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# Agency for International Development

# PROJECT OFFICERS' GUIDEBOOK

## Host Country Contracting

June 1982

PROJECT OFFICERS' GUIDEBOOK  
ON  
HOST COUNTRY CONTRACTING

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## PREFACE

This Guidebook is designed primarily to assist AID Project Officers in meeting their responsibilities for the oversight of AID-financed host country contracts as efficiently and effectively as possible. Toward this end, the Guidebook discusses the role of the Project Officer in the basic procurement and monitoring processes involved in host country contracting, from the outset of procurement planning during the project design phase, through the major steps leading to contract award, and in the subsequent stages of contract administration and implementation. At the same time, the Guidebook offers host country Project Managers and their respective Contracting Agencies useful guidance in the administration of AID-financed contracts.

To help the Project Officer find his way through the thicket of AID requirements relating to host country contracts, the Guidebook summarizes the pertinent policies and procedures and suggests the proper role of the Project Officer under differing sets of circumstances. Because of the nature of AID operations, the part played by the Project Officer in host country contracting may vary widely from country to country, or even in some countries from one Contracting Agency to another. This is a role neither simply summarized nor easily fulfilled.

The depth and degree of a Project Officer's involvement in a host country's contracting operations and contract administration depends, of course, in large measure upon the experience and competence of the country's Contracting Agency. Whatever the circumstances, however, the Project Officer remains responsible for representing and protecting AID's interests and rights notwithstanding the fact that AID itself is not a party to host country contracts.

The basic AID procurement policies and procedures relating to host country contracting derive from a number of Handbooks, notably Handbook 3, Project Assistance, and Handbook 11, Country Contracting. It is important to note that the Guidebook is not intended to replace nor substitute for the Handbooks, which set forth in more explicit detail both the rules and guidance for host countries in undertaking AID-financed contracts. Thus, the Guidebook should be treated as a supplement to the Handbooks or other AID official documents referenced in the text.

Where questions of interpretation or clarification arise, the policies and procedures set forth in the relevant sections of the Handbooks and other official AID issuances take precedence over the text of the Guidebook.

Finally, masculine pronouns in the text are to be interpreted as including both men and women.

\* \* \* \* \*

Development Associates wishes to acknowledge the invaluable contributions and assistance of the many AID officers whose views and guidance were solicited during the course of preparing this Guidebook. We are particularly indebted to the Deputy Assistant to the Administrator for Management and to the Office of Management Planning for their advice and cooperation, and for generally facilitating the progress of our efforts. We sincerely hope that the specific clients for whom this Guidebook has been designed -- the personnel who are now serving or who will serve in the future as Project Officers -- will find this Guidebook the helpful, user-oriented document we sought to make it.

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## CHAPTER I INTRODUCTION

### A. Background

Successful implementation of development projects is critical to the economic growth of the less developed countries. It is increasingly important to the advancement of long-range U.S. foreign policy goals in this emerging era of "development diplomacy." Project implementation is also a process in which the United States can make a unique contribution through the introduction overseas of American technology and systems. And beyond this, it provides an opportunity, through demonstration and training, to enhance the institutional development and managerial competence of the countries being assisted by the United States.

In furtherance of the policy set forth in Sections 102(b)(8), 601, and 621(a) of the Foreign Assistance Act, AID has relied increasingly in recent years on so-called "intermediaries" -- universities, contractors, scientific institutions, voluntary organizations, and other private entities -- for the execution of its programs and projects. This trend is projected to continue in the future, underscoring AID's primary role as a planning, financing, and monitoring agency. Utilization of these non-governmental facilities enables both AID and the recipient countries to tap the resources and skills of the private sector in addressing the still formidable challenges of development overseas.

Procuring the services of intermediaries to implement, or assist in the implementation of AID-financed bilateral projects is normally arranged through the execution of an AID-funded contract or grant. Contracts for the services of intermediaries may be awarded either by AID directly (on behalf of a host country), or may be awarded by a host country subject to AID regulations and procedures.

As a general policy, and as discussed later, AID encourages contracting by host countries themselves whenever feasible, rather than having AID itself contract

directly with the suppliers of project-related services and equipment. Notwithstanding this policy, however, for a variety of valid reasons AID itself frequently makes such contracts directly.

Whichever method of contracting -- "host country contract" or "direct AID contract" -- is determined to be the most appropriate in a given situation, both modes are implementing functions designed to carry out approved projects. It is important to keep the distinction between these two contracting channels in mind because of the differing procurement procedures, contractual relationships, and oversight functions applicable to each mode.

Guidance relating to the management of direct AID contracts and grants will be found in Supplement A of Handbook 3, entitled "Project Officers' Guidebook -- Management of Direct AID Contracts, Grants, and Cooperative Agreements."

The role and functions of AID Project Officers responsible for supporting and monitoring AID-financed host country contracts are set forth in this Guidebook.

#### B. Project Management and Implementation

In terms of AID operations, "project management" may be described as the process whereby AID oversees and monitors all aspects of an AID-financed undertaking -- from conceptualization of a project through its design, approval, funding, negotiation and agreement, implementation, and final evaluation phases. Project management is thus a continuum encompassing the roles and interactions of AID, the host country, intermediaries (contractors, universities, consultants, voluntary organizations, etc.), and other donors participating in the project.

In the case of AID-financed bilateral projects, which are mutually developed and agreed between AID and the host country, primary responsibility for project implementation rests with the host country agency or entity concerned (e.g., Ministry of Agriculture, Department of Public Works, etc.). Thus, the "Project Manager" is the appropriate official of the host country charged with supervising and coordinating the activities of all participants and resources involved in the project, whether locally or externally provided. This principle is

consistent with the "collaborative style" of economic assistance and the recognition that development itself is a host country responsibility.

At the core of all successful projects is the efficiency and effectiveness with which they are managed and carried out. A soundly conceived, carefully planned project may fall far short of its goals, or worse, fail completely due to inept implementation. On the other hand, project design deficiencies may frequently be remedied by competent supervision, continuous coordination, and meaningful monitoring during the project's implementation phase.

The Agency's renewed emphasis upon the implementation aspects of its program operations underscores the increasing importance of effective project oversight and contract monitoring, and of the pivotal role played by AID Project Officers in facilitating successful project execution. AID-financed contracts, whether executed by a host country or by AID itself, constitute a major and indispensable element in the implementation of AID projects. In fact, in many cases a single contract may in itself represent the total dimensions of an AID-financed project, at least in its initial stages. The volume, magnitude, and implementation importance of contracts in AID operations thus continue to demand an Agency-wide management and oversight capacity of significant scope.

Although AID is not a party to contracts executed by host countries, it nonetheless -- as a U.S. Government Agency dispensing public funds -- remains responsible for assuring the proper and prudent use of such funds. In discharging this stewardship responsibility, AID looks to its designated Project Officers to assist in implementing and to monitor host country contracts in the light of the principles and practices described in this Guidebook, and thereby to protect AID's interests and investments.

### C. Scope of the Guidebook

This Guidebook deals primarily with the role and responsibilities of AID Project Officers appointed to monitor AID-financed contracts executed by host countries pursuant to bilateral project agreements. As such, it is neither designed nor intended as a treatise on "project management" or "project implementation" in all of the dimensions and ramifications inherent in these

wide-ranging subjects. (Chapters 7 and 8 of Handbook 3 discuss these concepts and their relevance to AID operations in some detail.)

