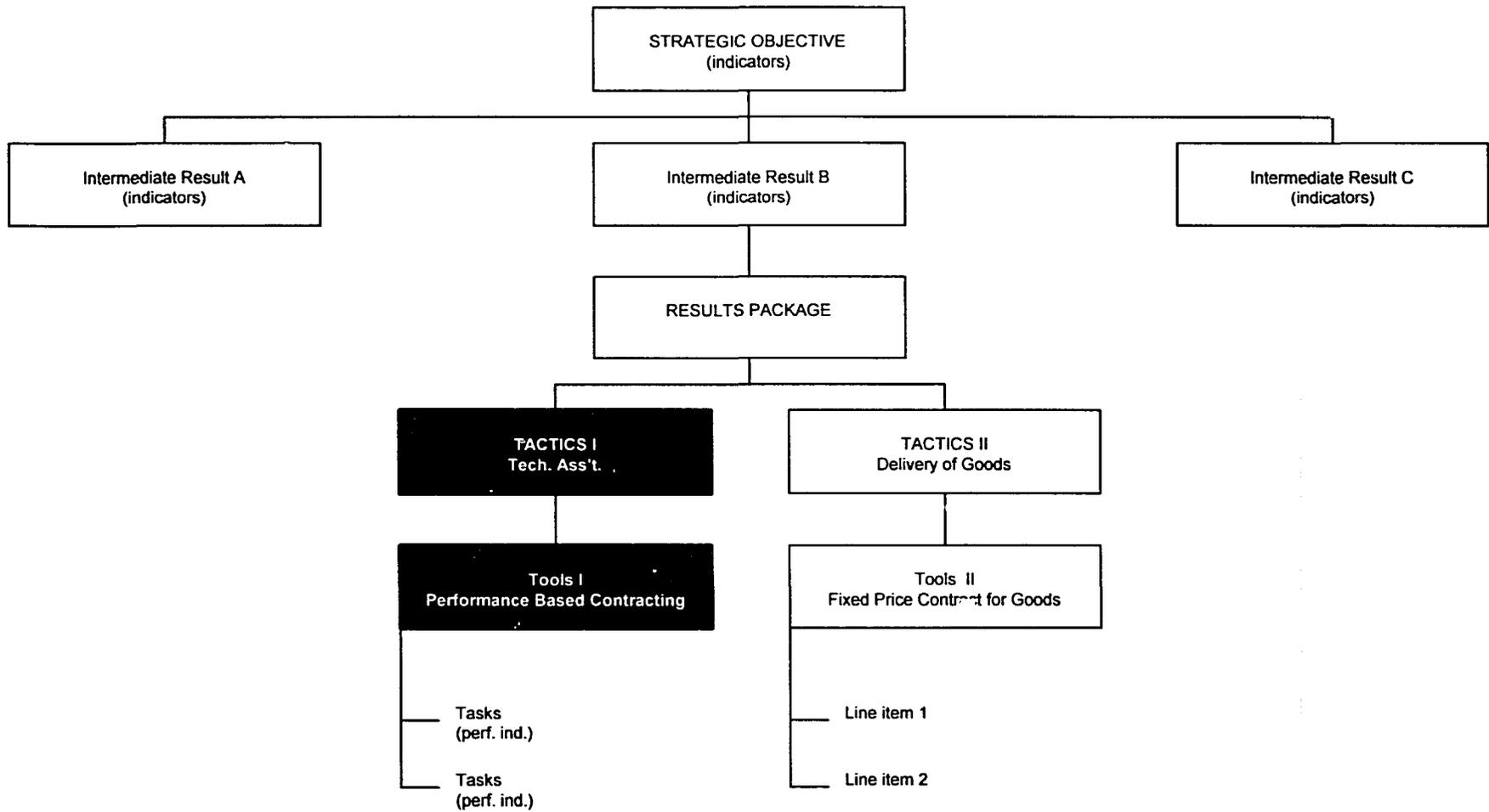
Review of the shot records that are going to be maintained by WHO for the period of the contract

Other Intermediate Results:

Intermediate Result II: Provide healthcare training to 50 doctors, nurses and other healthcare professionals in village X.

The statement of work (SOW) for the intended result "immunize with the MMR all pre-school and elementary age children in village X" would not specify how the contractor should go about immunizing the children in the village. Instead the SOW would state "The Contractor shall immunize 80% of all pre-school and elementary school age children in the village of X within 24 months." During the competitive process the technical evaluation panel would evaluate factors such as the contractor's past performance with similar immunization programs and the method the contractor proposes to employ in getting 80% of the children immunized. The performance standards are "benchmarks" against which the Government will measure the Contractor's progress toward the result of "80% immunization".

FITTING IN WITH THE AGENCY STRATEGIC OBJECTIVE APPROACH



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**TOTAL OF COST PLUS FIXED FEE LEVEL OF EFFORT DURING EACH FISCAL YEAR:
1990, 1991, 1992, 1993, 1994**

FISCAL YEAR	NO. OF ACTIONS	TEC
FY 1990	112	\$233,469,096
FY 1991	276	\$289,843,217
FY 1992	401	\$367,802,138
FY 1993	499	\$845,229,907
FY 1994	445	\$1,026,884,230

Amount of work completed

CONTRACTOR'S PAST PERFORMANCE PROCUREMENT REFORM NO. 5

BACKGROUND:

Past performance has always been a factor in responsibility determinations of prospective contractors. However, new FAR provisions based on the Federal Acquisition Streamlining Act (FASA) of October 13, 1994, require that past contract performance now be a significant factor in source selection.

Previously, FAR 9.104-3(c) required a satisfactory performance record before a contractor could be determined responsible. In this limited role, past performance was used to determine capability, i.e., is Firm A, B, or C capable of performing? All firms may be judged to be capable under responsibility determinations. A responsibility determination is a "go/no go" decision.

The new provisions on past performance contained in the FAR, expand the use of past performance to resemble the key role it plays in the private sector, as an evaluation factor in source selection. In other words, past performance will be used to determine relative ratings among competing firms; e.g., to compare Firms A, B, and C with each other. Is Firm A better (presents less risk to the Government) than Firm B; is Firm B better than Firm C, etc.

Using past performance in source selection will require more detailed and objective information about an offeror than is required for a responsibility determination. According to CIB 85-17, contracting officials are to obtain past performance information from at least three sources from within or outside the government regarding the offeror's past performance. The information obtained, however, was often little more than perceptions of the offeror's performance. The information usually lacked precision, details and was often stated in guarded terms so as not to prejudice the offeror.

Although the information obtained through reference checks was general and essentially subjective, it did serve to facilitate making a decision as to whether the offeror was responsible or not. That kind of information, however, is of little value in comparing one offeror with another. To use past performance as an evaluation factor in source selection will require not only information that is more objective but also more detailed and readily available. In order to use past performance effectively in source selection the government must develop a past performance evaluation system to collect and maintain a data base on contractor past performance.

OBJECTIVE:

The objective of this procurement reform initiative is to use past performance as a significant factor in source selection.

DISCUSSION:

Federal Acquisition Circular (FAC) 90-26 amends FAR provisions on past performance in parts 9, 15 and 42. Part 9, Contractor Qualifications, now includes past performance information collected and maintained by government agencies (required by FAR 42.15) as an additional source of information in making responsibility determinations. Part 15, Contracting by Negotiation, requires language changes in the solicitation (Section L - Notices to Offerors) and in the evaluation factors for award (Section M). Part 42 establishes the policy and procedures for collecting and maintaining past performance information.

AIDAR Clause 709.104-3 has been amended to include past performance information, collected and maintained by all government agencies, as an additional source of information regarding responsibility determinations. AIDAR Clause 752.209-70 has been amended to: a) clarify the information that offerors should submit regarding other contracts similar in nature to the contract being considered for award; and b) explain how past performance should be used as a source selection factor. The amended AIDAR Clause 752.209-70 affects Sections L and M of the solicitation documents.

Section L alerts offerors to the fact that they will be evaluated on their performance on contracts for similar products or services. Offerors should, therefore, provide a list of contracts completed during the past three years and contracts currently in process that are similar in nature to the statement of work in the solicitation. If the offeror encountered problems on any of these contracts, they may provide an explanation and the corrective action taken. They may also describe any quality awards or certifications that indicate exceptional capacity to provide the services or product described in the statement of work.

Section M indicates the areas on which past performance will be evaluated. These areas will include: a) quality of services or product; b) timeliness of performance; c) cost control; and d) business relationships with the client. They may also include: a) satisfaction of end users of services or product and b) managerial competency and technical qualification of personnel. The solicitation will indicate the relative importance of past performance to the other non cost/price factors but not necessarily need to disclose the numerical weights.

In order to use past performance effectively as an evaluation factor in source selection, reliable information on past performance has to be compiled and made

readily accessible. In other words, the information has to have some degree of objectivity and it has to be relatively easy to obtain. For this reason, all Federal Agencies are required to establish a system for collecting information on past performance and maintaining a data base.

Although no specific system is imposed, the Office of Federal Procurement Policy's (OFPP) Guide to Best Practices for Past Performance only requires that information be collected on six specific areas and that scoring be done on a six-point rating scale. The six areas on which information must be collected are: quality of product or service, cost control, timeliness, business relations, customer satisfaction, and personnel. All rating systems must be translatable into five basic ratings, namely; excellent, good, fair, poor and unsatisfactory and one exception rating - excellent plus.

Agencies may use whatever instrument that they feel meets their particular needs for collecting and scoring the data. The OFPP guide, however, provides a sample past performance report form. This form entitled CONTRACTOR PERFORMANCE REPORT (see Attachment 3), with minor adaptations, will be used by USAID to evaluate contracts on completion and on an interim basis for contracts with a period of performance in excess of one year.

Past performance information is to be collected on all contracts in excess of \$100,000, except architect, engineering and construction contracts. Beginning July 1, 1995, evaluations will be conducted on all contracts with a total estimated cost in excess of \$1 million and those of lesser amounts will be phased in over the three succeeding years.

The process begins with the CO who identifies the contracts for which evaluations are due. After providing the background information on the evaluation form, the CO electronically forwards the report to the cognizant project officer (PO). The PO comments and scores each of the six evaluation areas. Contractors have thirty days to comment, or rebut the initial assessment before returning the report to the CO. A final score is then determined for each of the six areas, and the evaluation report is filed along with the contractor's comments.

As described above, performance evaluations require a team effort, as defined in "reengineering," between two distinct agency units. The contract office is responsible for coordinating the process and for maintaining the past performance database. The project office, as the client of the procured services or supplies, has the responsibility for making the assessment of performance.

To perform a fair and objective assessment of a contractor's performance that took place over an extended period of time, project officers need to be periodically informed on performance. Anticipating this need, the AIDAR Clause 752.7026,

Reports, was revised to require contractors to submit performance progress reports for all professional and technical services contracts to the Project Officer (PO) /Contracting Officer's Technical Representative (COTR).

Performance reports are a critical source of information for preparing the past performance evaluations. The reports provide on a regular basis, the PO's comments on the contractors self-assessment of performance. They provide information on five of the six areas on which comments and scoring are to be done in the past performance evaluations. The reports focus on three of the more objective areas specifically, quality of product or service, cost control and timeliness. The substance and tenor of the reports also provide the basis on which to rate business relations and to a lesser degree, customer satisfaction and personnel.

For contracts with annual expenditures in excess of \$200,000, quarterly performance reports are required. Instructions were prepared regarding the content and procedures for submitting and reviewing these reports. The instructions were published as: Guidelines for Quarterly Performance Reports (see Attachment 4). For contracts of lesser value, a Contractor Performance Report-Short Form was prepared. The one-page short form requires the contractor to comment on the same six evaluation areas that are assessed when the prepares the Contractor Evaluation Report.

RESULTS:

Using past performance information will not only lead to better value procurement, but will also improve contract administration and will simplify the source selection process.

1. Simplified selection process - Using past performance information as a significant source selection factor will lessen the proposal preparation burden for offerors. There will be less need of lengthy narratives describing how the work will be done and the management system that will be used. This will simplify the selection review process because it will be based more on factual information that has previously been reported.

2. Improved contract administration - The collection of useful past performance information depends on effective monitoring of contractor performance during the implementation by COs and POs. Effective monitoring, in turn, contributes to cost-effectiveness, ensures compliance with requirements, and inevitably results in higher quality services and products delivered in a timely manner.

3. Better value procurement - One of the best indicators of future performance is past performance. It is not just simply using past performance in source selection that will make the difference. The quality of the information as well as the capacity to

interpret the information are critical elements. Better value procurement will result to the extent that the Agency develops a past performance data base and the ability to interpret these data in the source selection process.

CONTRACTOR PERFORMANCE REPORT

[] Final or [] Interim - Period Report: From _____ To _____

1. Contractor Name and Address:	2. Contract Number:
	3. Contract Value:
	4. Contract Award Date:
	Contract Completion Date:

5. Type of Contract:(Check all that apply)-[]FP []FP-EPA []CPFF - Completion []CPFF-Term []CPIF []CPAF []ID/IQ []BOA []Requirements []Labor Hour []T&M []SBSA 8(a) []SBIR []Sealed Bid []Negotiated []Competitive []Non-Competitive

6. Description of Requirement:

7. Ratings. Summarize contractor performance and circle in the column on the right the number which corresponds to the performance rating for each rating category.

Quality - Comments	0
	1
	2
	3
	4
	5
Cost Control - Comments	0
	1
	2
	3
	4
	5
Timeliness of Performance - Comments	0
	1
	2
	3
	4
	5
Business Relations (CA Team) - Comments	0
	1
	2
	3
	4
	5
Customer Satisfaction (End Users) - Comments	0
	1
	2
	3
	4
	5
Mean Score (add the ratings above and divide by the number of areas rated):	

8. Key Personnel				
Name		Employment Dates		
Comments/Rating:				
Name		Employment Dates		
Comments/Rating:				
Name		Employment Dates		
Comments/Rating:				
Name		Employment Dates		
Comments/Rating:				
Name		Employment Dates		
Comments/Rating:				
9. Would you select this firm again? Please explain.				
10. COTR's Name		Signature		
Phone/Fax/Internet Address			Date	
11. Contractor's Review. Were comments, rebuttals, or additional information provided? <input type="checkbox"/> No <input type="checkbox"/> Yes. Please attach comments.				
12. Contractor Name		Signature		
Phone/Fax/Internet Address			Date	
13. Agency Review. Were contractor comments reviewed at a level above the contracting officer? <input type="checkbox"/> No <input type="checkbox"/> Yes. Please attach comments. Number of pages				
14. Final Ratings. Re-assess the Block 7 ratings based on contractor comments and agency review. Validate or revise as appropriate.				
Quality	Cost Control	Timeliness	Customer Satisfaction	
			CA Team	End User
Mean Score (Add the ratings above and divide by the number of areas rated)				
15. CO's Name		Signature		
Phone/Fax/Internet Address			Date	

Release of Information: This Contractor Performance Report may be used to support future award decisions, and will be treated as source selection information in accordance with FAR 3.104-4(k)(1)(x) and 42.1503(b). The completed report shall not be released to other than Government personnel and the contractor whose performance is being evaluated during the period the information is being used to provide source selection information.

SAMPLE GUIDELINE
FOR
QUARTERLY PERFORMANCE REPORTS
(for technical or professional services contracts)

Attachment 4

Contractor _____
Contract # _____
Reporting period: _____ to _____

Section I- CONTRACTOR'S REPORT

Section I, which the contractor prepares, consists of two parts. The first part is a narrative of progress on major activities and the second part requires data entry only.

A. Narrative:

The narrative should cover each of the five elements described below. Element #1 should not exceed a paragraph. Element #2 may require a short paragraph to summarize each expected result. For element #3, a sentence on each activity should be sufficient to describe what is in process during the quarter. (Distinguish among core, buy-in and sub-contracting activities) Element # 4 is the essential part of the report. Of particular interest are issues regarding timeliness, technical quality and cost-effectiveness of each of the activities or delivery orders in progress. Element # 5 provides the opportunity to draw attention to possible problems or to adjustments which would enhance the delivery of the services being provided.

1. Background: Describe briefly the overall contract final objective in terms of level of effort, if appropriate, and total estimated cost needed to accomplish objective.
2. Expected Results: Summarize the specific results expected at conclusion of contract
- 3a. Current core activities: Describe briefly each of the major activities in process during current quarter as found in work plans and/or contract.
- 3b. Current buy-ins: Summarize objective of each active delivery order under companion contract.

1. Comment on contractor's technical performance (quality of technical assistance, professional services, and/or products) and provide examples, if appropriate.
2. Comment on contractor's administrative performance (timeliness in meeting schedules and/or delivering materials/products) during the quarter and give example(s), if appropriate.
3. Comment on contractor's management (cost-effectiveness, quality of communication with staff and with USAID for the quarter and provide examples as appropriate.
4. React to contractor's assessment of performance regarding any of the activities/deliverables described in section IA, number 4 above.
5. Note areas for potential contractor improvement regarding management/provision of any services related to the activities/deliverables and/or specific contract results.

Project Officer/Office Symbol. _____ Date _____

Section III - CONTRACT OFFICE'S COMMENT

The cognizant Contract Office personnel will complete Section III in consultation with the cognizant project officer and mutually agree on any actions that need to be taken. Feed-back should be given to the contractor within five working days.

1. Comment on any areas of concern particularly regarding Contractor's response to questions 4 and 5 in Section I above and Project Office's response to question 3 in Section II above.
2. Identify actions to support, correct, or improve contractor's performance (show-cause notice, cure notice, contract modification, incremental funding, technical direction to contractor, approvals and/or clearances, interpretations of statement of work or adjustments in work plans, feed-back to contractor regarding performance and/or deliverables) that need to be taken and indicate action officer and due date.

Contract Officer/Office Symbol _____ Date _____

The Human Element - Recruitment, Staffing and Training

This topic encompasses procurement reform numbers:

Ten: Office of Procurement Recruitment and Staffing Efforts.

Fifteen: Training and Certification Programs for Contract and Project Officers.

THEME:

The Agency is placing an emphasis on training, recruitment, and empowerment of personnel. These reform efforts are geared specifically to that end.

M/OP RECRUITMENT AND STAFFING EFFORTS PROCUREMENT REFORM NO. 10

BACKGROUND:

At the close of FY 1993, the amount of funds being processed per procurement specialist was approximately \$38.6 million. Figures issued in the National Performance Review (NPR) state that the government-wide average for FY 1993 was \$6.3 million per specialist.

Not only were procurement specialists at USAID handling a disproportionate number of actions, but M/OP was sustaining a personnel turnover rate of approximately 30% annually while the government-wide average for similar activities was 10%⁹ for FY 93.

Most USAID procurements are negotiated, multi-year, technical services that require overseas involvement. M/OP does not buy "routine" services or commodities. A contract specialist in M/OP does not concentrate on the procurement of simply one good or service. A specialist may be involved in the procurement of technical services, Information Technology Resources (ITR), vehicle purchases, and assistance procedures and requirements. Therefore, a negotiator must be familiar with not only the FAR and AIDAR which govern acquisition, but with regulations governing grants and cooperative agreements as well.

Poor or no procurement planning led to 50% of the workload being accomplished during the months of July, August and September. On any given day a typical contract specialist could be awarding a grant, preparing a request for proposal (RFP), responding to multiple requests for approvals, modifying an existing contract (or two or three), and attending training on various acquisition or assistance topics. The environment was quite stressful. It was very common for procurement personnel to work every weekend during the fourth quarter. These were not ideal or even good working conditions. A typical branch in M/OP during FY 93 consisted of five negotiators and one CO. The CO may have been required to review, comment and/or sign as many as 20 complicated procurement and assistance actions each day. Some documents, such as RFPs were quite lengthy. If senior specialists had been able to sign some of the administrative documents, CO's would have had more time to perform other management duties.

⁹ From Red Tape to Results - Creating a Government that Works Better & Costs Less - Reinventing Federal Procurement, Accompanying Report of the National Performance Review. September 1993, p. 15.

Prior to 1994, the Offices of Policy and Evaluation were separate from the M/OP. In early 1994 these offices were made part of M/OP. Policy and Evaluation are responsible for the development of procurement policy and interpretation, including assistance policy, issuance of warrants, and review and reporting of the worldwide contracting activities' compliance with regulations and policy.

At about the same time that the procurement reform efforts were initiated, the Agency was finishing up its "rightsizing" efforts. M/OP gained additional FTE slots as a result of the "rightsizing" efforts and the office's commitment to reform its business practices.

OBJECTIVE:

The objective of this procurement reform initiative is to increase staffing and recruitment efforts through various methods. Further, to explore methods to formally empower a greater number of staff to sign contract actions, thereby enabling M/OP to provide better services to its customers and, to a large extent, helping to reduce the high turnover rate through greater distribution of the work.

DISCUSSION:

In an effort to get M/OP the resources it required, in January of 1994, the Assistant Administrator for the Bureau for Management (AAM), authorized M/OP to recruit 40 individuals. Further, a system was implemented under which all GS-13 procurement specialists were given \$100,000 warrants. These two initiatives, did much to improve morale by relieving workload constraints, and empowering employees.

The Advance Procurement Planning System (APPS) introduced during FY 94 (see reform no. 16) is an attempt to plan requirements that M/OP expects to receive and execute during a fiscal year. Advance planning will facilitate a team approach to getting development results. Procurement personnel will be involved in the early stages of acquisition planning, therefore, eliminating a lot of the questions and concerns that were previously only noticed once a funded request had arrived in M/OP.

During FYs 1990 and 1991, USAID had approximately 100 procurement professionals (1102 negotiators and COs), processing about \$28 billion worth of actions. With the additions of EE and NIS to USAID's project portfolio, that value doubled. The Office of Procurement required additional personnel to keep up with the volume of work. In FYs 1992 and 1993 the number of procurement professionals increased by 20%, and in FY 1994 M/OP was authorized to hire additional personnel. With this additional staff, there was a more equitable distribution of the work.

Also in 1994, informal total quality management surveys were conducted in M/OP. These surveys confirmed that M/OP's morale was low, and that much of this problem was attributable to consistently heavy workload, lack of peer respect from other Agency professionals, and a perception of management neglect. Management is currently working to resolve these issues in various ways e.g. making the decision-making process clear and transparent, and team building through the re-engineering efforts.

Not only has M/OP hired additional Contract Specialists, but support and quality control have been enhanced. The Evaluation Division of M/OP, which added ten people to their staff, serves as a quality control unit for acquisition and assistance instruments that exceed a total estimated cost of \$10,000,000. This office assists in ensuring that the proper documentation, regulations, policies and standard text are included in each action's file. This check-point gives the negotiator a second set of eyes that is extremely helpful. With the additional contract audit management (OP/PS/CAM) staff (see procurement reform no. 9), more pre-award audits are able to be conducted in a timely manner. Pre-award audits often took months to accomplish, therefore, delaying the execution of an award. With the "in-house" capability audits are now performed more expeditiously, thus leading to a quicker award decision.

With the addition of better trained personnel, M/OP is now able to respond in a more efficient manner to customer needs and, as a result, has seen an improvement in morale within the office. Although more needs to be done to continue to enhance service both internally and externally, greater strides have been made in guaranteeing customer satisfaction.

RESULTS:

- 1.) The number of staff in M/OP has increased.
- 2.) The turnover rate for M/OP has decreased.
- 3.) A system has been put into place to allow wider dissemination of warrants.
- 4.) APPS and A&A software should result in a more evenly spaced workload.
- 5.) Continuing professional development training for procurement personnel has been instituted.
- 6.) As a result of increased staffing, the number of actions/dollars per procurement specialist has decreased.

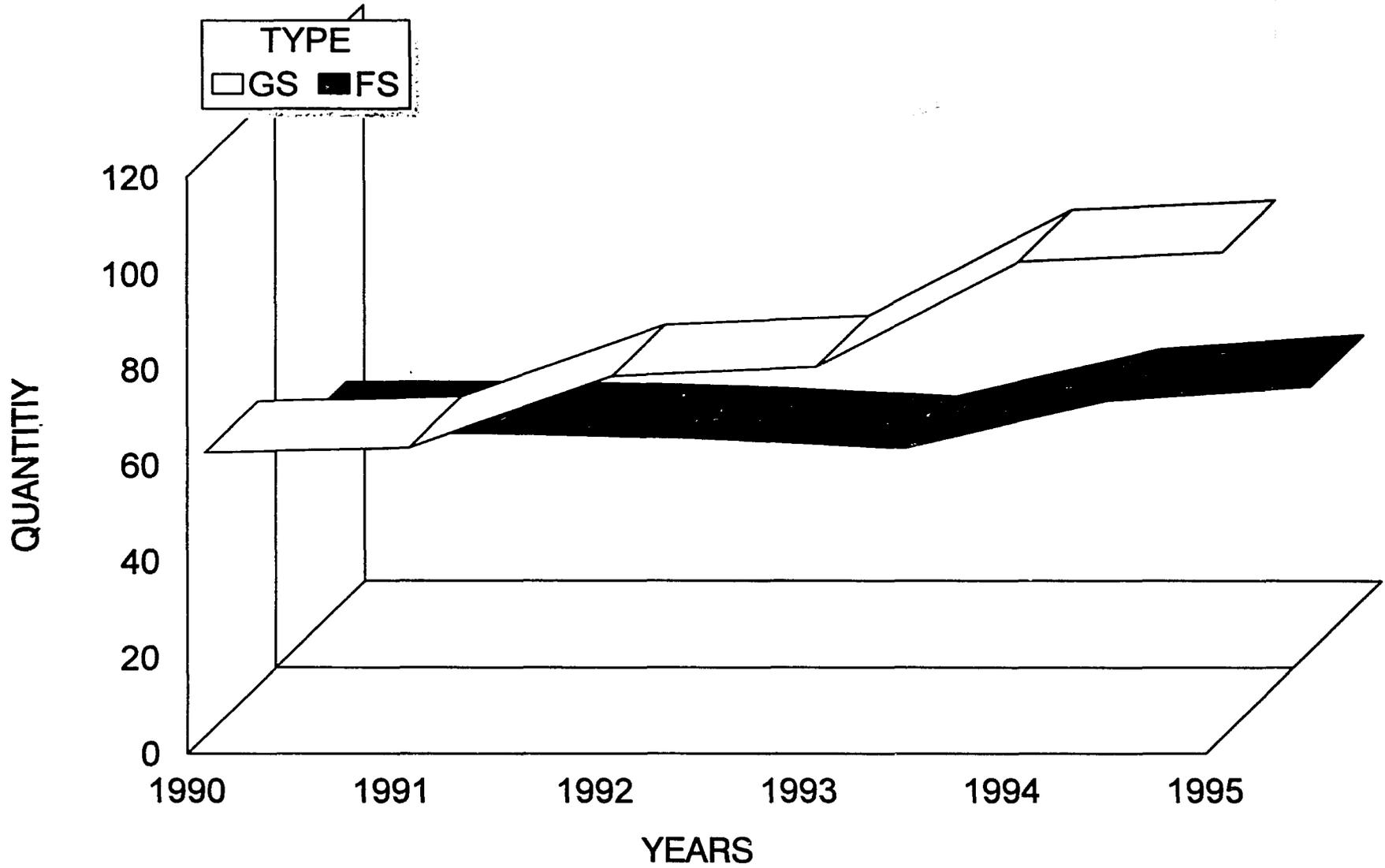
**TOTAL OF ALL ACTIONS EXECUTED WORLDWIDE DURING EACH
FISCAL YEAR: 1990, 1991, 1992, 1993,
1994**

Previous Page Blank

FISCAL YEAR	NO. OF ACTIONS	TEC	NO. OF PROCUREMENT PROFESSIONALS WORLDWIDE
FY 1990	7,856	\$2,199,799,837	104
FY 1991	10,209	\$2,625,750,554	105
FY 1992	11,130	\$2,993,640,596	119
FY 1993	10,827	\$4,597,208,427	119
FY 1994	8,424	\$5,506,631,623	151

CONTRACT SPECIALISTS

EXCLUDES TDA AND IG OFFICES IN AID/W AND OVERSEAS



40014 00000 00000 00000

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TRAINING AND CERTIFICATION PROGRAMS FOR CONTRACTING AND PROJECT OFFICERS PROCUREMENT REFORM NO. 15

BACKGROUND:

USAID, in accordance with Office of Federal Procurement Policy (OFPP) Policy Letter 92-3, has developed and implemented its Procurement Management Certification Program (PMCP). This program includes a competency based procurement training program mandated under Section 16 of the Office of Federal Procurement Policy Act (41 USC 414 (4)), as well as a contracting competency certification requirement for procurement personnel within the Agency.