Within the context of the Project Officer's monitoring role, the coverage of the Guidebook begins procedurally at the point in the project cycle where the Project Officer assesses, or arranges to have assessed, the procurement and contracting capabilities of the host country "Implementing Agency" (or "Contracting Agency") being proposed to handle these functions. This assessment is essential to determine which contracting mode to approve -- whether host country or direct AID contracting -- in implementing the project, and should be undertaken during the project development stage. The specific role of the Project Officer in this process is discussed in greater detail later. Also discussed subsequently in detail are his responsibilities in the procurement, implementation, and monitoring of host country contracts.

As noted earlier, AID-financed contracts are the major means of implementing bilateral projects. Hence, monitoring the activities and performance of contractors who are providing project-related services and equipment under host country contracts is in itself a significant facet of sound project management and implementation oversight.

The objective of the Guidebook, therefore, is to identify for AID Project Officers monitoring such contracts those fundamental principles and functions which will equip them to strengthen project implementation and protect AID's interests, while simultaneously respecting the contractual relationship between the host countries and contractors concerned.

#### D. Definitions

To facilitate understanding, the following frequently used terms may be defined as indicated for purposes of this Guidebook:

##### 1. Host Country

The country receiving AID assistance.

2. Borrower/Grantee

The government of the host country, or any agency, instrumentality or political subdivision thereof; or any private entity to which AID directly makes funds available by loan or grant.

3. Project

A project is a discrete endeavor designed to achieve a finite result directly related to a development problem by providing funds, personnel, training services, and/or goods for a specific activity.

4. Bilateral Project

A bilateral project is one which is mutually developed and agreed upon by AID and the host country as reflected in a formal "Project Agreement" executed by both AID and the host country setting forth the commitments and undertakings of both parties to achieve stated project objectives.

5. Implementing Agency

The specific entity in a host country which is responsible for implementing -- i.e., putting into effect or carrying out -- an approved project. Such entity may be a major ministry or agency, a provincial or municipal government, a government-owned or semi-autonomous corporation or similar organization, a private or mixed corporation, or other organization designated by the host country to undertake project implementation.

6. Contracting Agency

Any entity of the host country designated by the borrower/grantee as responsible for negotiating and administering contracts financed by an AID loan or grant. The Contracting Agency may be the Implementing Agency, another governmental central supply or procurement entity, or a private entity.

7. Host Country Contract

A host country contract is a legally binding agreement between the Contracting Agency and an entity -- institution, firm, or individual -- whereby the latter undertakes to provide the specified goods or services required to carry out an AID approved project in return for payment therefor. Such a contract is eligible for financing by AID provided that the host country contracting procedures and resultant contract are acceptable to AID.

8. Contractor

The entity -- institution, firm, or individual -- engaged by the host country Contracting Agency under an AID-financed contract to provide specified goods or services required to carry out an AID approved project in return for payment therefor.

9. Monitoring Host Country Contracts

Monitoring AID-financed host country contracts is the process whereby a designated AID official observes and reports upon the activities and performance of both the host country Contracting Agency and contractor(s) during the project implementation phase in order to facilitate attainment of the project's objectives and to safeguard AID's interests and investments.

10. Project Manager

The borrower/grantee official charged with overseeing and coordinating the activities of all participants and resources, whether locally or externally provided, involved in a project.

11. AID Project Officer

Depending upon the locus of assignment, an AID employee may serve as a Project Officer at either the AID/W or Mission level. To differentiate these assignments for purposes of monitoring host country contracts, the following definitions apply:

(a) The Field Project Officer is the Mission or Regional official responsible for monitoring the activities and performance of the host country Contracting Agency and contractors working under host country contracts financed by AID, in order to facilitate the attainment of project objectives and to safeguard AID's interests and investments.

(b) The AID/W Project Officer is the AID Washington "backstopping" official responsible for supporting and assisting the Field Project Officer in responding to field requests or handling problems requiring Washington action.

12. Pre-Project Implementation Plan

This plan is developed during the project design and negotiation phase to help define project elements, implementation methodology and timetable, to enable project designers and reviewers to assess overall project implementation feasibility.

13. Operational Project Implementation Plan

This plan (and supporting schedules) is a detailed listing of all actions (including time frames) which must be taken by any party to which implementation tasks have been assigned. Particularly for contracting and procurement, all steps in these processes and dates for their completion should be shown, to enable the host country Project Manager to exercise control and AID to monitor progress.

14. Pre-Implementation Actions

Pre-implementation actions are those specific steps (e.g. development of detailed specifications; identification of potential sources of supply)

which can be initiated prior to the execution of the Project Agreement and the availability of AID funds.

15. Monitoring Plan

A plan normally prepared by the AID Project Officer during the project development stage, identifying the respective roles and responsibilities of both AID and the host country in observing and reporting upon project operations.

16. Administrative Analysis

This is a Mission analysis of the capabilities of the host country Implementing Agency to administer and support the mutually agreed project implementation plan. The analysis requires a systematic review of the Implementing Agency's capabilities for project management, financial management, procurement, contracting, contract administration, and reporting. This analysis is normally a part of the Project Paper.

17. Geographic Code

A 3-digit code used by AID to designate countries or geographic areas for the purpose of defining sources of goods or nationalities of services eligible for AID-financed procurement. (For further details, see the AID Geographic Code Book in Handbook 18, App. D, Section III).

18. Methods of Payment

AID finances host country contracts through one of three methods of payment -- by direct reimbursement to the host country; AID letter of commitment to the contractor; or by an AID letter of commitment to a banking institution. See Appendix F of this Guidebook for further details on these methods of payment and related documentation.

E. Designation of AID Project Officers

Mission Directors or AID Representatives in the field may appoint any direct hire members of their staffs, including qualified local employees\*, to serve in the capacity of Project Officers at any point in the project cycle. As indicated earlier, such officers at the Mission level are referred to as "Field Project Officers" to make clear the site of their activities, and to differentiate them from Project Officers serving in AID Washington.

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\*For limitations pertaining to the use of local employees as Project Officers, please see AID Handbook Circular, HB 31, Foreign National Personnel, "Responsibilities of AID Foreign Service National Employees," together with the Administrator's Memorandum for the Executive Staff, AID/W and Overseas, dated September 17, 1981. These documents are attached as Appendix A.

Similarly, AID Washington Assistant Administrators (or their designees) may appoint any members of their staffs to serve as Project Officers responsible for supporting and assisting Field Project Officers in responding to Mission requests requiring Washington action. Such officers are referred to as "AID/W Project Officers."

This flexibility in the assignment of Project Officers, whether at the Mission or the Washington level, is essential to assure the most effective deployment of staff resources in the light of prevailing workload demands, staff turnover, and personnel availabilities.

All designations of Project Officers must be made in writing with both AID/W and the concerned Mission to be informed concurrently of such appointments. This is important in view of the fact that bilateral projects require the closest possible communication and coordination at various stages in the project development and implementation cycle.

Under these arrangements, the Field Project Officer looks to his counterpart AID/W Project Officer for support and assistance in responding to field requests needing Washington action (e.g., in obtaining waiver approvals; arranging for publication of invitations for bids; handling Congressional inquiries; etc.). It should be noted, however, that the Field Project Officer continues to have overall action responsibility as contrasted with the supportive role of the AID/W Project Officer.

#### F. General Role and Responsibilities of Field Project Officers

This Guidebook, as noted earlier, is concerned primarily with the specific role and functions of Field Project Officers responsible for monitoring host country contracts financed by AID. It should be kept in mind, however, that the Project Officer usually is assigned responsibilities transcending the oversight of such contracts, including, for example, participation in project development and design, pre-implementation and implementation planning, and serving as Chairman of a Mission Project Committee. Helpful guidance on these broader aspects of their duties will be found in Chapters 3, 7, 8, 9 and 10 of Handbook 3 (as revised).

Involvement of Project Officers in the substantive programming and planning processes preceding the Mission decision to use the host country contracting mode is clearly beneficial in that it enhances their understanding of the project's goals, the relationship of proposed contracts to such goals, and the degree of contract oversight likely to be entailed.

As an introduction to subsequent chapters of the Guidebook which describe in detail the specific tasks involved in monitoring host country contracts, a brief overview of the role of the Project Officer in this aspect of project implementation may provide useful background and perspective. Generally speaking, a Field Project Officer normally:

- assesses, or arranges for assessment of, the procurement systems and capabilities of the host country Contracting Agency
- briefs the host country Project Manager and Contracting Agency regarding AID procurement policies and requirements as set forth in Handbook 11, Country Contracting
- maintains close and continuous liaison with the host country Project Manager and Contracting Agency and monitors adherence to agreed upon contracting procedures
- as required and appropriate, assists the host country Contracting Agency in:
  - preparing and publicizing pre-qualification questionnaires, and in evaluating responses thereto
  - preparing and publicizing Requests for Technical Proposals (RFTPs); Invitations for Bids (IFBs); Requests for Quotations (RFQs); and in evaluating responses thereto
  - developing independent cost estimates to facilitate analysis of contractor cost proposals, and in
  - contractor selection and negotiations
- reviews draft and final host country contracts, and arranges Mission approval of such contracts, as well as approval of any other steps in the contracting process for which AID review is required in the Project Implementation Letter (PIL)
- monitors the substantive and technical performance of the contractor
- meets periodically with the contractor's supervisor, in conjunction with the host country Contracting Agency, to review progress and problems

- makes periodic visits to the site of the project, normally in conjunction with the host country Contracting Agency and a representative of the contractor
- analyzes and comments upon progress and financial reports required from the contractor under the terms of the contract
- prepares contract status reports for internal Mission purposes
- assists the host country Contracting Agency and/or the contractor in resolving problems hampering the work of the contractor
- administratively approves contractor vouchers submitted for payment, if required
- assures that all relevant documents and correspondence are maintained in the Mission contract files
- participates in preparation of the Project Evaluation Summary (PES).

The foregoing functions are not equally demanding in terms of staff effort, for a number of reasons. The tasks involved are carried out more or less sequentially over an extended period of time which varies widely. The extent of Project Officer assistance to a host country Contracting Agency in the processes preceding contract execution is contingent, of course, upon the contractual competence and experience of the latter, with marked differences to be found not only among individual host countries but frequently among different Contracting Agencies within the same country. Further, the depth and degree of Project Officer oversight depends in large measure upon the scope and complexity of the contracts being monitored, in particular the incidence of problems which may arise during their implementation. In many host countries with limited experience in contracting, the Project Officer will have to involve himself closely in contract administration if the contract is to be successfully negotiated and executed.

Given the range of these supportive and oversight responsibilities, the Project Officer is neither required nor expected to perform personally all of the functions described in this Guidebook. He will frequently have to call upon other Mission or AID/W offices to assist on matters beyond his own technical competence, or to take action on issues falling within the purview of such offices. For example, review of a proposed host country contract should involve the participation and clearance of the Mission legal advisor, contract

officer and technical officer (whether on the Mission staff or regionally based); and issues relating to methods of payment would normally require referral to the Mission controller. In these and similar circumstances, the Project Officer acts as coordinator and catalyst in enlisting the help of other AID offices, and in following through to assure that required actions are taken in a timely fashion.

Although the Project Officer may not delegate his overall oversight responsibility, he may arrange to have specific monitoring tasks assigned to other staff members of the Mission, including qualified local employees, or to non-AID specialists under contractual arrangements. Where such arrangements are made, however, the Project Officer must assure that the tasks thus assigned are effectively carried out.

#### G. Project Committees and the Project Officer

Where the size and diversity of the staff permit, Missions are encouraged to establish a "Project Committee" at the outset of the project formulation process. This approach is designed to provide a multidisciplinary array of expertise and resources in the processes of project identification, planning, approval, implementation, termination, and evaluation.

Ideally, the Field Project Officer serves as Chairman of the Mission Project Committee, although other arrangements may be made at the discretion of the Mission Director (or AID Representative) appropriate to staffing and other considerations at the field level.

Participation of the Project Officer in the work of the Project Committee assures his understanding of the project's goals, implementation arrangements, and relevant project documentation (e.g., Project Identification Document (PID); Project Paper (PP); Project Agreement (ProAg); Implementation Letters, (PILS); etc.). This background enables the Project Officer to keep his monitoring and other responsibilities in proper perspective.

#### H. Qualifications of AID Project Officers

Any AID officer, including qualified direct-hire local employees, may be appointed to serve as a Project Officer regardless of professional discipline or expertise. Thus, development, technical, management, economic, financial, or other officers may function as Project Officers when so designated, irrespective of the nature of the projects or contracts involved.

Project Officers responsible for monitoring host country contracts should be thoroughly familiar with the substantive content of Handbook 1B, Procurement Policies; Handbook 3, Project Assistance; and Handbook 11, Country Contracting. A detailed knowledge of these basic documents is indispensable to effective implementation support and contract oversight.

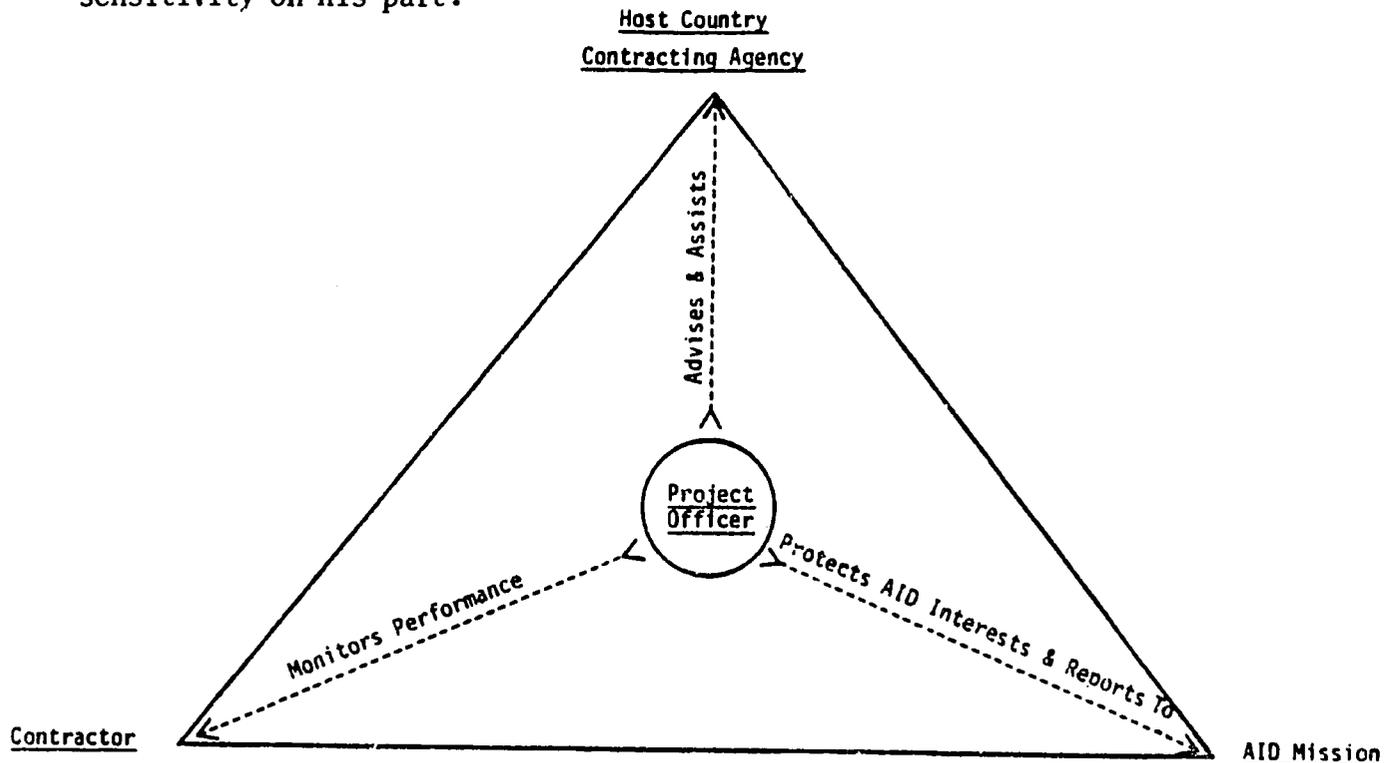
As soon as feasible, both inexperienced and experienced Project Officers should be encouraged to participate in the Agency's training course on project implementation. This course is designed to upgrade the skills of Project Officers in major areas of their responsibilities and reflects the renewed emphasis being given to the implementation aspects of the Agency's operations.