The policy letter noted above mandated the PMCP program for all federal procurement activities. Each agency was tasked with developing a program that would suit their needs, and follow the guidance generated by the General Services Administration (GSA) in the form of the "Contract Specialist Workbook." This guidance explains the 78 competencies that must be achieved by all procurement personnel in the Federal Government. Each agency will have different certification levels depending on the type of procurement it engages in, but the competencies, definitions and associated courses have all been standardized.

OBJECTIVE:

The objectives of this procurement reform effort are (1) to ensure that procurement personnel are certified to meet the requirements of federal standards for procurement officials, and (2) to implement an Agency project management course through which project officers will be trained not only in management issues but in procurement processes as well.

DISCUSSION:

Development of PMCP

The PMCP for USAID was initially designed in October 1992. The draft plan was submitted to and approved by OFPP pursuant to their Policy Letter 92-3. The training program applies to all procurement personnel. This includes GS-1102 series Contract Specialists (including COs), Foreign Service BS-93 COs, Foreign Service BS-03 Executive Officers, Foreign Service BS-92 warranted Commodity Management Officers, Foreign Service National (FSN) procurement staff, U.S. Personal Service Contractors (USPSC) employed as procurement staff, and COTRs. Project Officer training in procurement is also being addressed through a separate Project Officer Certification Program that is in the initial stages of implementation.

Due to the wide variety of procurement personnel within USAID, two different certification programs were initially set up. One addresses the needs of the Contract Specialist and CO, and the other is tailored to the duties of the Executive Officer and the Commodity Management Officer. The program mandates completion of all 78 identified procurement competencies plus units in Personal Services Contracting and Grants Management. It also identifies eight core procurement courses as mandatory. These include the Federal and AID Acquisition Regulations course, the Competition in Contracting Act course, Contract Law, Contract Administration, Cost and Price Analysis, Grants Management, Small Purchases, and a USPSC seminar.

The package that was developed to implement PMCP contained a description of the program, a matrix detailing the skill levels for each competency and how they could be attained, an employee interview for recording experience to date, an Individual Development Plan (IDP), an Annual Employee Review form and a certificate for completion of on-the-job training.

Procurement personnel were instructed to complete the employee interview and then meet with their supervisors to prepare the IDPs. Based on the information contained in both documents, the supervisor and employee would then fill out the Annual Employee Review form that would capture the accomplishments under PMCP from the last 12 month period and plan the courses and/or OJT to be undertaken during the next 12 month period.

Each individual covered by PMCP is required to have an Individual Employee IDP folder. These folders are to be established and maintained by the supervisor for GS employees, by the CO of the Mission for FSN and USPSC personnel, and by the Evaluation Division (M/OP/E) for Foreign Service COs, warranted GS COs, Executive Officers and warranted Commodity Officers. Each IDP folder contains the Employee Interview, the IDP Form, training certificates from formal course instruction, documentation of OJT experience and the Employee Annual Review Form. Foreign Service personnel are required to forward their file to M/OP/E after consultation with their on-site supervisor.

Under this system, the supervisor is required to interview each employee and review each individual's IDP folder on an annual basis. This review includes making sure the contents are up-to-date, planning training for the coming year and changing the IDP if necessary. The review will be documented in the file by completing an Employee Annual Review Form.

After the supervisor's annual review of the Employee IDP Folders, he or she is required to notify the procurement career manager in writing as to the status of each individual. This notification will include the actual accomplishments of each employee during the previous year and whether or not planned training was accomplished. The

supervisor may also provide comments concerning the overall success of the program, identify needed changes to the list of contracting duties, and suggest any other ideas to improve or strengthen the program.

The PMCP program was also a recommendation in the joint AID-OMB SWAT team report along with a similar recommendation for developing a certification and training program for POs. As a result of this report, the Agency went forward and revamped its project management training and developed three successive two-week courses on Project Management. With the changing nature of the Agency's operational and programmatic procedures, these courses are currently being redesigned to incorporate the results of USAID's reinvention and reengineering. It is anticipated that the revised courses will come on line in FY '96. The certification program for project officers has been put on hold pending the outcome of the reengineering efforts.

Implementation of PMCP

On April 30, 1993, the PMCP package was distributed to the above specified audience with a deadline for completion of June 15, 1993. Due to Agency rightsizing and reorganization priorities, the deadline was extended to August 30, 1993 for overseas personnel and until the beginning of FY '94 for USAID/W personnel.

A computer database was developed and installed in M/OP/E to capture data concerning each individual's progress under PMCP. The information gathered includes the training courses taken, the competencies completed and warrant level of all USDH procurement personnel.

Monitoring of compliance with the program is the responsibility of M/OP/E. Foreign Service personnel are being directly monitored by M/OP/E since their IDP folders are maintained by this office. For the FSN, USPSC and GS procurement staff, monitoring is being performed indirectly through the annual reports that are required to be submitted to the procurement career manager and through procurement system evaluations of USAID procurement activities conducted by M/OP/E.

M/OP/E is responsible for maintaining the IDP folders for a total of 128 COs, Executive Officers, Commodity Management Officers and Procurement Analysts. To date, 42 of these individuals have submitted their completed packages to M/OP/E. These files have been reviewed by M/OP/E, and comments and recommendations have been sent to each individual concerning their submittal along with a statement assessing their progress under PMCP in terms of competencies and courses completed.

PMCP Training During FY '94

Concurrent with the establishment of the PMCP, USAID received funding as a result of the joint A.I.D.-OMB SWAT Team Report to launch a competency based training program. USAID received an allocation of \$260,000 for tuition costs and \$595,000 for associated travel and per diem costs to facilitate training under PMCP for FY '94. All PMCP procurement personnel were eligible to access this funding.

A total of 107 participants were trained in individual courses in Washington, DC and a total of 201 courses were taken during FY '94. Fifty-three different procurement courses were accessed under PMCP. The total cost of the tuition expended for individual training was \$78,653.

Funding in the amount of \$585,937.95 was provided to finance travel and per diem expenses associated with the above courses. A total of 179 individuals received travel and per diem funding to attend training in a total of 258 courses outside of their assigned duty station. The average number of courses taken by these students was 1.4 and the average travel and per diem expenses associated with each participant was \$3,426.54. The average expense associated with each course was \$2,271.08. Of the students travelling, approximately 41 were U.S. direct hires (USDHs) and 138 were FSNs. 52 Missions took advantage of this opportunity to send their procurement personnel to training.

To reach the widest audience possible, seven regional courses were conducted. A Small Purchases course in Thailand, Senegal and Kenya was offered. A COTR course was held in Malawi and a Federal and AID Acquisition Regulations (FAAR) course was held in Egypt. Cote d'Ivoire was host to a Contract Law course and a Contract Administration course. The total cost for providing these courses was \$95,201 and represents a portion of the \$260,000 allocation. These courses were competitively contracted out to various training vendors with off-the-shelf course work. This approach proved highly successful as to the quality of the courses, the ability to reach the target audiences and maximizing cost effectiveness.

The Warrant Process

The warrant requirements for the Agency were revised in 1994 to dovetail with the PMCP program. Warrant levels are now contingent upon achieving a certain percentage of completion of the 78 competencies and completion of specified mandatory courses. The new guidance also calls for regular continuing education in the procurement field to maintain a warrant.

RESULTS:

- 1.) A number of training courses have been made available, and personnel trained.
- 2.) The PMCP system is in place and operational.
- 3.) A PO certification program is under development.

While M/OP has made great strides in the implementation of PMCP within USAID, there is still much that needs to be accomplished. The priority is to encourage completion of the PMCP package by all eligible procurement personnel and to enter this information into the database. Due to M/OP initial large procurement training budget allocation, the enrollment of individuals in PMCP became secondary to running the training program. With the shift toward regional training and away from individual training, M/OF anticipates being able to devote more time to increasing awareness of the program among the procurement community and their subsequent responsibilities for completing and maintaining their IDP folders.

Paving the Way - Efficiency of Systems

This topic encompasses procurement reform numbers:

- Nine:** Streamline Office of Procurement Procedures.
- Eleven:** Clarify Add-Ons to Grant/Cooperative Agreements.
- Twelve:** Reassess Buy-In Contracts - Consider Utilizations of large Task Order Contracts.
- Sixteen:** USAID Procurement Planning System.
- Eighteen:** Consolidate Incremental Funding Modifications.

THEME:

The initiatives above address the need for efficiency of systems within the Agency. USAID wants to ensure that the procurement system is no longer burdened with unnecessary documentation requirements and approvals. Furthermore, advanced procurement planning will allow the workload to be better distributed over the fiscal year, improving service and facilitating teamwork between Agency personnel.

STREAMLINE OFFICE OF PROCUREMENT PROCEDURES PROCUREMENT REFORM NO. 9

BACKGROUND:

This reform focuses on three important areas:

A. Streamlining Internal Procedures

USAID implements its projects and programs through a wide variety of contracts, grants and other procurement instruments. Therefore, it is important to examine the systems and procedures used in M/OP, with the objective of streamlining those processes.

Over the years, there has been a great deal of overlapping guidance on some procurement issues, while on other matters there is no specific or consistent guidance. In the latter case, because each CO holds a great amount of independent authority, various interpretations arise with sometimes inconsistent responses to the same inquiry. Since vendors or POs often deal with more than one CO, this situation leads to confusion, or even "shopping around" for the most desired interpretation. In addition, with no standardized contract/grant format, there was no consistency in procurement documents.

The streamlining Working Group, composed of negotiators and contracting officers within M/OP, consulted with representatives from the project offices as well as with representatives from the contractor/recipient community to solicit input regarding cumbersome requirements in the procurement process. Areas of particular concern included: personnel, travel, equipment, and consultant approvals, reporting requirements, conflicting interpretations and application of policies from various COs, and delays in administrative requests and correspondence.

B. Recipient System Reviews

In the Agency's efforts to streamline the procurement process, one of the areas most consistently identified as needing re-evaluation is that of administrative approvals and submission of application documentation for assistance instruments. Thus, M/OP is proposing changes in the current process of collecting documents at the time an organization submits an application for assistance and in the procedures for assurance of system compliance for non-profit recipients of USAID awards. Under the proposed new system, recipients will be asked to "self-certify" that their personnel, procurement, and travel policies comply with applicable OMB circulars,

USAID and Federal regulations. This self-certification will replace the current requirement in HB 13 that recipients submit copies of these policies with every application for assistance. The self certification will not substitute for the negotiators' review of specific budgets for each proposed award.

C. Contract/Recipient Financial Audit Program

USAID has been criticized over the last several years for failure to obtain adequate and timely financial audit coverage of its contractors and assistance recipients. This criticism has come from the Presidential Commission on A.I.D. Programs, the General Accounting Office, the Congress, the A.I.D. Inspector General, the OMB-A.I.D. SWAT Team and the media. The Agency has also regularly chronicled the existence of this major internal control deficiency in its periodic reports to the President and the Congress under the Federal Managers Financial Integrity Act (FMFIA).

Specific audit-related criticisms include the following:

- Failure to obtain preaward audits on awards over \$500,000;
- Failure to insure that contractors and recipients submit their annual indirect cost rate proposals (for-profit firms) or A-133 audits (non-profit organizations) to USAID on time;
- Failure to request the performance of required annual financial audits;
- Failure to insure that audits were conducted in a timely manner;
- Failure to obtain the status of audits and the latest established indirect cost rates from other cognizant agencies;

These criticisms emphasize the need for the Agency to significantly improve its performance on contractor/recipient financial audits.

OBJECTIVES:

To provide better and more efficient customer service; consistency of actions, standardize documents, and improve automation; reduce duplicative document collection; lessen the number of unnecessary approvals; and improve the Agency's audit procedures.

DISCUSSION:

A. Streamlining Internal Procedures

In February and March of 1994, the streamlining group examined the way in which the Agency handles its procurement actions for the purpose of identifying specific areas in need of improvement. The review sought to eliminate redundancies while improving efficiency and reducing vulnerability. Contacts were established with organizations external to M/OP (project offices and contractors/recipients) to hear their concerns, and to solicit their suggestions for streamlining procurement procedures.

It was determined that the focus of the streamlining group overlapped significantly with many of the other procurement reform groups. The group therefore concluded that in order not to be redundant, their primary purpose would be to act as a general resource for the other groups. In May and June of 1994 this group reviewed M/OP files to identify those areas in need of streamlining and harmonization with the requirements set forth in acquisition and assistance documents. Comments and suggestions were then provided to the contract writing group.

The final activity of the streamlining group will be to issue a "Guide to the Office of Procurement (OP)" and an "Office of Procurement (OP) Handbook." The plan is for these guides to be prepared after M/OP completes all the procurement reform initiatives, and then incorporate the "new way of doing business" into the guide. The timing of their issuance is thus dependant on the completion of all other reforms, as well as Agency reengineering.

The "Guide to OP" will include an overview of M/OP's organization, including an explanation of who does what, along with the fundamental information on the "how to's and the whys" of the procurement process. The "Guide to OP" will receive wide external distribution with the intent of providing a better understanding of M/OP and the procurement process, and improving communication and consistency.

The group is also working on an "OP Handbook" for use internally. It will contain additional detailed technical procurement guidance for the M/OP staff. This "OP Handbook" will serve as a central resource for M/OP personnel, provide uniform guidance, and enhance the efficiency and consistency of M/OP procedures. Both guides will have a long shelf life. The group has prepared an outline for the Handbook and the members are presently writing various segments of Part I that are not contingent upon completion of the other reform initiatives.

B. System Reviews

While Handbook 13 currently contemplates that OP/PS will review and approve recipients' policies on an agreement-by-agreement basis, this has not proved possible in many years. What is now proposed is that OP/PS/CAM, to the extent possible, will undertake annual or biennial reviews of a few organizations to test the accuracy of the certification of compliance.

The following is what is anticipated. A checklist will be prepared, containing very basic requirements that a recipient's system must meet in order for the recipient to certify that the system is in compliance with applicable Federal and USAID accepted policies. A certification package will be sent to all recipients (non-profit). The package will contain the following information:

1. Checklists containing minimum requirements for personnel, travel, and procurement systems with appropriate certifications for each system;
2. A copy of the certificate covering "Assurance of Compliance with Laws and Regulations Governing Nondiscrimination in Federally Assisted Programs," and a statement regarding the annual submission of the certificate (current laws do not allow for annual submission of Drug Free Workplace and Lobbying Certificates);
3. An explanation of the self-certification system; and
4. Explanation of anticipated compliance testing by USAID as well as during the A-133 audit.

Upon receipt of the certification package, the recipient will review the package and complete certifications for its systems if they meet the standards provided in the checklists, complete the Assurance of Compliance certificate, and forward this material to OP/PS/OCC. If the recipient is unable to certify a particular system, it must state which standard it does not meet and provide an explanation of how it intends to attain compliance and by what date.

OP/PS/OCC will review and retain the certifications (both system certifications and annual certification), and then issue a letter to the recipient stating the extent to which the organization has certified compliance.

Once USAID issues an acceptance letter to a recipient, the recipient will be expected to submit a copy of that letter with each future application/submission it may make to USAID. Agreement Officers should not request copies of any of the recipient's systems that have been certified as meeting the standards. If the letter

refers to any systems that have not been certified, the Agreement Officer will then ask OP/PS/OCC, via e-mail or fax, whether the non-compliant standards have been resolved and whether the recipient has any outstanding audit findings.

As part of the new process of recipient self-certification of personnel, travel and procurement systems the certifications will include language relating to the potential consequences of a false or inaccurate certification - ranging from being found not responsible for a particular award to being suspended or debarred under USAID Regulation 8. M/OP hopes that it will serve to ensure that recipients do, in fact, have written policies in these areas, and will encourage them to follow policies that are consistent with Government-wide cost principles, A-110 requirements, and USAID-specific requirements.

C. Contractor/Recipient Financial Audit Program

A joint USAID/OMB task force studied the audit problem and recommended corrective actions to the Agency's management that were approved for implementation. The most significant aspect of the recommended solution was to transfer the responsibility for the Agency's contractor/recipient financial audit program from the Office of the Inspector General (IG) to M/OP. A memorandum of understanding was executed between IG and M/OP, and the formal transfer of responsibility was effective October 1, 1993. A new organization, the Contract Audit Management Branch (OP/PS/CAM), was created and staffed within M/OP.

The new staff, primarily auditors from outside the Agency, was in place by May 1994. Since that time, the CAM Branch has worked to overcome the backlog of previously uncompleted financial audits and to improve the quality of the audits. In the process, the number of firms and organizations identified as USAID cognizant has increased from approximately 180 to nearly 600 and the backlog of incomplete audits has been reduced by 60% thus far. The CAM Branch, in coordination with USAID's non-profit organizations (and their independent auditors) and the Defense Contract Audit Agency (DCAA), has initiated a major effort to improve the quality and usefulness of the audits. The CAM branch has begun to identify areas of concern, received from USAID's contracting offices, to the auditors prior to the commencement of each audit with a request that such concerns be included in their audit plan and discussed in the audit report. This new initiative has been complimented by industry and Agency staff alike for having the potential to enhance the usefulness of the resulting audits.

The new Branch has also significantly increased the accessibility of preaward audit services to the Agency's procurement staff. In those cases where the time available for the performance of a requested preaward audit is less than 30 days (the time DCAA requires) it is done by the direct hire auditors in the branch. Where the time available exceeds 30 days, the branch decides whether to do the audit in-house

or to request it be performed by DCAA. As a result of this more customer oriented approach, the number of preaward audits requested have more than doubled and their increased use has provided greater assurance that the government's best interests are being adequately protected.

RESULTS:

A. Streamlining Internal Procedures

1.) Areas of internal streamlining and harmonization of contract/assistance documents were identified and communicated to a separate contract writing group, for incorporation into the Agency's automated systems.

2.) Two guides are being prepared, to be completed at the conclusion of the current reengineering process.

B. System Reviews

A new self-certification approach has been formulated, and is being reviewed by management that will reduce the number of redundant document submissions a recipient must make to the Agency, while providing more effective, comprehensive, coverage.

C. Contractor/Grantee Financial Audit Program

1.) The creation of the CAM Branch within M/OP has been instrumental in improving the quality and usefulness of audits that the Agency receives, and has increased the accessibility of preaward audit services to the Agency's procurement staff.

2.) The cooperation and responsiveness of DCAA has been exemplary in this expanded audit effort. DCAA has established a USAID dedicated audit group in their Silver Spring, MD branch office, something they have never done for a civilian agency. DCAA has also worked closely with USAID in designing a custom tailored audit program that will insure more responsive audits. DCAA's senior management is committed to the success of this unique approach. In light of this new spirit of cooperation on DCAA's part, USAID has decided to reverse the previous IG policy of relying primarily on non-federal audit firms to perform financial audits on its behalf and to use DCAA's services almost exclusively. The potential savings resulting from this decision amount to approximately \$1.5 million per year.

CLARIFY ADD-ONS TO GRANTS/COOPERATIVE AGREEMENTS

PROCUREMENT REFORM NO. 11

BACKGROUND:

The term "add-on" was originally coined in the early-to-mid-1980s in order to distinguish supplemental assistance programs (add-ons to grants/cooperative agreements) from buy-ins. The term "buy-in" connotes acquisition of services, which, pursuant to the Federal Grant and Cooperative Agreement Act of 1982, is only appropriate under a contractual instrument. By contrast, grants/cooperative agreements ("assistance instruments") are used as a means of transferring assistance (usually financial assistance) in order to support or stimulate a public purpose (*i.e.*, a program or project in furtherance of the goals and objectives of the Foreign Assistance Act).

Moreover, the term "add-on" was also used to highlight an important procedural distinction between buy-ins to contracts and add-ons to assistance instruments. Because of statutory requirements (Competition in Contracting Act (CICA)), buy-ins were, at that time, accommodated within a single contract which combined "core activities" (*i.e.*, activities funded by the "sponsoring" central AID/W Bureau/Office) with activities funded by Offices/Bureaus/Missions other than the sponsoring central Bureau/Office. However, since, unlike contracts, there were no statutory/regulatory impediments to expanding the program and increasing the TEC of assistance instruments, the early add-on assistance instruments were awarded for only the core TEC, with add-ons (or "supplemental programs") subsequently increasing the TEC of the assistance instrument by the actual negotiated amount of each add-on. Each add-on included a Program description for that add-on.

Over time, however, and in the absence of guidance concerning add-ons, many assistance instruments were awarded with a TEC which included the estimated amount of add-ons (in addition to the TEC for core activities). Coupled with that, the Program Description for the basic assistance instrument was, at times, intended to cover all activities (core and add-ons) to be conducted under the assistance instrument. Since the basic assistance instrument ostensibly had a firm and all-encompassing TEC and Program Description, Mission add-on funds were sometimes treated as incremental funding, with no Program Description, recipient proposal, or budget. This posed the same problem as buy-ins being handled under the same contract as core activities, *i.e.*, the impracticality of realistically estimating the amount and description of non-core activities (usually for five years into the future), thus rendering both the TEC and the overall Program Description meaningless and/or misleading. This problem was solved for contractual buy-ins in 1989 by establishing ordering contracts for buy-ins which were separate from the companion "core

contract." However, no comparable mechanism exists for assistance instruments; thus, unlike contractual buy-ins (which are now processed as separate discrete delivery orders), add-ons are handled as modifications (amendments) to the assistance instrument. This impedes the ability (and, in some respects, requirement) to treat each add-on and the core activities as discrete programs. Moreover, OMB regulations pertaining to assistance instruments limit the type and nature of accounting and reporting information which an agency may require from recipients of assistance instruments, thereby further exacerbating the problem.

Mission funds which are originally obligated under a bilateral Project Agreement ("ProAg") between the Mission and the host government may only be used for the benefit of the host country, and cannot be commingled with other funds. This means that bilateral ProAg funds must be accounted for separately; yet OMB regulations have not permitted the imposition of such accounting and reporting requirements for assistance instruments (grants and cooperative agreements). Frequently, Mission and/or host country needs and desires (e.g., reporting) are inconsistent with the original centrally issued assistance instrument to which the Mission desires to add-on. This makes assistance instruments administratively-cumbersome for recipients, if OMB regulations are adhered to, which may often not satisfy the Mission or the host country (and, at times, in order to alleviate the problem, separate and unauthorized "side agreements" were negotiated which were unenforceable and contrary to applicable statutes, regulations, and/or policies). Finally, since there can only be one cognizant Project Officer and one Agreement Officer for any given instrument, add-ons required management by AID/W, even though the Mission/Regional Project Officer and Agreement Officer would, in most cases, be in better positions to manage the activity. These problems are easily resolved, however, if separate free-standing assistance instruments are awarded instead of add-ons (modifications/amendments to existing assistance instruments). And, just as there are no significant impediments to increasing the TEC for an assistance instrument (as discussed above), there are no significant impediments to awarding separate noncompetitive assistance instruments to the same recipient of the "core" assistance instrument.

Nevertheless, add-ons remained attractive to many, oftentimes due to misperceptions and/or misconceptions. The distinction between acquisition (contracts) and assistance (grants/cooperative agreements) is not widely understood or appreciated. And it is widely perceived that a modification/amendment to an existing instrument is easier and faster than awarding a free-standing instrument (in reality, there is not very much difference). It was not uncommon for the core activities to genuinely be assistance, whereas the supplemental Mission program might be acquisition, which further blurred the distinction. Finally, the success of central Bureau projects was, to no small degree, measured by the amount of buy-ins or add-ons which it could generate, thus increasing the pressure to do add-ons even when a contract or a free-standing assistance instrument might be more appropriate.

Over time, add-ons became abused by using them for the acquisition of services, which should only be done under a contractual instrument. The Office of Procurement (M/OP) issued Administrative Memorandum 94-05 in July 1994, which reiterated that acquisition under assistance instruments would not be permitted. Further, the guidance stated that, if the activity is truly assistance, there must be a compelling programmatic reason to do the activity as an add-on rather than a free-standing assistance instrument.

OBJECTIVE:

To review the appropriateness of add-ons to determine if they should be discontinued for either new awards or extensions to existing awards, and, if continued, to develop procedural guidance in order to ensure consistency in how add-ons would be processed.

DISCUSSION:

A working group composed of representatives from M/OP, GC/CCM, IG, the Global Bureau, and the regional Bureaus, addressed constraints in the processing of add-ons to centrally-funded assistance instruments. The group identified the following problems: the budgeting process, host-country negotiation and clearance requirements, staffing constraints, confusion in the offices that initiated PIO/Ts over the differing characteristics of acquisition and assistance instruments, and the different ways of treating and processing add-ons within OP.

The working group identified two principal areas of concern: confusion between acquisition and assistance, and the inability to track core and supplemental/Mission funding and activities separately from each other.

There is some debate regarding the use of contracts versus assistance instruments at USAID. The CO, based on a review of the requirement, is responsible for determining the appropriate type of instrument - contract, grant, or cooperative agreement. There is seldom disagreement with a CO's choice of instrument when the activity is discrete. However, when the Project Officer develops a requirement specifically intended to be implemented through an add-on to an assistance instrument, and the CO disagrees because the requirement is for acquisition of services rather than support of a recipient's program, a conflict may ensue. In many cases, the PO will ask the CO to convert the contractual statement of work to a supplemental program description for an assistance instrument modification/amendment (add-on). While this conversion may be possible, it often results in a revised requirement that no longer reflects the intent or needs of the office initiating that requirement. To avoid this conflict, there should be more involvement by the CO in the early stages of activity development.

The group found that the potential for Mission or regional Bureau funding to be added to an assistance instrument should be addressed by the central Bureau prior to award of the assistance instrument. Such information is normally solicited before award from Missions by a world-wide cable requesting expressions of interest. When the information is obtained, the assistance instrument should then specifically indicate the anticipated funding and Program Description(s) from central accounts vs. Mission or Bureau accounts.

The working group recommended the following options:

(a) The preferred option is that the Mission submit only a PIO/T face sheet adding incremental funding to the assistance instrument. The general range of activities planned for a particular country should already have been taken into account and included within the budget and Program Description at the time the assistance instrument was negotiated and signed, so no further documentation would be necessary. The group further suggested that back-up material, including a description of activities and an illustrative budget, may be necessary for internal Mission purposes and host country approval, but these documents would not be incorporated into the assistance instrument itself.

(b) The second option is that the Mission and the recipient collaborate to develop a country-specific proposal. The recipient's proposal would then be submitted to M/OP together with a face sheet providing the funds to be added to the assistance instrument. A modification/amendment to the assistance instrument, containing budget, supplemental Program description, performance period, etc., would have to be negotiated.

In both options, reporting requirements would have to be set forth in the original assistance instrument; Missions and Bureaus adding funds would not be permitted to impose additional, individual requirements. The original assistance instrument would require the recipient to disaggregate both information on substantive progress and financial data by country in its periodic performance reports, so that individual Missions can track the recipient's activities in their countries. Caution must be exercised at this point, however, in order that Missions do not require the recipient to exceed OMB reporting requirements. M/OP/P advises that the following language is consistent with OMB requirements:

"The Recipient shall provide a country-by-country breakout of the Federal share of expenditures both for the billing period and cumulatively in the Remarks section of the SF269, or other financial status report used."

Under this approach, the financial data will be broken down to show expenditures from assistance instrument funds country-by-country. The central Bureau managing the overall program will be responsible for distributing reports to all Missions in which activities are taking place.

Although the separate accounting problem may be susceptible to resolution, the fact remains that it is impractical to expect realistic and firm estimates of Mission funding and Program Descriptions prior to award of the basic assistance instrument (at best, Mission responses would be expressions of possible interest). Moreover, Missions do not provide funds, particularly ProAg funds, without expectations for performance. If such expectations are consistent with the nature of the assistance instrument, then there should be program coverage in the assistance instrument. The recommended systems, with little or no Agreement Officer oversight or involvement, opens the Agency to abuse. Missions that do not understand the distinctions between assistance and acquisition will often expect deliverables similar to contracts.