Notwithstanding the unpredictability of project dynamics and the fact that Project Officers may be drawn from varying disciplines and levels within the Mission structure, there are certain common skills which Agency experience indicates are characteristic of effective Project Officers. These include an analytical approach to problem solving, initiative, sensitivity in interpersonal relationships, the ability to anticipate problems, and the capability of catalyzing and coordinating actions to be taken by others. These skills, coupled with a basic understanding of AID's project requirements and a pragmatic approach to implementation problems, should enable any AID professional employee to perform competently as a Project Officer.

#### I. Project Officer's Style of Operations

The role of the Project Officer in the implementation and monitoring of host country contracts is admittedly difficult and demanding. As the chart below

suggests, the "triangular" nature of, and differing responsibilities in, his relationships with three parties at interest -- the host country, the contractor, and the AID mission -- require a high order of versatility and sensitivity on his part.



To elaborate on this concept somewhat, the Project Officer must be prepared to advise and assist the host country Contracting Agency, as circumstances require, in the substantive steps in the procurement process to assure that the resultant contract qualifies for AID financing. And following this, he must maintain close personal liaison with the responsible official or officials of the host country to verify that the latter are providing adequate supervision and support of the contractor, and to guide and help the Contracting Agency in resolving problems as they arise.

At the same time, the Project Officer must keep abreast of the contractor's activities and performance -- normally in conjunction with the host country Contracting Agency -- in order to check progress, identify problems impeding the contractor's work, and to assist the contractor where appropriate in surmounting obstacles and bottlenecks. Of particular significance, he must conduct this aspect of his monitoring responsibilities with the utmost tact and discretion, keeping in mind at all times the fact that AID itself is not a party to the contract.

As for his relationships with the AID Mission, the Project Officer functions in effect as the "eyes and ears" of the Mission Director, overseeing and reporting upon the activities and performance of both the host country Contracting Agency and the contractor. In this respect, his fundamental responsibilities are to keep the Mission fully informed regarding the contractor's progress and problems, while maintaining the degree of surveillance necessary to protect AID's interests and investment.

Viewed in the aggregate, these differing relationships and responsibilities may at times place the Project Officer in apparently conflicting positions. In this multi-faceted role, he is expected on occasion to serve as an implementation expediter and problem solver; impartial advisor and mediator between the host country and the contractor; catalyzer and coordinator of actions required of the host country or AID; observer and monitor of contractor performance; and "whistle blower" where the circumstances necessitate. Responding to these requirements while remaining professionally detached and proper in his relations with both the host country and the contractor -- particularly where problems between these parties to the contract arise -- clearly calls for uncommon poise, judgment, sensitivity, and pragmatism.

Precisely because of the oversight nature of his monitoring duties, these must be carried out by the Project Officer with appropriate regard for the role of the contractor. Put in proper perspective, the contractor is an instrument of implementation employed to facilitate attainment of the project's goals, and is responsible to the host country as the ultimate beneficiary of its work. It is to be assumed that the contractor intends to perform satisfactorily pursuant to the terms of the contract, and that it has been selected after full consideration of its competence and reliability. Excessive surveillance or intervention on the part of the Project Officer could prove counterproductive by impairing the normal relationship between the Contracting Agency and the contractor, and hence should be avoided. However, where the success of the contract or project itself appears threatened because of performance deficiencies on the part of the Contracting Agency or contractor, the Project Officer is expected to take such action as may be appropriate under the circumstances.

On the positive side, the Project Officer should facilitate the identification and resolution of problems hampering the progress of the contractor, or adversely affecting the operations of the host country Contracting Agency. He should attempt to address and resolve such problems informally, within an atmosphere of mutuality of interests in seeing that the work progresses satisfactorily. One test of his effectiveness in this respect is where his relationships with the contractor and the Contracting Agency are such that his advice and assistance are actively sought by both.

Knowing when, and from whom, to seek support or action by his associates in the AID mission -- e.g., legal advisor, contract officer, technical officer, program officer, controller, or local employees experienced in host country procurement practices -- is particularly important to the effectiveness of the Project Officer. As noted elsewhere, he is neither required nor expected to perform personally all of the tasks involved in this Guidebook. He is expected, however, to anticipate problems and to enlist the help and guidance of other AID officers functionally concerned. Although the Project Officer may have no line authority over such officials, he remains responsible for assuring that all necessary actions required of them are taken in a timely fashion. For a more detailed discussion of Mission management, Project Committees, and the status of Project Officers, refer to Chapter 8 of Handbook 3.

Finally, the Project Officer should be continually conscious of his pivotal role in discharging the Agency's overall stewardship and accountability for the prudent use of public funds. His activities and relationships should therefore be conducted in a professional style consistent with this general responsibility. Helping to assure that both the Contracting Agency and the contractor perform satisfactorily, thus facilitating achievement of host country and U.S. objectives and justifying AID's investment in the related project, may be the most meaningful testimonial to the effectiveness of the Project Officer himself.

## CHAPTER II

### PLANNING FOR IMPLEMENTATION AND MONITORING

Procurement planning is a critical aspect of overall project implementation planning during the development and design stage preceding the execution of a bilateral project agreement (ProAg) between AID and the host country. Thorough and realistic procurement planning pays dividends not only in launching a project promptly and efficiently, but in facilitating significantly the Project Officer's subsequent contract monitoring tasks.

The purpose of this Chapter is to give Project Officers an overview of the Agency's graduated levels of implementation planning -- including procurement planning and pre-implementation actions which might be undertaken -- and their roles in these processes.

#### A. Implementation Planning -- General

Planning the implementation of a project in its entirety (including contracting and procurement) is an integral and essential element of project development. The preparation and purpose of "pre-project" and "operational implementation" plans are discussed in detail in Chapter 9, Implementation Planning, of Handbook 3, Project Assistance. While pre-project planning serves to demonstrate the feasibility of carrying out a project within a stated period of time, operational planning is needed on a continuing basis as a tool for the management and monitoring of specific project implementation actions. Guidance regarding the role of Project Officers in planning all aspects of project implementation will be found in Appendices 9A and 9B of the same Handbook.

#### B. Analysis of Host Country Administrative Capabilities

Consistent with AID's general implementation policy, responsibility for implementing actions should be assigned to the host country to the greatest extent compatible with its administrative capabilities and the prospects of reasonably prompt and effective execution of a proposed project. It is of critical

importance for the success of a project that the host country be committed to the project as an integral part of its own development program. For this reason, the bilateral agreements between the host countries and AID provide that the former carry out, i.e. manage, each project.

Determining the capacity of a host country to assume and discharge effectively specific implementation functions requires careful assessment during the project design and planning cycle. The need for such an analysis is of particular importance where a project involves the participation of a host country entity with which the Mission has not had successful and recent experience. In recognition of this, AID's project development instructions require the preparation of a separate "Administrative Analysis" of the capabilities of the host country Implementing Agency for each project -- in addition to technical, financial, economic, and other analyses. Appendix G of Chapter 3, Handbook 3, describes the purpose and scope of the Administrative Analysis, which entails a systematic review of the organization, management, and staffing of the proposed host country Implementing Agency in those functional areas for which it will be responsible. These areas -- Project Management, Financial Management, Contracting and Purchasing, and Reporting -- are discussed in Section B of Chapter 8 of Handbook 3.

Of special concern to Project Officers responsible for monitoring host country contracts is that part of the Administrative Analysis which deals specifically with the host country's contracting system and contract administration capabilities. Paragraph C below provides guidance for Project Officers in this important phase of project development.

#### C. Analysis of Host Country Procurement/Contracting Capabilities

Successful implementation of most projects hinges upon the effectiveness of contracts for project-related services and commodities. In fact, no aspect of project implementation is more important, nor more prone to problems and frustrations, than the procurement function. Hence, determining by whom, when, and how needed services and goods are to be acquired are pivotal decisions which must be made by the Mission during the project development stage.

AID Policy Determination 68 (PD 68) expresses a preference for host country procurement as against AID direct procurement of project services and supplies. This basic policy derives from a number of fundamental considerations, the first and most important of which is that the ultimate responsibility for all development projects rests with the host countries themselves. Where a host country itself undertakes project procurement, it is more likely to be concerned with, and feel responsible for, the transaction than would otherwise be the case. Moreover, the process of implementation in itself provides an opportunity for the enhancement of host country technical, institutional, and administrative skills. For this reason delays and problems in administering host country contracts should be anticipated, and, to a degree, tolerated. Finally, AID itself was neither conceived of, nor organized, as a procurement agency and must conserve its staff resources for its primary functions as a planning, financing, and monitoring agency.

An exception to the above policy is often made in the case of universities, which have objected to negotiating business, financial, and logistics aspects of their contracts with their host country counterparts. The universities feel that the initial preoccupation of their counterparts with such details often gets in the way of the professional collaboration which is one of the important objectives of the technical assistance. In addition, the universities object to the significant travel costs which they often must incur in negotiating host country contracts. As non-profit institutions, they lack the reserves to cover such costs. For these reasons a direct AID contract with a university, rather than a host country contract, is often the better choice.

Other factors which should be taken into account in determining whether to use a host country contract include: the scope and value of the contract -- host country procedures may be too unwieldy for a one or two person contract team; salary identification -- a contractor may find itself politically hardpressed to justify to a host country Contracting Agency salary levels customary in the United States; and the probability of additional host country contracts -- are there likely to be additional host country contracts to make worth while the training of host country officials in AID contracting requirements?

In any event, the Mission Director has the responsibility and authority to choose whichever contracting mode that best fits the unique circumstances in his country for undertaking each project or for dealing with a particular type of contractor.

Notwithstanding the general policy preference favoring host country contracts, however, a determination to assign procurement responsibilities to a specific host country Contracting Agency must be based upon a careful case-by-case assessment of the latter's procurement system, experience in international competitive contracting, and adaptability to AID's rules and concepts as set forth in Handbook 11, Country Contracting. The depth and degree of this assessment will vary, of course, depending upon a number of factors, including prior AID experience, if any, with the Contracting Agency concerned. In any case, the essentiality of conducting and documenting analyses of this nature prior to the completion of project design cannot be over-emphasized.

There is at present no prescribed Agency methodology for undertaking these assessments. In general, what is required is a reasonably detailed examination of the host country's contracting system and policies, with emphasis upon the adequacy of the major contracting processes characteristic of sound, business-like procurement. For example, the fairness and defensibility of the Contracting Agency's procedures relating to advertising, competition, bidding and evaluation, contractor selection, handling contractor complaints and bid protests, and similar matters should be given close attention during this review. The capacity of the Contracting Agency to provide (or arrange for) appropriate logistical support of contractors in essential areas (such as housing; office space; customs clearances; etc.) should also be specifically addressed.

A precondition for the conduct of the examination is, of course, the availability of useful information on the Contracting Agency's management, staffing, organization, and experience. Such information should be obtained if it is not available from previous AID project experience with the same Agency or from other sources. The consultations with the host country which

take place during the development of the project can provide an excellent opportunity to gain insights into the operations of the proposed Contracting Agency and the capabilities of its management and staff.

If the assessment leads to the conclusion that the Contracting Agency will need external assistance in meeting its procurement responsibilities, the precise nature and extent of such assistance must be determined and built into the project as an additional element, or consideration should be given to other feasible alternatives. Among these alternatives are: (a) the use of procurement service agents (particularly in contracting for commodities) with AID allocating project funds to help defray the costs and providing useful information on potential sources of such procurement agents;\* (b) providing long-term or short-term technical assistance to host countries to improve their competence where a Contracting Agency is likely to be involved in AID-financed projects long enough to justify the investment or where a host country on its own considers such assistance advisable; and (c) providing ad hoc assistance in connection with specific projects, e.g., through use of short term AID personnel, personal services contracts, etc.

The Project Officer must assure that the required assessment is made and appropriately documented. Because of the nature and complexity of procurement generally, the advice and assistance of other knowledgeable AID officers should be enlisted by the Project Officer in the conduct of the analysis. The participation of the Mission (or regionally based) legal advisor, supply advisor, and contract officer in this process is particularly important, as would be an AID engineer where architectural/engineering or construction services are contemplated for the project. Use of this team approach should pay dividends in making the assessment more meaningful, and in identifying specific areas where the Contracting Agency may need special assistance prior to undertaking actual procurement. The Project Officer should also be alert to changes in the procedures or staff of the Contracting Agency which could alter the conclusions of the original analysis supporting the use of the host country contracting mode.

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\*AID procedures regarding the use of procurement service agents are currently under review and will be promulgated in a forthcoming revision of Handbook 15.

In preparing for an examination of the Contracting Agency's procurement capacities, the Project Officer should develop a checklist of relevant questions and areas warranting review. Guidance for this task will be found in Appendix B, Assessment of Host Country Procurement Capabilities, of this Guidebook. This checklist would be particularly applicable to Contracting Agencies with which AID has had no prior experience, but it may be modified or adapted as the Project Officer deems appropriate to other situations.

Where the assessment indicates that use of the host country contracting mode would be impractical or inappropriate, then contracting by AID itself or procurement by another U.S. Government Agency may be authorized by the Mission Director. For further guidance in this respect, Handbook 3, Chapter 3, Appendix 3H, should be consulted.