The prudent approach for add-ons reflected in OPAM 94-05 (see attachment 5), guards against acquisition under assistance instruments, and requires close involvement of the Contracting Officer/Agreement Officer to determine that conditions exist for a proper add-on activity: (1) the add-on activity must clearly be assistance and; (2) there must be a compelling programmatic reason to do it as an add-on rather than a free-standing mission agreement.

RESULTS:

OPAM 94-05 dated, July 28, 1994 was issued clarifying the use of Add-ons.

July 28, 1994

OP ADMINISTRATIVE MEMORANDUM 94-05

In the past, M/OP has executed cooperative agreements which allowed mission funding to be added on to the total estimated cost of the agreement to carry out specific activities. It has also been common to add mission funds to the agreement without increasing the TEC, sometimes including a supplemental program description and sometimes not. In any case, the funds were to be commingled with the basic cooperative agreement and no specific accounting would be required. While add-ons provide the obvious benefit of allowing Missions access to established assistance programs, this benefit must be weighed against a number of problems experienced with these instruments.

The primary problem with add-ons is that all too often they are used for the acquisition of services, a violation of the Federal Grant and Cooperative Agreement Act of 1977 (PL95-224). Missions are usually sub-obligating project agreement funds, and more specificity in the performance requirement is necessary than is possible under cooperative agreements. Further, if the funds for the add-ons are provided under bilateral project agreements, then by law and the terms of the agreement, they must be tracked specifically and unexpended funds must be returned to the project agreement. However, under assistance instruments, additional funds are commingled and OMB Circular A-110 does not allow reporting at the level of specificity required by project agreements, without separate approval from OMB. We are presently seeking OMB approval, but until it is granted detailed financial reporting, e.g. by country activity, is prohibited. Finally, we believe it is inappropriate to use assistance instruments where performance is essential to meeting USAID's commitments because of USAID's lack of activity as a grantor to enforce performance by a recipient.

Current agreements containing add-on provisions will be closely monitored. Acquisition under assistance instruments cannot be permitted.

In order to be accepted as an add-on to an existing Cooperative Agreement, the following conditions would have to be met: (1) the add-on activity must clearly be assistance and (2) there must be a compelling programmatic reason to do it as an add-on rather than a free standing mission agreement.

REASSESS BUY-IN CONTRACTS PROCUREMENT REFORM NO. 12

BACKGROUND:

A buy-in is the transfer of money authorized under one project (usually in the field) to a contract funded by another project (usually in USAID/W). The buy-in activity must be within the scope of the basic "core" (*i.e.*, funded by the "sponsoring AID/W central Bureau/Office) contract receiving the buy-in.

Prior to 1987, buy-ins were mostly obligated in cost-plus fixed-fee (CPFF), level-of-effort (LOE) contracts with no special tracking, accounting, reporting, etc., or separate budgets, performance periods, Statements of Work (SOWs), etc. LOE contracts require the contractor to provide/perform a definite quantity of services LOE, and an increase in the LOE constitutes new procurement to which competition and other requirements apply. Once the contract was awarded, all subsequent funding was treated as incremental funding and commingled. However, this method increased the potential for unauthorized commitments and violations of the Anti-Deficiency Act, since the services often started before the funds were obligated, and the Contracting Officer (who is the only person who can contractually commit the government) was not the person authorizing the start of services.

Due to a legal opinion that Mission funds originally obligated under a bilateral Project Agreement ("ProAg") between the Mission and the host government could only be used for the benefit of the host country, it became necessary to require separate accounting against all sources of funds, especially ProAg funds. Thus, from 1987 through 1989, "Z" contracts were used. These contracts were also CPFF/LOE; however, they provided for discrete delivery orders to be issued to separately negotiate, track, and report on ProAg-funded Mission activities (and, at USAID's discretion, non-ProAg/non-core funds).

While this solved the accounting problem, in many cases, these CPFF/LOE contracts still created problems for central Bureaus/Offices due to the inability to accurately and firmly predict Mission requirements, usually over the succeeding five years (by contrast, the core activities could be realistically estimated and described). Frequently, the LOE was expended prior to the established completion date of the contract, thus resulting in the need to solicit for additional effort (awarded noncompetitively) for the remainder of the performance period, or to prematurely compete a follow-on contract. Moreover, the different procedures applicable to different types of funds was confusing to most of the Agency.

In 1989, M/OP made three experimental awards of dual- contracts: a CPFF/LOE contract for known central or core needs ("Core Contract"), and a companion time-and-materials/requirements contract ("Q Contract" or "Buy-In Contract") for Mission activities. While the core contract had a firm/ceiling LOE, the Q Contract essentially had no ceiling, thereby eliminating the problem of realistically forecasting firm Mission needs. Since then, the dual-contract method has been adopted as the means to contract for projects which will have buy-ins.

OBJECTIVE:

Due to the fact that the Q contracts have no ceiling, a number of large Mission projects began to be implemented through buy-ins, which made the financial aspects of the projects hard to control, and circumvented competition to a large degree, by not being competed as free standing contracts. Thus, the objective of this reform effort was to reassess the need for buy-ins, and to explore the feasibility of alternatives by comparing and contrasting the use of buy-ins with those of umbrella or tasking contracts.

DISCUSSION:

The working group explored a number of issues surrounding the current arrangements for buy-ins with a view toward improving the mechanism. There was considerable discussion about the level of specificity required and whether that was appropriate. On the one hand, the Missions would like to have a flexible contracting mechanism that can quickly respond to ever-changing programmatic needs. On the other hand, contracting principles require defined scopes of work that clearly state what is expected of the contractor. The working group could not agree on a "perfect" model of a buy-in contract. There are too many special circumstances that require tailored provisions in the contracts that support a particular program.

When the working group tried to specifically focus on the issue of circumventing competition through the use of buy-ins to implement entire Mission projects, there was disagreement as to whether that was really an issue. Project Officers felt that the issue of competition was addressed with the award of the basic contract, and that if a Mission requirement fell within the scope of the basic contract, there was no need to further address competition. COs maintained that each requirement stood on its own and that a CO must insure that CICA requirements are met by clearly examining the intent of the basic contract and other contracting options available in the Mission, e.g., a stand-alone contract. That kind of an examination is difficult to accomplish if the requirement is developed in the Mission and the CO is in Washington. A Mission CO has a better knowledge of circumstances and options available at his or her post.

Four buy-in models were discussed:

(1) A cost reimbursement LOE contract in which Mission funds would be commingled with USAID/W funds, but could be tracked in one of two ways: (a) if a Mission requires tracking by PIO/T, services can only begin after award of the incremental funding modification/amendment that obligates the Mission funds; or (b) if the Mission is only interested in a fixed amount of services, then the contractor can proceed based on technical directions of the COTR with the obligation of USAID funds taking place shortly after that. The problem with prematurely exhausting the LOE ceiling could be solved with options of additional LOE negotiated into the contract up front. However, based on the history of buy-ins, it is problematic that Missions would be willing to transfer their funds to the central Bureau, and into the contract, without a scope of work and assurances that unused funds would be returned to the Mission. Moreover, this would, again, raise the potential for violations of the Anti-Deficiency Act and unauthorized commitments.

(2) A cost reimbursement LOE contract with funds allocated in the core contract for Mission activities. This model has been successful in the Office of Population and requires the Global Bureau to commit its funds, or the Mission to transfer its own money, into the core contract as incremental funding (without a SOW). The USAID activity can then proceed under the technical direction of the COTR. If the Mission insists on a contractual SOW, then a Delivery Order (DO) could be negotiated under the companion requirements contract. The vulnerability here is that Missions may be tempted to transfer funds merely to expedite contract services when it is more appropriate to negotiate a DO under the requirements contracts. Then the Mission attempts to set up informal control mechanisms outside the terms of the contract to insure that the desired services are actually delivered. And, again, it increases the potential for unauthorized commitments and violations of the Anti-deficiency Act.

(3) Retain the status quo, but explore management solutions to reduce the time needed to execute buy-ins, e.g., staffing constraints, redundant reviews, and relaxed standards. The problem with this option is that requiring offices view the procurement process as bureaucratic, while M/OP sees a responsibility to comply with federal and USAID statutes, regulations, and policies pertaining to, e.g., competition, conflicts of interest, cost principles, procurement integrity, etc.

(4) Missions, through COs, negotiate and issue buy-in DOs against USAID/W contracts. Since Missions have long maintained that M/OP issuance of DOs creates a cumbersome management process, this option removes the responsibility from M/OP and transfers it to Mission/regional staff. No longer will Mission requirements compete for contract services with M/OP's primary clients, the central Bureaus. Also, it is appropriate that total procurement responsibility of a Mission's portfolio rests with a single Contracting Officer.

In December 1994, the Global Bureau and M/OP agreed that authority to issue buy-in DOs under Global Bureau-sponsored Q Contracts would be transferred to COs in the field. A General Notice dated December 21, announced the new policy.

Concurrent with the delegation of buy-ins to the field, the Agency, specifically the Global Bureau, began to experiment with a new budget process. The Bureau was allocated, as part of its OYB, an amount for support of field activities. This direct allocation meant that the funds never left Washington, thus negating the need for Missions to send the funds back to the Global Bureau as buy-ins. It remains to be seen if this process will be successful. Missions lose a certain amount of control when their funds are directly allocated to the Global Bureau. Further, the field support funds were intended to be placed in the core contracts, which limits the contractor's accountability for tracking the funds against Mission activities. It also re-creates the impracticability of realistically estimating Mission needs. However, if the field support account concept is successful, a large number of buy-ins through DOs will be eliminated. Instead, the Global Bureau would accomplish field support through technical directions to the contractor, rather than negotiated DOs. Until M/OP has more experience with the field support account, it is not clear whether wider implementation is possible.

RESULTS:

- 1.) A working group review of the buy-in process has been completed.
- 2.) A General Notice was issued, authorizing the mission to directly issue delivery orders against USAID/W sponsored contracts.
- 3.) Field support funding is in the experimental stages.

ADVANCE PROCUREMENT PLANNING SYSTEM (APPS) PROCUREMENT REFORM NO. 16

BACKGROUND:

In September of 1993, the Administrator issued a memorandum calling for the development of a formal Procurement Planning System as is required by the FAR. M/OP was tasked with the design and implementation of this system. It was envisioned that this new system would 1) allow USAID to better utilize its limited staff resources; 2) spread the procurement workload more evenly over the entire fiscal year; and 3) eliminate the need to establish deadlines for receipt of procurement actions in M/OP, thus enabling the Agency to better manage its workload.

Historically, 75-80% of USAID/W's procurement actions were completed in the second half of the fiscal year, with more than half being completed in the fourth quarter. Moreover, most procurement actions, regardless of the time of year, were submitted to M/OP with insufficient lead times, leaving the choice of either sacrificing quality for speed or delaying the implementation of project activities. The result was a high vulnerability to waste, fraud, and abuse; high turnover in procurement staff (see Procurement Reform # 10); and maintenance of the "closed shop" since only experienced organizations could respond to USAID requirements in the short turnaround time given to them (which, in turn, often affected the quality of contractor/recipient proposals and teams).

One of the major reasons for these problems was the lack of a procurement planning system in USAID, despite the requirement of the FAR for each federal agency to have such a system. The FAR specifically states that, "Agencies shall perform acquisition planning and conduct market surveys for all acquisitions in order to promote and provide for full and open competition . . . This planning shall integrate the efforts of all personnel responsible for significant aspects of the acquisition. The purpose of this planning is to ensure that the Government meets its needs in the most effective, economical and timely manner."

Responding to the Administrator's direction, USAID developed a procurement planning system in FY 1994. This system, entitled the Advance Procurement Planning System (APPS), was developed as a stopgap and temporary measure. Although APPS is a stand alone or stovepipe system, both procurement and project personnel were consulted in the development of APPS in an attempt to avoid duplication of separate stovepipe systems, and to make APPS data useful to project personnel as well as procurement personnel.

OBJECTIVE:

The objective of APPS is to afford the Agency a centralized point from which statistics on planned procurement activity could be readily obtained, and to facilitate spreading the work more evenly over the course of the full year. This would be accomplished through planning (i.e., listing all anticipated procurement actions) and scheduling (i.e., ensuring adequate lead times and balancing those lead times for each individual procurement action against other competing workload demands). APPS implementation stimulates communication between M/OP and its client offices, by getting the CO involved in the planning phase of the requirement. This will enable the Agency to better plan and maintain control of the procurement activity throughout the fiscal year.

DISCUSSION:

Currently, the APPS is maintained using a "Clipper-Based" system software. Because the system is not maintained on a mainframe, the system continues to be sluggish and limited. For instance, when a deadline is approaching, it appears that the APPS cannot handle the many users attempting to access it at a given time. In fact, when the most recent deadline was imposed, M/OP had to designate certain days for each bureau to exclusively input its data.

Even though M/OP is now receiving data from the missions with CO, the system is not integrated. Approximately 26 missions each have their own APPS. The system was transmitted to the field Missions via e-mail. Upon request from USAID/W, the field COs can run reports from their APPS and either fax or e-mail the results to USAID/W for inclusion in statistical reports and the COMPETITIVE FORECAST housed on the INTERNET. An integrated system would give USAID/W up to the minute statistics when needed.

APPS does not capture all information needed by all USAID personnel, thus failing to eliminate duplication in systems and data entry and, thereby, creating a widespread reluctance to treat procurement planning as a serious matter. Most of the larger bureaus have the Program/Project Management Information System (PMIS) in place. Initially, these bureaus requested that data from the PMIS be downloaded into the APPS to alleviate the need for duplicate entry of this same data. Unfortunately, this would have required additional programming for which M/OP and M/IRM did not have the time or resources. Note too, that Missions submit similar data to OSDBU for entry into the Procurement Information Access System (PIAS) and feel that they are performing basically the same requirement twice for two different systems.

These problems combined with the following deficiencies: (a) APPS data is developed in isolation from the process of establishing the Operational Year Budget (OYB), whereas they should be done concurrently; (b) the OYB was not established sufficiently early, thereby limiting the number of actions that could be done early in the fiscal year; (c) there are no effective penalties for failure to adequately plan; and (d) APPS does not have built-in lead times, nor does it permit project personnel to be aware of the competing workload demands of procurement personnel, thus creating many unrealistic expectations on the part of project personnel as to how quickly procurement actions could be completed. Consequently, APPS has only been marginally useful in meeting its objectives.