#### D. Utilization of Small and Disadvantaged Businesses

In furtherance of U.S. Government policy that a reasonable share of Federal Government-financed contracts be awarded to small business firms and small economically and socially disadvantaged firms, the Project Officer should note the following provision in Policy Determination No. 68, as amended:

"If the proposed procurement can be performed by a firm eligible to receive awards under Section 8 (a) of the Small Business Act, AID may enter into a direct contract with the Small Business Administration."

Under these circumstances, a carefully prepared statement of work should be forwarded by the Project Officer to the Office of Small and Disadvantaged Business Utilization (SDB), AID/Washington, along with a request that Section 8 (a) procedures be used to obtain a direct AID contract. For further guidance in this area, the Project Officer should contact SDB directly.

#### E. Procurement Planning

Contracting for professional or construction services and procuring commodities are major implementation functions essential to the successful execution of

virtually all bilateral projects. In fact, careful procurement planning and control may be the most important phase of project planning, warranting special emphasis and attention during the design and development stage. As noted in Handbook 3, a separate procurement plan or subsidiary schedule should be developed by the Project Officer. This is a "pre-project" planning responsibility which should be carried through and refined in the operational implementation plan.

In preparing the procurement plan, the Project Officer should be guided particularly by Appendix 9C of Chapter 9 in Handbook 3. Where the host country is to undertake procurement, the specific considerations referred to in section D of this Appendix, including discussions with the host country Contracting Agency, should be given special attention. The need and justification for any waivers required of AID's procurement rules should be identified during the procurement planning stage and specifically addressed in the related Project paper. In the final analysis, the availability of a detailed procurement plan, properly prepared and updated as circumstances demand, should significantly facilitate subsequent contract monitoring and progress reporting by the Project Officer.

#### F. Monitoring Plan

Chapter 3 of Handbook 3 requires the preparation of a "Monitoring Plan" during the project development phase. This is normally prepared by the Project Officer. Implementation monitoring, as a continuing "life-of-project" process involving both the host country and the AID Mission in the case of bilateral projects, should be discussed and planned with the host country Implementing Agency. This will help assure mutual understanding of the respective roles of both the Mission and the host country in the monitoring process, as well as highlighting the importance of effective project management, oversight and reporting. Chronologically, the development of the monitoring plan should follow and flow from the completion of the project's overall implementation plan. Detailed guidance on contract monitoring methods and principles will be found later in Chapter VII, Section A, of this Guidebook.

G. Pre-Contract Briefing of Host Country Officials

Where the Mission and the host country have determined that use of the host country contracting mode is appropriate (pursuant to the analysis discussed in paragraph C above), steps must be taken promptly to assure that the country Contracting Agency is fully informed about, and understands, all relevant AID procurement policies and requirements. To minimize the risk of subsequent misunderstandings and problems, there is simply no substitute for adequate pre-contract briefings of the responsible host country procurement officials. These discussions should be arranged by the Project Officer as soon as feasible following the decision to have the country undertake the contracting responsibility.

These briefing sessions should include the Project Officer and AID specialists such as the Mission (or regional) legal advisor and/or contract officer, as well as the Mission technical officer concerned with the project. Contingent upon the nature of the proposed procurement, other AID staff (e.g. commodity specialist or engineer) should also be included.

The coverage and frequency of such briefings will vary, of course, depending upon the procurement experience of the country Contracting Agency, the suitability of its existing procedures, and its familiarity (if any) with AID contracting rules and concepts. Relevant AID documentation -- e.g. Handbook 11 or pertinent Chapters thereof; sample contract formats; checklists; payment documentation; reporting formats; etc. -- should be made available and explained to the host country officials. (Handbook 11 is also available in Spanish and French.)

Following the initial orientation meeting, the Project Officer may expect country requests for further discussions to clarify specific policies and rules or to answer detailed questions, particularly where the Contracting Agency has had no prior AID experience. Arrangements for such follow-up sessions should be handled by the Project Officer with the participation of such other AID staff as he deems necessary.

Pre-contract briefings also serve to identify potential conflicts between the Contracting Agency's normal rules and procedures and those prescribed by AID in Handbook 11. (Conflicts sometimes arise, for instance, regarding the consideration of costs in the selection of professional services contractors, in bid evaluation criteria, or in other aspects of the contracting process.) The Project Officer should attempt to resolve such differences by persuading the Contracting Agency to adopt procedures consistent with those of AID, keeping in mind that the use of different approaches (e.g. in advertising for proposals) may be acceptable so long as they satisfy the objectives of the related AID procedures. Every effort should be made to follow host country contracting procedures and practices so long as they are not substantively inconsistent with AID's mandatory requirements, are fair and defensible, and are likely to assure prudent and proper procurement of project-related goods and services. The guiding principle in this respect should be to seek only such changes in the host country's procurement policies and processes as the Mission considers essential to meet basic AID requirements.

Where reconciliation of a substantive difference relating to an AID rule is not possible, however, consideration should be given to a waiver, if permissible and justifiable, of the related AID requirement (e.g. competitive procurement rule). It is stressed that waivers are exceptional and are not granted as a matter of routine. If the conflict involves a non-waiverable AID requirement (e.g. the prohibition against the procurement of military equipment), the transaction affected should be excluded from AID financing. More detailed guidance in this area will be found in Handbook 3, Chapter 8.

Regardless of the nature of apparent or real conflicts between the Contracting Agency's and AID's procurement policies and requirements, the Project Officer should consult the Mission legal advisor for advice and assistance in proposing courses of action to resolve the issues. Issues requiring waivers, or of substantive significance, should of course be referred to the Mission Director (or senior AID Officer) for decision.

Pre-contract briefing sessions also provide the opportunity to discuss the range of possible "pre-implementation" procurement actions with officials of the host country Contracting Agency. This subject is covered in paragraph H below.

#### H. Pre-Implementation Procurement Actions

Accelerating the orderly implementation of projects is an objective long shared by both AID and the host countries themselves. The advantages of shortening the time frame between the execution of a Project Agreement and successful completion of a project are manifold--in programmatic, administrative, financial, and other substantive respects. AID's experience demonstrates that there are certain project implementation actions which can be taken prior to execution of a Project Agreement and which can materially expedite the implementation process. These are called "pre-implementation" actions which should be undertaken wherever feasible, and as early in the project development cycle as is practicable.

Of special interest to Project Officers responsible for monitoring host country contracts are those pre-implementation procurement actions which it may be feasible and desirable for the host country Contracting Agency to undertake. These include, for example, the development of detailed specifications or scopes of work; identification of potential sources of supply or services; consideration of an authorized procurement agent; and preparation of Requests for Technical Proposals (RFTPs) or Invitations for Bids (IFBs).

Chapter 10 of Handbook 3 identifies the specific pre-implementation actions which it may be feasible for either the host country or the Mission to take before the Project Agreement is signed and which therefore warrant careful consideration at the appropriate time during the project design and approval stage. Each Project Officer should be familiar with these "head start" steps, as well as with the host country's funding and other responsibilities related to their initiation. The extent to which one or more of these steps might be undertaken by a host country Contracting Agency will of course depend upon a number of variables, including the status of detailed procurement planning and the preparedness of the Contracting Agency to proceed. The Project Officer should review the feasibility of initiating one or more of these pre-implementation steps with the host country during the course of developing the detailed procurement plan referred to in paragraph E above. Where circumstances permit, he should encourage and assist the host country

Contracting Agency in proceeding to take whatever specific pre-implementation actions would be appropriate and feasible. At the option of the Mission, reimbursement to the host country for approved pre-implementation expenditures may be authorized in the Project Agreement.