There are pluses to the system as well. The current Clipper-Based APPS is very simple to operate. There are approximately 30 fields. Most of the information in the APPS is there to benefit the COs, and the 1995 version incorporated many fields requested by, and now being used by the technical/program offices, as well. The screens are aesthetically pleasing and user friendly. Because the available reports are pre-programmed, the report module is easy to master.

In FY 1994, APPS was used solely for procurement actions to be done in USAID/Washington. However, problems associated with adapting to any new system were encountered, especially in the identification of buy-ins and add-ons, thereby delaying completion of the planning and scheduling of procurement actions. Buy-ins posed a problem in the APPS because the Central Technical Office (CTO) (USAID/W project office) needed to be able to track and manage the action, however, the regional bureaus also wanted to be able to track and manage the actions as well, since these actions most often utilized regional bureau/mission funding.

In an effort to solve the entry problem, the regional bureaus were instructed to coordinate with their missions on anticipated buy-ins. The CTOs were then instructed to coordinate with the regional bureaus, and enter buy-in data into the APPS in FY 1994. Since the CO executed the actions, the buy-ins went into the CTOs procurement plan. To allow the regional bureaus to have a way to monitor/report on the CTOs status with regard to their funding, an additional project office, the field - Cognizant Project Office (CPO) was added. Thus, the regional bureau project office code/name would be entered into the project office field. The CTO office code/symbol would be entered into the CPO field. This, however, did not solve the problem due to the fact that, late in the first quarter M/OP management determined that mission would immediately begin to award their own IQC DOs and Buy-ins. The question then became: how are the records in the USAID/W APPS identified, now that they are done in the field?

Also, how were records to be purged from the USAID/W APPS and then sent to field? A major effort involving M/OP, Central and Regional Bureaus got underway. The result was that records in the APPS believed to now belong to the field were so

labeled. The Missions were given the option to have OP/CIMS transmit a hard copy of records deemed to be for their respective countries or, they could elect to compile their own data from scratch. So far, only four Missions have requested the data from USAID/W APPS. In the near future all records designated overseas will be purged permanently from the USAID/W system.

Nevertheless, APPS has still been helpful to procurement personnel in ascertaining most of the procurement actions that were planned and scheduling them accordingly, and APPS data did permit a forecast of upcoming procurement opportunities to be published on INTERNET.

RESULTS:

Valuable lessons have been learned. Those lessons showed that major changes would be necessary to have a truly effective procurement planning system. Rather than attempt to accomplish those changes in APPS, the decision was made to include procurement planning in the Acquisition and Assistance Business Area Analysis (A&A BAA) (see Procurement Reform # 13). However, the A&A BAA would not be completed until early in FY 1996. Accordingly, some refinements were made to APPS for FY 1995, and it was applied to all procurement actions worldwide. Although APPS provided benefits in FY 1995 (e.g., the forecast of upcoming procurement opportunities published on INTERNET, the ability of procurement personnel to plan and schedule most procurement actions), many of the above-described problems persist. Most, if not all, of these problems will be alleviated when the A&A BAA comes on-line worldwide on October 1, 1995.

CONSOLIDATION OF INCREMENTAL FUNDING ACTIONS PROCUREMENT REFORM NO. 18

BACKGROUND:

Most longer-term USAID procurement instruments (contracts, grants, cooperative agreements, Participating Agency Service Agreements (PASAs), and Resource Support Service Agreements (RSSAs)) are incrementally funded during the period of the instrument. Providing incremental funding is an administrative and financial action requiring a PIO/T (purchase request) and a formal amendment of the instrument to obligate the funds. Ideally, incremental funding would be added only once a year, for one year at a time. However for a variety of reasons, it is not uncommon for incremental funding to be added several times each year, thus necessitating multiple PIO/Ts and corresponding amendments each year. And, because PIO/Ts for incremental funding are often submitted at the last minute, the amendment to the instrument must frequently be processed by M/OP immediately, at the expense of other actions, in order to avoid cost overruns and/or work stoppage by the contractor/recipient. This needlessly increases the administrative workload of M/OP, as well as the Project Offices and Financial Management (M/FM), and affects our ability to provide substantive and timely service to our customers. It has been estimated that multiple incremental funding actions increase M/OP's workload by a factor of 10.

As part of the reengineering efforts, the budget office (M/BUD) is reviewing its processes. Under the new budget system, the funds are being aggregated into different "pots." These pots consist of core, bilateral/regional, and now field support funding. Core funds are designated for research, technical leadership and new initiatives. Bilateral/regional pots are intended to be used for in-country/bilateral activities. The field support pot consists of some of the funds previously known as central funds, and some of the Mission/regional funds that would be transferred to central projects. During the budget planning process, Missions indicate what Global(G) projects they would like as part of their country programs, and estimate the required level of field support funding. Global staff make estimates of where they expect their projects to work and estimate required level of field support funding. Before the Operating Year Budget (OYB) is set, regional bureaus, Global staff, M/Bud and Policy and Program Coordination (PPC) meet to reconcile Mission and G bureau estimates and determine appropriate levels.

OBJECTIVE:

The objective of this procurement reform initiative is to eliminate or reduce multiple incremental funding actions per instrument per year.

DISCUSSION:

A number of funding-related areas have been analyzed to identify potential reform:

1. Operating Expenses vs. Program Funds

The reasons for multiple incremental funding actions are partly dependent on whether the funds involved are program funds or Operating Expense (OE) funds. OE funds are only allotted by OMB quarterly, whereas program funds are generally provided on an annual basis. Moreover, current-year OE funds may only be used to fund severable contract performance through the end of the first quarter of the next fiscal year (e.g., FY 1994 OE funds can only fund performance through December 31, 1994), whereas program funds do not have such limitations.

Although OE-funded instruments represent the minority of M/OP's overall actions, they represent the majority of the instruments that normally require multiple incremental funding actions. This is primarily because OMB only allots OE funds to USAID quarterly. With that constraint, there is little that can be done to consolidate incremental funding actions which use OE.

However, certain possibilities for improvement exist:

(a) USAID management can seek relief from OMB from the quarterly OE allotment process, and instead, have OE funds allotted on an annual basis. Ordinarily, this would seem to be difficult, if not impossible. However, the fact that USAID is a designated "reinvention laboratory" may provide an unprecedented opportunity to obtain such relief. This would be the ideal solution to multiple OE incremental funding actions.

(b) Even if relief from OMB's quarterly allotment process cannot be obtained, it may be possible to combine two quarterly allotments into one semi-annual incremental funding action. This would be done by combining the first and second quarter allotments into an incremental funding action to be done on or about January 1 to finance contract performance from January 1 to June 30. Similarly, the third and fourth quarter allotments could be combined into an incremental funding action to be done on or about July 1 to finance contract performance from July 1 to December 31. This would reduce OE incremental funding actions from four per year to two per year. However, this assumes that USAID actually receives the second quarter allotment on

or about January 1 and the fourth quarter allotment on or about July 1. There is also the risk that failure to obligate the first and third quarter allotments in those quarters would result in reduction and/or late receipt of second and fourth quarter allotments.

(c) In the event that relief cannot be obtained from OMB's quarterly allotment process, another possibility could be to stagger the obligation of the quarterly allotments. This would require funding half (by total funding level) of the OE-funded instruments in the first and third quarters for six months at a time, and funding the other half in the second and fourth quarters, also for six months at a time. This, too, would reduce multiple incremental-funding actions from four per year to two per year. However, this may require a one-time adjustment to create the staggered funding periods.

2. Late OYBs

Regardless of the type of funds (OE or program), late OYBs are a major contributing factor to multiple incremental funding actions. USAID has historically, and understandably, been reluctant to obligate a full year's tranche of funds without knowing its full-year OYB. In recent years, it has become common for the OYB not to be established until February or March. Combined with "out-of-sync" funding periods, this often results in providing only a few months of funding for continued contract performance (during the first and second quarters) while awaiting establishment of the OYB. Once the OYB is established, at least one subsequent tranche is required to complete that year's funding. Earlier establishment of the OYB, preferably in October, would resolve this problem.

3. Funding Periods

Primarily with program-funded instruments, the funding periods for many incrementally funded instruments are "out-of-sync" with the appropriation/allotment/OYB process, i.e., they require incremental funding before the OYB has been established. Ideally, the incremental funding period for program-funded instruments should be only in the third quarter of each fiscal year, because an earlier period might precede establishment of the OYB and later periods would equate to the fourth quarter, which would be contrary to the objective of procurement planning, i.e., trying to move contracting actions out of the fourth quarter. This would, however, present a problem for OE-funded contracts since one fiscal year's OE funds generally cannot extend that far into the next fiscal year.

In some cases, instruments that were "in-sync" at one time went "out-of-sync" due to past budget reductions and the accompanying "stretching-out" of funding (i.e., instead of reducing the average expenditure rate of an instrument when faced with a reduced OYB, the funding period was shortened in proportion to the reduced OYB level, thereby maintaining the same average expenditure rate). In a few cases, the

funding periods went "out-of-sync" due to budget increases that resulted in "forward-funding." Regardless of the cause, these "out-of-sync" instruments would need to be brought "into sync," through a one-time shortening or lengthening of funding periods as necessary to get "in-sync," and through better procurement planning, which will spread procurement actions over the full twelve months of a fiscal year, thereby minimizing fourth quarter awards and the resulting fourth quarter anniversary date/incremental funding period.

4. Lack of Adequate Procurement Planning

Adequate procurement planning should include post-award administration as well as new awards. A lack of such planning can cause multiple incremental-funding actions. This is especially true when, as is not uncommon, more substantive matters are involved than a simple, administrative incremental-funding action. Other procurement reform initiatives such as procurement planning and training and certification of project officer can help with this problem, but the need for contract administration planning must be reinforced and supported by USAID management.

5. OYB Transfers and Buy-Ins/Add-ons

OYB transfers are a form of buy-in or add-on, except that instead of the funding being provided via the initiating bureau's or Mission's PIO/T, the money is transferred from the initiating bureau's or Mission's project to the central bureau's core project. The central bureau then prepares the PIO/T and the funds are frequently treated as core incremental-funding, rather than a discrete action. With some buy-in/add-on instruments, "regular" buy-ins/add-on (i.e., those that are funded via the initiating bureau's or Mission's PIO/T) are also treated as incremental funding actions. In both cases, such non-core funding is seldom provided at the same time as the real core incremental funding, and is seldom consolidated with other non-core funding. This problem is primarily, although not exclusively, relevant to program-funded instruments. While procurement reform initiatives such as Clarification of Add-ons, and Reassess Buy-in Contracts/Consider Umbrella Contracts, may help address and rectify this problem, another solution to both multiple incremental-funding actions and buy-ins/add-ons would be to simply put all USAID funds into the central bureau projects as part of the OYB process, rather than having the funds allotted to various bureaus and Missions only to have them come back into the central bureau project. In this way, all work under a particular instrument would be funded through one annual incremental funding action.

6. Robbing Peter to Pay Paul

Occasionally, and primarily with program funds, multiple incremental funding actions are caused by using some funds intended for one instrument to fund another instrument due to problems with funding that other instrument. This often results in

both instruments having multiple incremental funding actions. The root causes are many (including some of the areas discussed above), and may be at least partially attributable to earmarking and the system of accounts. In some cases, and for the same reason, incremental-funding which has already been obligated into one instrument is partially deobligated, thus necessitating another amendment to the instrument to deobligate the funds, to partially incrementally fund another instrument, which again creates multiple incremental funding actions for both instruments.

RESULTS:

The root causes of the problem are in the budgeting system, not the procurement system. The new budget processes and the A&A system (discussed in procurement reform no. 13) that have been created as a result of reengineering, discussed in the background section above, should lead to a reduction in procurement actions through fewer incremental funding actions, buy-ins, add-ons and transfers.

The Information Highway - Automation of Systems

This topic encompasses procurement reform numbers:

Seven: Contract Administration - Contract Enforcement.

Thirteen: Acquisition and Assistance Business Area Analysis.

Seventeen: Contract and Grant Writing/Research System.

THEME:

Automating USAID's procurement system provides consistency in contract and assistance documents, and reduces documentation preparation time.

CONTRACT ADMINISTRATION/CONTRACT ENFORCEMENT PROCUREMENT REFORM NO. 7

BACKGROUND:

As a result of staffing deficiencies and inadequate procurement planning, contract administration, particularly in the areas of contract enforcement and monitoring, has not historically been done effectively at USAID. Adequate administration of contracts has been a problem government-wide. Thus, OFPP issued "A Guide to Best Practices for Contract Administration ("Guide")," as a first in a series of guides that would be issued related to the contract process.

According to the Guide "contract administration involves those activities performed by government officials after a contract has been awarded to determine how well the government and the contractor performed to meet the requirements of the contract. It encompasses all dealings between the government and the contractor from the time the contract is awarded until the work has been completed and accepted or the contract terminated, payment has been made, and disputes have been resolved. As such, contract administration constitutes that primary part of the procurement process that assures the government gets what it [contracted] for." Further, the Guide states that, "[contract administration] can range from the minimum acceptance of a delivery and payment to the contractor to extensive involvement by program, audit and procurement officials throughout contract term." As previously defined, contract administration/contract enforcement has, at times, been inadequate.

OBJECTIVE:

The objective of this reform initiative is to strengthen contract administration and enforcement of contract provisions by evaluating current systems, re-emphasizing the need for monitoring contract performance and overhauling internal contract administration procedures.

DISCUSSION:

At USAID, unlike many other Agencies, a contract specialist is responsible for a contract from "cradle to grave." In other words, a negotiator will work on an action from the moment a PIO/T is received through the award process, to contract administration and finally close-out. Most other Agencies have different units responsible for each of these functions. For example in the Department of Defense (DOD), functions are split. First, a Procuring Contracting Officer (PCO) is assigned. During the award process, the PCO and negotiator have access to a team that does

cost or price analysis, as well as a team solely responsible for drafting the solicitation, the contract and subsequent modifications. Further, if a contract has to be terminated, there is a designated Termination Contracting Officer (TCO), responsible for the this process. Terminations are often very long and drawn out, sometimes lasting more than a year. Other agencies also have Administrative Contracting Officers (ACO) that are solely responsible for the contract administration function. Their duties include, but are not limited to, property disposition, voucher examinations, site visits, and enforcement of subcontracting plans. They are considered to be the eyes and the ears of the government with regard to a contractor's performance during the term of the contract. At USAID a CO is the awarding, administration and termination officer. Further, contract administration is primarily done by the Project Office as the COTR. A CO only becomes involved when a contractual modification is required. Thus, much of the enforcement of the terms and conditions of contracts is left to the COTR, when it should be a collaborative effort between the CO and the Project Officer/COTR.