The Contracting Agency should realize that it is liable for any pre-implementation costs it incurs in the event that the Project Agreement is not signed, or which may not be authorized by the latter document when it is signed. It should be recognized that certain pre-implementation actions, such as, for example, the solicitation of prequalification information, will result in the expenditure of time and money by prospective contractors. Therefore, actions of this kind should not be undertaken unless there is reasonable assurance that the project will be funded.

#### I. Contracting Procedures

The preceding sections of this Guidebook have dealt primarily with the importance of procurement in the implementation of projects and with the essentiality of methodical planning prior to actual initiation of the procurement process. Chapters III, IV, V, and VI which follow describe the major steps in the host country contracting process -- and the related role of the Project Officer therein -- with respect to the procurement of project-related professional and technical services, construction services, and equipment and materials.

### CHAPTER III

#### INTRODUCTION TO THE ROLE OF THE PROJECT OFFICER IN HOST COUNTRY PROCUREMENT

This chapter serves as a general introduction to the three succeeding chapters of the Guidebook which, in turn, are concerned with the Project Officer's specific role in the selection and award of host country contracts. Herein discussed are such matters as the categories of procurement covered by the Guidebook, the principles governing eligibility for AID-financing, and the requirements for AID approval.

Unless otherwise noted all references in this and the following three Guidebook Chapters are to Handbook 11. Thus, for example, a reference to Chapter 1, 2.3; 2.4 refers to Sections 2.3 and 2.4 of Chapter 1 of Handbook 11.

#### A. Categories of Procurement Covered by the Guidebook

##### 1. Contracts for Services

Following Handbook 11, the Guidebook applies to all AID-financed host country contracts for technical and professional services and for construction services when solicitations are not made solely within the host country, even though local firms may be eligible. The contracts may be denominated in United States dollars, local currency, or other currency.

Where contracts for technical and professional services and for construction services are solicited solely within the host country, only those sections of the Guidebook dealing with contract approvals, competitive principles, nationality and source, and mandatory contract provisions (please see Appendix D) are applicable. Nevertheless, the Guidebook includes a large body of other prudent procurement principles that should be considered by the Contracting Agency of the host country when entering into local contracts for services.

## 2. Contracts for Equipment and Materials

The Guidebook also applies to contracts for commodities, equipment, or materials imported specifically for a project, whether such contracts are denominated in United States dollars or local currency. It does not apply to the procurement of goods available within the host countries, including indigenous goods and shelf items. Guidance on the latter type of procurement will be found in Handbook 1B, Chapter 18.

When the cost of commodities, equipment, or materials is included in a fixed price contract for services, the guidance provided herein in Chapter IV, "Professional and Technical Services Contracts," or Chapter V, "Construction Services Contracts," is applicable. When the cost of commodities, equipment, or materials under a contract for services is on a cost reimbursable basis, the guidance provided herein under Chapter VI, "Procurement of Equipment and Materials," applies.

In the case of a cost reimbursement type of contract for professional and technical services, where the procurement of commodities, equipment, or materials is only incidental to the principal work of the contractor, and such procurement is of a relatively low total value, the Mission Director is authorized to waive the applicability of most of the procurement rules and guidance set forth in Chapter 3 of Handbook 11. (Please see Chapter 1, 4.3.24b(1).)

## 3. Procurement by Host Country Development Banks

Finally, this Guidebook covers procurement effected by host country development banks for their own accounts. Except for the rules governing eligibility of goods and services for AID financing, the Guidebook will not apply to procurement made by or on behalf of the sub-borrowers of such banks or institutions, unless provision for the applicability of Handbook 11 is made by the Project Agreement or a Letter of Implementation. (Please refer to Handbook 1B, Chapter 19.)

B. Eligibility Principles

AID has special requirements governing the eligibility of the suppliers of contractual services and the suppliers of commodities, as well as the eligibility of commodities and related delivery services. The objective of these eligibility requirements is to limit the procurement of goods or services to the United States (Code 000) or to the less developed countries of the free world (Code 941). There are provisions, however, for waiving certain of the restrictions so as to permit, subject to proper justification, procurement in the developed countries of the free world (Codes 899 or 935). AID does not finance procurement of goods or services outside the free world.

There are separate rules governing the eligibility of the nationality of the suppliers of services and the nationality of the suppliers of commodities. There are also explicit rules for determining the source and origin of commodities eligible for AID financing, including the components of such commodities. There are further restrictions on the eligibility of certain goods, such as motor vehicles, whereas other goods, such as military equipment, are completely ineligible.

AID uses a 3-digit geographic code to designate those countries whose nationals may serve as suppliers of AID-financed goods or services as well as those countries eligible as the source or origin of AID-financed commodities. For further details on the geographic code, please refer to the AID Geographic Code Book in Handbook 18, Appendix D, Section III.

It should be noted that the geographic code is subject to waiver. A change authorized in the source or origin code carries with it a corresponding change in the authorized nationality of the supplier of the AID-financed goods. However, an authorized change in the nationality of the supplier of such goods does not necessarily affect the source or origin previously authorized.

The rules governing eligibility of suppliers and of certain commodities; the source, origin, and componentry of commodities; eligibility of delivery services; and the waivers to those rules are specific and complex. The Project Officer is urged to become familiar with those rules, and to explain them to

his counterparts in the Contracting Agency of the host government. The rules in question will be found set forth in Chapter 1, 2.6; and 5.22; Chapter 2, 2.5; and Clause 74 of Attachment 2S; and Chapter 3, 2.5; 2.6; 2.7; and Clause 10 of Attachment 3N. Further guidance on eligibility will be found in Handbook 1B, Chapters 4, 5, 6, and 7.

There are a number of factors other than nationality which affect the eligibility of a firm under an AID financed contract, such as, for example, performance of engineering services and supplying commodities or construction services on the same project, or inclusion on any list of suspended, debarred or ineligible bidders. (Chapter 1, 2.7; Chapter 2, 2.6; and Chapter 3, 2.8)

#### C. Rules and Guidance in Handbook 11

Most of Chapters 1, 2, and 3 of Handbook 11 consists of a large body of advisory guidance on contracting principles and procedures that AID considers important for the contracts it is to finance. Use of the Contracting Agency's own procedures is to be encouraged, provided they embody the same spirit and seek the same objectives as the advisory guidance included in Handbook 11. The Project Officer's analysis of the Contracting Agency's procedures is described in Chapter II C of the Guidebook.

The Project Officer, assisted by such other Mission members as are appropriate (e.g., legal advisor, engineer, controller), should seek to reach agreement with the Contracting Agency early in the project development stage on the detailed contracting procedures to be followed, including such matters as the principles of contractor selection and contract preparation, sources and nationality of goods and services eligible for procurement, and the method of payment and documentation to be used. Agreement with the Contracting Agency on such matters is reflected in the basic Project Implementation Letter (PIL), which is AID's formal and standardized means of communicating with the host country on the details of project implementation. The basic PIL is issued by the Mission simultaneously with the signing of the Project Agreement, or shortly thereafter. (Please refer to Chapter 8 and to Appendix 8A of Handbook 3 for further guidance on the PIL.)

In addition to the advisory guidance, Chapters 1, 2, and 3 of Handbook 11 contain a number of AID rules which must be followed unless permissible waivers are obtained. These rules are set forth in Section 2 of the first three chapters of Handbook 11. The provisions governing the eligibility of suppliers and of commodities and services were referred to above under Section B of this Guidebook chapter. Other rules include AID's right of approval of any executed contract in excess of \$100,000, adherence to the principle of competition in awarding contracts, and solicitation by public advertisement. Professional and technical services contracts are to be awarded on the basis of the qualifications of the contractor for the work to be done, rather than on the basis of price competition. Still other rules include cargo preference; prohibition against cost-plus-percentage-of-cost contracts; documentation requirements for payment; and certain mandatory clauses to be included in all AID-financed contracts.