With the government-wide emphasis on performance based contracting and the Agency's shift to an emphasis on outputs and results, rather than inputs, contract administration has become even more important. M/OP management has made a determination that systems must be implemented that allow the Agency to monitor a contractor's performance and ensure that the contract terms are being enforced. This is seen in the following reform efforts: Advance Procurement Planning System (see reform no. 15); Contractor's Past Performance (see reform no. 5); Performance Based contracting; Encourage Wider Participation of Organizations in USAID Procurements (see reform no. 6); and the Business Area Analysis (see reform no. 13).

M/OP is in the process of streamlining its procedures. Part of this process will include putting into place the systems the Agency will follow in regards to contact administration. With the arrival of a stronger emphasis on contract administration the Agency will be able to hold contractors accountable for, and monitor results under, their contracts.

As stated in the "Best Practices Guide for Contract Administration, "Good contract administration assures that the end users are satisfied with the product or service being obtained under the contract." USAID is committed to ensuring that those in the developing world are receiving the best services possible through its development efforts.

RESULTS:

- 1.) Software has been completed for contract administration as a result of the A&A BAA.
- 2.) Agency implementation of PBC with its emphasis on performance monitoring, will facilitate better contract administration.
- 3.) As a result of increased staffing, and transfer of the authority to do Buy-ins to the field, negotiators will have more time to do proper contract administration.
- 4.) CIB 95-7 issued regarding OSDBU monitoring of sub-contracting.
- 5.) OPAM 92-12 issued which establishes routine review of vouchers under certain conditions, and recommends site visits and post award conferences.

ACQUISITION AND ASSISTANCE BUSINESS AREA ANALYSIS PROCUREMENT REFORM NO. 13

BACKGROUND:

The success of the U.S. Foreign Aid Program as implemented by USAID is directly dependent on its ability to acquire goods and services to provide assistance to developing countries. One of the key initiatives underway to streamline this process is the Business Area Analysis (BAA). There are currently eight BAAs responsible for streamlining the Agency's various automation systems into one system. This area of the procurement reform report will deal specifically with the BAA for Acquisition and Assistance or the A&A BAA.

The purpose of a BAA is to analyze business functions and their information needs, and to recommend business system design areas. Initial BAA planning was conducted by a team of federal procurement professionals and systems specialists for six months. Information Engineering techniques were applied to the information needs of the Agency's procurement functions. The final product of this analysis is the requirements determination for systems development. An abstract of the information and processes required for the acquisition and assistance function was generated. This abstraction formed the baseline for subsequent software design. This baseline is divided into the following Business System Design Areas; Planning, Award Formation, Award Administration, and A&A support. These four areas are the basis for the software application versions that have been developed.

The scope of the BAA encompassed all activities required to process and support acquisition and assistance. This includes all types of award instruments from small purchases to competitive contracts, grants, cooperative agreements, interagency agreements and host country contracts. The BAA has provided a comprehensive model of the Agency's information requirements, based on essential functions that remain consistent over time. Therefore, the model will remain valid after future reorganizations of the agency and changes in technology. Information systems generated from the model will remain useful business tools. When the system is fully implemented, Project and Contract Offices will be able to work together through the system from the beginning of an activity, rather than segregating the process without coordination until well into the activity. This early planning will result in better quality SOWs, which will promote easy and smooth project and contract administration. Further, accountability for both USAID and its development partners becomes a natural by-product of effective planning and unobtrusive monitoring.

The operational level staff of the Agency will have accurate, comprehensive data in an accessible format, along with indicators to monitor progress toward the goals of that procurement. Easier access to information provided by the system will facilitate teamwork and minimize adversarial roles between organizations. Real-time data provides insight into the process of other organizations and promotes an appreciation of each organization's role within that process. Internal and external customer satisfaction will be an end result as well as an improvement in the quality of professional life for each user in the A&A process.

OBJECTIVE:

The objective of this procurement reform effort is to establish an integrated automated acquisition and assistance system that will eliminate redundancies and inconsistencies, and be fully integrated into automated systems resulting from other BAAs to form a unified Agency-wide system.

DISCUSSION:

The A&A BAA is to be conducted in four phases:

1. The Analysis Phase

The Analysis Phase of the BAA was conducted from October 1993 to March 1994. The outputs of this analysis were a final report documenting the events and conclusions of the analysis and a preliminary business model designed to represent the system requirements. During this phase, the entire process of acquisition and assistance as conducted at USAID was analyzed by "interviewing" those responsible for, or involved in, the various steps in the A&A process. Based upon the six months of analysis, the following system inhibitors in conducting A&A functions at USAID were identified: division of skills along organizational lines; the Agency's inability to get information to the right place in an accurate and useable format; difficulty in producing a contractible statement of work; the uncontrollable budget process; the Agency's inability to create a workable procurement plan; requirement for excessive approvals and clearances; and ineffective, labor-intensive award administration. These inhibitors were discussed in the A&A BAA final report and a preliminary discussion of how to overcome these obstacles through automation was also included in the final report.

2. The User Design Phase

Since the A&A BAA was the first BAA to be conducted under the Agency's Information Strategy Plan (ISP) parameters, the Information Engineering (IE) approach used was new to both IRM and M/OP. At the conclusion of the Analysis Phase, it was initially understood that development could begin. Therefore, the A&A

BAA software development team began development of the A&A Planning Module. It was immediately noted that more detailed design work was necessary to complete the summary level system requirement developed during the BAA and to systematically address and resolve the process inhibitors identified during the analysis phase. Apparently, products associated with an "outline" BAA were the deliverables from the analysis phase and the system requirements documents required more details prior to software development. This fact was especially frustrating to the business area participants since all the *details* of the A&A business area had been meticulously studied during the six-month analysis phase in order to reach the summary level conclusions. Documentation of these details should have been captured in the deliverables but were not.

In order to stay on schedule, the software development team continued work on the construction of the A&A Planning component with user design for this component being conducted concurrently. User design for the remaining three components was conducted from July 1994 to October 1994. During the User Design Phase, precise identification of the processes, procedures, and documents to be automated by the system was made. Accomplishing this detailed design work brought to light specific instances of streamlining and the specific benefits of the automation of the procurement function. This exercise also served to identify in detail the failures and inadequacies of the current system, automated and otherwise. The most obvious and critical of these were:

- (1) The Agency's inability to account for goods and services acquired from the budgeted stage through commitment, award/obligation, and delivery;
- (2) The convoluted, no-value added review and approval cycle for documents used to initiate procurements (PIO/T, PIO/C, Supplies/Equipment/Services Requisition (5-7), etc.);
- (3) The lack of consistency and standardization in Agency procurement documents;
- (4) The lack of transparency (and therefore, understanding) of the processes along the cross-organizational continuum of the procurement cycle;
- (5) The failure to plan for or provide adequate lead-time to M/OP for actions that are known to the requesting office well in advance (i.e., incremental funding, no-cost extensions, etc.);
- (6) The time-consuming, micro-managing requirement for salary and equipment approvals which takes time away from more meaningful contract administration;

(7) No standard policy on procurement lead-times causing inconsistent and widely varying lead-times being provided to requesting offices;

(8) Failure to consistently require written, structured technical evaluations from the requesting offices for all negotiated actions, not just large competitive procurements;

(9) The Agency's failure to connect the budget drafting exercise to the allocation of funds once received (i.e., justification and pleas for funding occur continuously instead of once during the budget submission exercise);

(10) Failure to take full advantage of regulations available on-line, both within the Agency and from external sources;

(11) Inadequacies of current systems in terms of user friendliness, on-line help functions, etc.

While not all of these issues were obstacles to accomplishing the BAA, they were issues that were obstacles in the current system of procurement that became targets for possible reengineering or streamlining by the new automated A&A System.

3. The Construction Phase

As discussed above, a few system inhibitors were identified in the analysis phase and further specific inadequacies of the current way of conducting business were detailed during the user design phase. The development phase was basically uneventful in terms of procurement problems encountered. Some minor problems were encountered during inter-BAA interface meetings in which A&A and other BAAs dealt with proposed software integration points between the BAA systems. These problems were primarily based upon an inaccurate perception that procurement begins when OP receives a funded procurement request. Further, parts of completed as well as proposed A&A software which automated tasks exclusive to the domain of A&A were occasionally targeted for "reengineering" by participants from other BAAs by individuals with limited or no expertise in the area. This situation was easily handled for the most part, but occasionally had to be elevated to management to redirect the efforts of would-be critics to their own BAA. Development of the remaining three components---Award Formation, Award Administration, and A&A Support---began in October 1994 and was completed for a January 1995 delivery. This delivery also included an updated version of the A&A Planning component as well.

4. The Roll-Out Phase

Alpha testing of the delivered software began after delivery. Beta testing is ongoing and includes training in Missions and AID/W offices chosen as "pilot" organizations. While final results are not yet known, indications have been and continue to be that the biggest obstacle to the ultimate implementation of this reform item is the belief by some Agency employees and organizations that use of this software is "optional." The "business as usual in the usual way" is an attitude that must be countered by directives from top Agency management. Most of this "opposition" is from individuals who have not seen any software and are unaware of the purpose of the BAAs and the advent of the Agency wide automated system.

RESULTS:

The above section has highlighted the systemic problems identified through the analysis, user design, development and roll-out of the software designed to automate the agency's acquisition and assistance function. The A&A BAA Team delivered superior software on time that satisfactorily addressed the inhibitors identified in the analysis and design phases. The analysis and design work that went into the system requirements proved to be very comprehensive and detailed. Using this system requirement, the development team produced software above and beyond all expectations in: meeting the functional needs of the A&A business area; being user friendly; being compliant with all Agency ISP standards; and fully anticipating integration with other BAA systems.

The new A&A software accurately encompasses all details of the federal procurement and assistance process tailored to include all USAID's supplemental regulations and requirements as well. ***Acquisition and Assistance software this comprehensive and complex has not been developed by any other federal agency to date. Further, when integrated with the other Agency software, USAID will be the leader in automation within the federal government.*** Perhaps the most significant accomplishment of the A&A BAA (and the other Agency BAAs) is that the software systems developed as a result of the analyses are not parasitic, data-entry intensive systems designed for the convenience of management at the expense of the worker. This system is the tool the worker will use to accomplish his/her work in a more effective, efficient and consistent manner. The by-product is accurate, current data available in a convenient, user friendly format for Agency management purposes.

Specific resolution of the inhibitors identified in the Discussion section above follows.

Results of Inhibitors from the Analysis Phase

(1) Division of Skills along Organizational lines: The functionality of the A&A software encompasses all facets of the procurement continuum from advanced planning to award formation and administration and all A&A support activities. Because acquisition and assistance was looked at in terms of being one process, and the resultant software includes all those processes, the system requires input from, and allows viewing rights to, a multitude of organizations. In this sense, particular skills may still be confined to given organizations, however, because the entire process is now transparent between organizations, a more cooperative team approach to the process is encouraged and supported by the system.

(2) The Agency's inability to get information to the right place in an accurate and useable format: The inability to get information to the right place is partly based upon failures in the Agency's hardware, software and communications network or the lack of a system altogether. However, the inaccuracy and unusable format of the information is based upon reliance on poorly designed, data-entry intensive, stove-pipe systems. Both problems are currently being dealt with by the Agency. Specifically, the A&A system addresses the accuracy and useability of procurement information. Because the system is a tool for accomplishing the work, those with the greatest stake in the accuracy of the data are entering it as part of doing the work. Currently, data is entered after the work is accomplished and reviewed and quality-checked by those with limited procurement knowledge.

(3) Difficulty in producing a contractible statement of work: The A&A system will not create perfect statements of work; however, the system will enable continuous interface between the requesting and procurement offices from the earliest stages of a procurement. This will encourage and enable review of SOWs for contractibility by procurement officials during the early draft stages than review occurring only after a funded, fully-approved request appears in the procurement office.

(4) The uncontrollable budget process: The budget process external to USAID will remain rather chaotic until such time as the Agency is better able to account for goods and services bought and demonstrate accomplishments. The A&A system is one of the first steps in the direction of accountability. Through the A&A system, the agency will now be able to report on *exactly* what has been acquired, and funded through acquisition and assistance documents. These will be key supporting documents in the fight for federal funds for USAID projects because the Agency will be able to provide accurate information on a real-time basis to congress and other oversight functions. The budget process internal to USAID is being addressed by the Budget BAA. Software resulting from this system will have as one input, information extracted from the A&A System.

(5) The Agency's inability to create a workable procurement plan: The Agency's previous planning system provided for a stagnate plan with one-time interfaces between the requesting offices and procurement offices. The new A&A system is based upon a continuous interface and team relationship between the requestor and negotiator from the earliest stages of a procurement.

(6) Requirement of excessive approvals and clearances: While approval and clearance requirements are still, to a large extent, undergoing reengineering by other BAAs, the transparency of the system should encourage the release of previously tightly held authority in many instances. Additionally, since all approvals and clearances can be handled through the system and simultaneously forwarded to all relevant parties, the review and approval lead-time will be significantly reduced.

(7) Ineffective, labor-intensive award administration: In the current system, administration occurs primarily by exception. Since the planning of procurements will create a more even distribution of workload over the fiscal year, and since all award information will be stored in the automated A&A system, there will be more time for administration and a better vehicle by which to proactively monitor contracts. It will be apparent through the system when deliverables are late, or when other contract conditions are not met. Further, since payment is based upon award performance and information in the system, there is a greater incentive for all parties to have that information remain current. The new system requires that: deliveries be accepted in the system, incoming and outgoing correspondence be logged in the system, payment be made based upon acceptance of deliverables in the system, and schedule fluctuations be officially recognized and changed in the award delivery schedule in the system. All of the requirements represent an easier, systematic approach to administration of contracts in addition to making sound sense contractually in terms of aggressive and pro-active award administration.

Results of Problems Identified During the Design Phase

(1) *Agency's inefficiency in accounting for goods and services acquired from the budgeted stage through commitment, award/obligation, and delivery.*

The A&A system will provide detailed, accurate, up-to-date information on what the Agency has bought. The achievements of the A&A system, coupled with the AWACs accounting system tie-in will provide the Agency current, accurate data on the state of USAID funds (i.e., allocated, appropriated, obligated, expended, etc.)

(2) The convoluted review and approval cycle for documents used to initiate procurements (PIO/T, PIO/C, 5-7, etc.).

The number of "approving officials" on most of the PIO/Ts and PIO/Cs received is excessive. While no one has offered the rationale behind this elaborate exercise other than informal coordination, the belief that the current approval process is cumbersome, time-consuming and of limited-value is supported by almost all Agency personnel. The A&A system will allow for simultaneous routing to all individuals who will review and approve a given document. Hopefully, policy changes within the Operations BAA will eliminate the necessity for the elaborate coordination requirement currently in place.

(3) The lack of consistency and standardization in Agency procurement documents.

The A&A BAA, together with the Contract Writing System, will revolutionize the way procurement is done in this Agency. Documents and processes will be standardized and consistent throughout the Agency. Instead of individuals using whatever format or method of creating documentation they desire, all individuals will be using the same system with the same formats. Since it will be so easy to generate original documentation correctly within the system, the "super-copy" mentality should be reduced, thus eliminating a number of careless errors and replication of incorrect clauses.

(4) The lack of transparency (and therefore understanding) of the processes along the cross-organizational continuum of the procurement cycle.

Because the A&A system treats the procurement process as one continuous process instead of distinct organizational processes, A&A processes are transparent across business areas. This will promote an understanding of milestones and tasks by organization that must be followed to a given award.

(5) The failure to plan for, or provide adequate leadtime to M/OP for actions that are known to the requesting office in advance (i.e., incremental funding, no-cost extensions, etc.).

When an award is made, the total estimated cost or firm fixed price, the amount obligated and the amount of funding the contractor will need per year to continue activities is known. Although this information allows for an annual plan of contractual funding obligations, this is currently not done. There is no reason for award instruments to be incrementally funded more than once a year. However, procurement offices currently receive multiple requests for incremental funding modifications whose initiation seems to be based upon "extra" money falling into the hands of the COT. The new system tracks the total amount of the award, the total

amount obligated and the amount anticipated to be expended based upon the delivery schedule. In this way, the system will be able to be queried on an annual basis to determine the amount of funding needed per award during the upcoming fiscal year.

(6) Time-consuming, micro-managing requirement for salary and equipment approvals which takes time away from more meaningful contract administration.

These mandatory approvals were viewed as time-consuming, project-stalling, unnecessary and micro-managing. This initiative is closely tied to the use of Contract Line Item Numbers (CLINs) and also with the current initiative in the Award Support Functions to review Contractor's/Recipient's internal accounting system to ensure adequacy so that the management of day-to-day salaries and purchases can be left in the hands of contractors or recipients who have approved accounting/purchasing systems. The system will track the relevant data concerning approval of contractor's accounting systems. Policy changes must be initiated to eliminate the award clauses requiring these approvals.

(7) No standard policy on procurement lead-times causing inconsistent and varying lead-times being provided to requesting offices.

One of the promising features of the advance planning application is the ability for the Project Office to have automatic insight into the A&A processes and process lead-times once a request is accepted in M/OP. Acquisition lead-times have been generated for all Action Types and, where possible, will be automatically filled in by the system as the event is completed. These lead-times will be transparent to all project officers to aid them in their planning. More importantly, they are consistent across M/OP. The procurement offices, in turn, may use the data generated from these milestones as metrics in assessing staffing needs and office performance.

(8) Failure to consistently require written, structured technical evaluations from the requesting offices for all negotiated actions, not just large competitive procurements.

Currently, written structured technical evaluations are only routinely required for new competitive procurements. The requirement for technical evaluations on all other types of negotiated actions is not clear and varies from negotiator to negotiator, branch to branch, and Mission to Mission. Since the system has fields for recording technical evaluation data, it is recommended that policy be initiated to require submittal of written technical evaluations as a standard practice. The new A&A system is designed to track this information once a policy is in place. Future versions of the software could incorporate a standard request and standard technical evaluation formats if desired.

(9) The Agency's failure to connect the budget drafting exercise to the allocation of funds once received (i.e., justification and pleas for funding occur continuously instead of once during the budget submission exercise).

This inhibitor is primarily being addressed by the Budget and Accounting BAAs. The data derived from the A&A system on what goods and services are being purchased in a given year will enable management to conduct easy oversight in reviewing what was bought against what was requested in the budget.

(10) Failure to take full advantage of regulations available on-line both within the Agency and from external sources.

Software versions will contain easy exits to other A&A related automated systems that provide references or data pertaining to A&A processes. This information would be full-text supplements to the A&A On-line help. Examples are the electronic GSA catalog, FAR, Contractor Establishment Code (CEC) listing, Debarred Bidders list, Product Service Code (PSC) manual, and any other useful tool that is available electronically. This may also expand to include electronic approvals from other agencies such as Equal Employment Opportunity (EEO) and pre-award clearances of potential awardees from the Department of Labor.

(11) Inadequacies of current systems in terms of user friendliness, on-line help functions, etc.

Current systems are on obsolete platforms, are data-entry intensive with little user benefit, and are not user friendly in terms of providing on-line help and easy to comprehend data fields. The new A&A system includes comprehensive on-line help supplemented by user friendly comprehensive manuals. Reports and agency statistics on procurement will be generated as a by-product of *doing the work---* instead of as a product of additional, time-consuming data-entry tasks. While federal procurement regulations will not disappear, the A&A system will truly streamline much of the proverbial "bureaucratic red tape" that exists today and provide a user-friendly tool for conducting the business processes of acquisition and assistance.

Summary of Results:

- 1.) Analysis of the various systems in the agency completed.
- 2.) Various software applications completed.
- 3.) User interface, demonstrations and training in progress Agency-wide.
- 4.) New system to be fully operational by October 1, 1995.

CONTRACT AND GRANT WRITING/RESEARCH SYSTEM PROCUREMENT REFORM NO. 17

BACKGROUND:

For a number of years USAID contracting personnel around the world developed contract and assistance documents independently, with relatively limited focus on standardization. This has resulted in many different contract and assistance forms and formats being distributed to USAID awardees.

In an effort to standardize the "look and text" of the various contract and assistance documents executed by USAID, and to automate the process of compiling these often lengthy documents, an automated document generator system was purchased in September 1993. This automated system will be an integral part of the A&A BAA, see reform no. 13 above.

OBJECTIVE:

Institutionalize a world-wide contract writing and research system to ensure standardization of solicitation documents, contracts, and assistance instruments.

DISCUSSION:

In September 1993, after research into, and demonstrations of, various available software, the Document Generator System (DGS), a proprietary product of Procurement Automation Institute, Inc. (PAI), was purchased. This software was considered to be an "off-the-shelf" purchase, but it required a substantial amount of customization by USAID procurement personnel.

In March 1994, a working group, made up of five M/OP contract specialists, was formed to develop the dialog and text for the DGS system. Because the Request for Proposal (RFP) and the Cost-Plus-Fixed-Fee (CPFF) action types were to be the most commonly used and the most difficult to develop, they were customized first. The group researched several of the various federal and Agency regulations and policies, and reviewed several sample documents that were produced by the COs. The reform working group devoted to standardization of documents, as well as procurement policy and evaluation personnel, were interviewed and involved in the selection of the text for each section of the document.

In July of 1994 M/OP gave PAI the first customized dialog and text. In August training of M/OP personnel began. Since then approximately 90 M/OP personnel and 10 field personnel have received training. In October 1994, the DGS was demonstrated during the OP Worldwide Procurement Conference. Responses to the system were very favorable and the development of additional action types continued.

In January 1995, the first RFP generated by the system was issued. Since then, several more documents have been produced on the system. The first release of the software was sent to six Missions that had placed orders in March of 1995. That same month, the system was taken to USAID/Guatemala. There, five COs from the region and several foreign service nationals, were trained. USAID/Guatemala is a reinvention laboratory for the Agency and was a pre-pilot test site for the Acquisition and Assistance (A&A) software, of which the DGS is a major component.

With an automated system the process of compiling a document should be lessened and streamlined. The documents, because they have been customized and contain standard text, will look the same worldwide. The documents will be much easier to administer because the information contained in each document will be in the same place.

It is expected that by July 1995, the DGS will be linked with the A&A software. In an effort to reduce duplicate data entry and errors, information that is captured by the A&A software during the acquisition planning phase will automatically be written into the document that is to be generated by the DGS. Any information that is required for contract administration would also be written into the contract administration phase of the A&A software. By October 1, 1995, almost every type of instrument that is executed by M/OP should be customized and fully operational WORLDWIDE.

RESULTS:

- 1.) DGS has been purchased and customized.
- 2.) USAID/W personnel have been trained. Training for Mission personnel is in progress.
- 3.) The first RFP has been Generated. The system is in place and working in six missions.
- 4.) DGS software has been linked with A&A software.

FOR YOUR INFORMATION

There are several ways to get information about USAID procurements. The following sources are provided FYI:

1-800-USAID-73

This toll-free telephone inquiry line provides callers with general information for small businesses, private voluntary organizations (PVOs), and institutions of higher education. It also provides a contact for information on business opportunities, commodities and transportation of USAID funded goods and Agency procurement reform efforts.

gopher.info.usaid.gov

This is the Agency's Internet address. At this address you will find a tremendous amount of information about the Agency and what it is doing. The following types of procurement information are available:

- Procurement Plan (Forecast)
 - Commerce Business Daily Announcements
 - Worldwide Contracting Opportunities
 - Procurement Reform News
 - Contract Information Bulletins
 - Recent Award Notices
 - USAID Procurement Regulations (USAID Handbooks 13, 14 and 1B)
-

USAID PROCUREMENT OMBUDSMAN PHONE: 703-875-1091 FAX: 703-875-1519

The USAID Procurement Ombudsman is an official housed in USAID's Office of Procurement, with direct access to Senior Agency Management to resolve issues affecting contract and grant management. The Ombudsman will carry out various duties, including playing a central role in implementing Agency procurement reform initiatives and ensuring fair treatment of all parties participating in USAID programs. The Ombudsman will be a confidential source (except for information required to be turned over to the Office of the Inspector General) and will analyze problem situations and recommend courses of action to recipients, contractors, and USAID management. The Ombudsman will address issues dealing with nonresponsiveness of the procurement system, mismanagement, potential conflicts of interest, procurement integrity and unfair treatment. The Ombudsman will provide feedback, as appropriate, in the design or revision of Agency management systems resulting in improved efficiency and increased transparency.

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List of Acronyms and Nomenclature

A	Administrator
A & A	Aquisition and Assistance; Advisory and Assistance
AA	Assistant Administrator
ACO	Administrative Contracting Officer
ACA	Agency Competition Advocate
AIDAR	AID Acquisition Regulation
APPS	Advanced Procurement Planning System
AWAC	Agency Wide Accounting System
BAA	Business Area Analysis
BHR	Bureau for Humanitarian Response
CBD	Commerce Business Daily
CEC	Contractor Establishment Code
CIB	Contract Information Bulletin
CICA	Competition in Contracting Act
CLINS	Contract Line Item Numbers
CO	Contracting Officer
COTR	Contracting Officer's Technical Representative
CPFF	Cost Plus Fixed Fee Contract
CTO	Cognizant Technical Officer
DAA	Deputy Assistant Administrator
DAD	Design and Deliver
DAP	Design and Perform
DCAA	Defense Contract Audit Agency
DEP	Disadvantaged Enterprise Program
DGS	Document Generator System
EE	Eastern Europe
EEO	Equal Employment Opportunity
ES	Executive Service
FAAR	Federal and AID Acquisition Regulations
FAC	Federal Acquisition Circular
FAR	Federal Acquisition Regulation
FS	Foreign Service
FSN	Foreign Service National
FTE	Full Time Equivalent
FTP	File Transfer Protocol
FY	Fiscal Year
G	Global Bureau
GAO	General Accounting Office
GC/CCM	Ass't General Counsel/Contract and Commodity Management
GC/LE	Ass't General Counsel/Litigation and Enforcement
GC	General Counsel

GS	General Service
GSA	General Service Administration
GSBCA	General Services Board of Contract Appeals
HB	Handbook
HCA	Head of the Contracting Activity
IDP	Individual Development Plan
IE	Information Engineering
IG	Inspector General
IQC	Indefinite Quantity Contract
IRM	Information Resources Management
ISP	Information Strategy Plan
LOE	Level-of-Effort contract
M/OP	Bureau for Management/Office of Procurement
NE	Near-East Bureau
NIS	Newly Independent States
NPR	National Performance Review
OCI	Organizational Conflict of Interest
OE	Operating Expenses
OFPP	Office of Federal Procurement Policy
OJT	On-the-Job Training
OMB	Office of Management and Budget
OP/PS	Office of Procurement/Procurement Support Division
OP/E	Office of Procurement/Evaluation Division
OP/P	Office of Procurement/Policy Division
OP/SPU	Office of Procurement/Special Projects Unit
OP/PS/OCC	Procurement Support, Overhead, Costs, and Close-out Branch
OP/PS/CAM	Procurement Support, Contract Audit Management Branch
OPM	Office of Personnel Management
OSDBU	Office of Small and Disadvantaged Business Utilization
OYB	Operating Year Budget
PAI	Procurement Automation Institute
PASA	Participating Agency Service Agreement
PBC	Performance-Based Contracting
PIO/T	Project Implementation Order/Technical Assistance
PIO/C	Project Implementation Order/Commodities
PMCP	Procurement Management Certification Program
PO	Project Officer
PPC	Policy and Program Coordination
PSC	Personal Services Contract, or Product Service Code
PVO	Private Voluntary Organization
RFA	Request for Application
RFP	Request for Proposal
RSSA	Resource Support Service Agreement
SES	Senior Executive Service

SFS	Senior Foreign Service
SOW	Scope of Work or Statement of Work
SPU	Special Projects Unit
SSI	Source Selection Information
TCO	Termination Contracting Officer
UC	University Center
USAID	United States Agency for International Development
USC	United States Code
USDH	United States Direct-hire Employee
USG	United States Government