Certain of the requirements are subject to waiver, assuming sound justification, (e.g., nationality of supplier, advertising). Other rules stem from statutory or regulatory constraints which are not subject to waiver (e.g. Defense Base Act Insurance). Waiver provisions, to the extent applicable, are explained in detail in the various chapters in Handbook 11. Please see also Appendix E to this Guidebook, "Waivers in a Nutshell." It is again stressed that waivers to the AID requirements are the exception, not the rule, and are not granted in the absence of adequate justification.

The importance for the Project Officer to explain the AID rules to his counterparts in the Contracting Agency cannot be overemphasized. Guidebook Chapter IIG provides guidance to the Project Officer where these rules appear inconsistent with host country contracting policies and procedures as previously assessed by the Mission.

#### D. Approval of Host Country Contracts

The authorization for individual AID Missions to approve host country contracts will be found in Handbook 5, Redelegations of Authority No. 5, 38, and 40. Approval of host country contracts, as well as amendments thereof, in excess of the limits included in these redelegations, must be referred to AID/Washington.

As indicated above, formal approval by AID is required for any executed contract in excess of \$100,000. However, Missions generally find it useful to require the review and approval of host country contracts prior to execution so that the legally binding contract between the Contracting Agency and the contractor is assured of AID financing.

Whether the Mission desires to approve contracts under \$100,000 will depend upon the degree of competence and experience of the Contracting Agency of the host country, including the Contracting Agency's compliance with agreed procedures. Where the Contracting Agency's procedures have been reviewed and found to be adequate, the Mission may feel comfortable in foregoing approval of all contracts up to \$100,000. In other cases, the Mission may wish to establish some lower threshold (e.g. \$50,000) of approval of host country contracts.

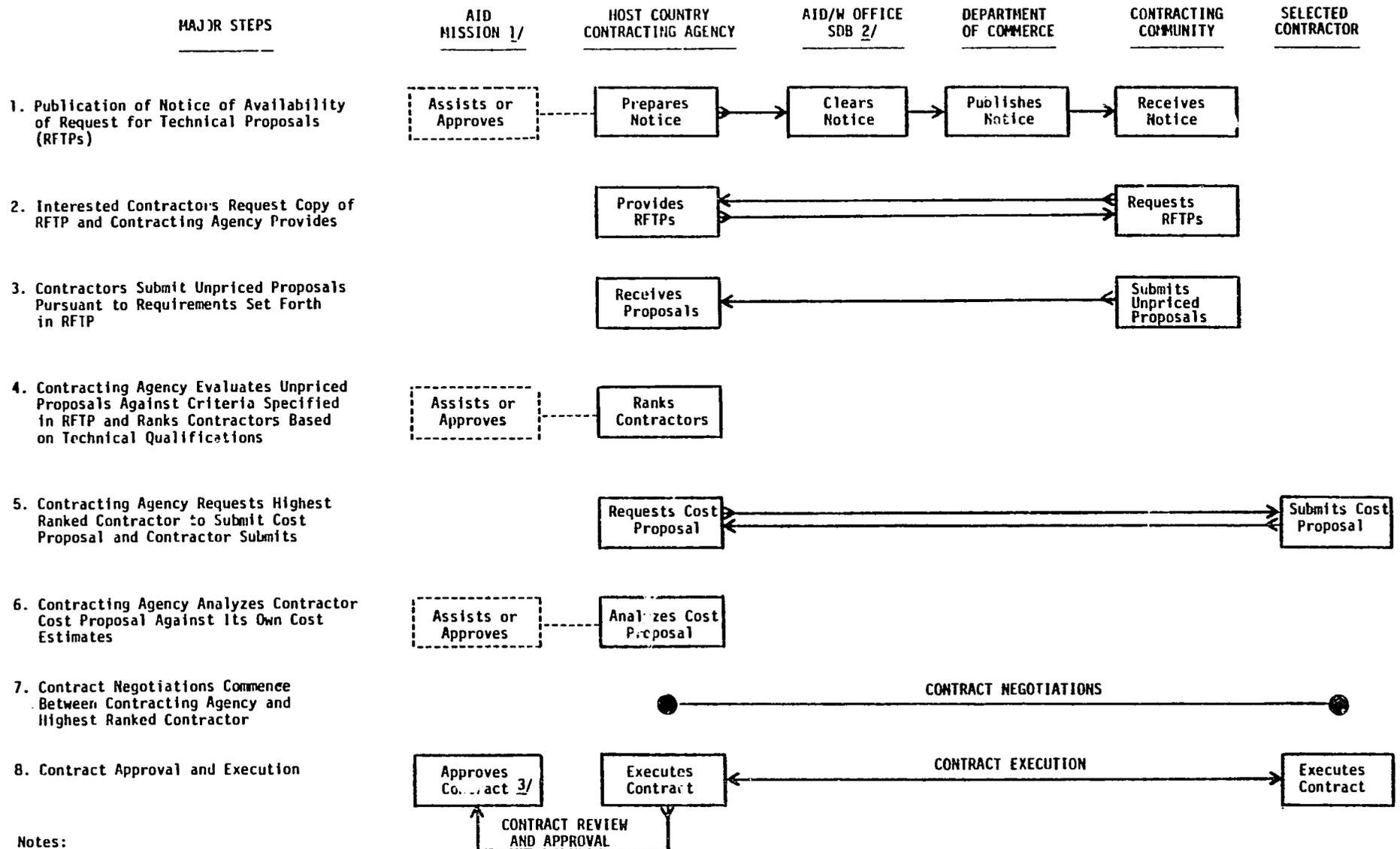
In the formal competitive bidding procedure for construction services and for the procurement of equipment and materials, the Invitation for Bids (IFB), when its accompanying form of agreement is signed by the contracting parties, becomes the contract with the successful bidder. Therefore, in those instances the prior review and approval by AID of the IFB as well as of the final contract is required. AID prior review and approval is also required for a Request for Quotations (RFQ), which is used in connection with informal competitive procurement of equipment and materials valued in excess of \$100,000. (Please see discussion of the RFQ in Chapter VI, Section C1 of the Guidebook).

In any event, approval of host country contracts in whatever amount will be largely meaningless unless the Mission is satisfied as to the acceptability of the host country's procedures for solicitation, evaluation, negotiation, and award that preceded the drafting of the contract. It is for this reason, as explained later, that it is important for the Project Officer, assisted by appropriate members of the Mission, to participate in, or at least review, the above four major stages of the Contracting Agency's procedures, leading to the award of the contract to be submitted to AID for prior approval. These and any necessary AID approvals at other stages in the contracting process (e.g., approval of key personnel, cost analysis) are also normally set forth in detail in the basic Project Implementation Letter (PIL).

CHART A

MAJOR STEPS IN HOST COUNTRY CONTRACTING PROCESS  
WHERE PRE-QUALIFICATION PROCEDURE NOT USED  
FOR TECHNICAL AND PROFESSIONAL SERVICES

ILLUSTRATIVE



Notes:

1/ Dotted squares above denote optional AID Mission participation in steps indicated, depending upon experience and capabilities of the host country Contracting Agency. Mission involvement may range from providing advice and assistance to the Contracting Agency, to requiring prior review and approval of specific steps (e.g., evaluation of contractor proposals).

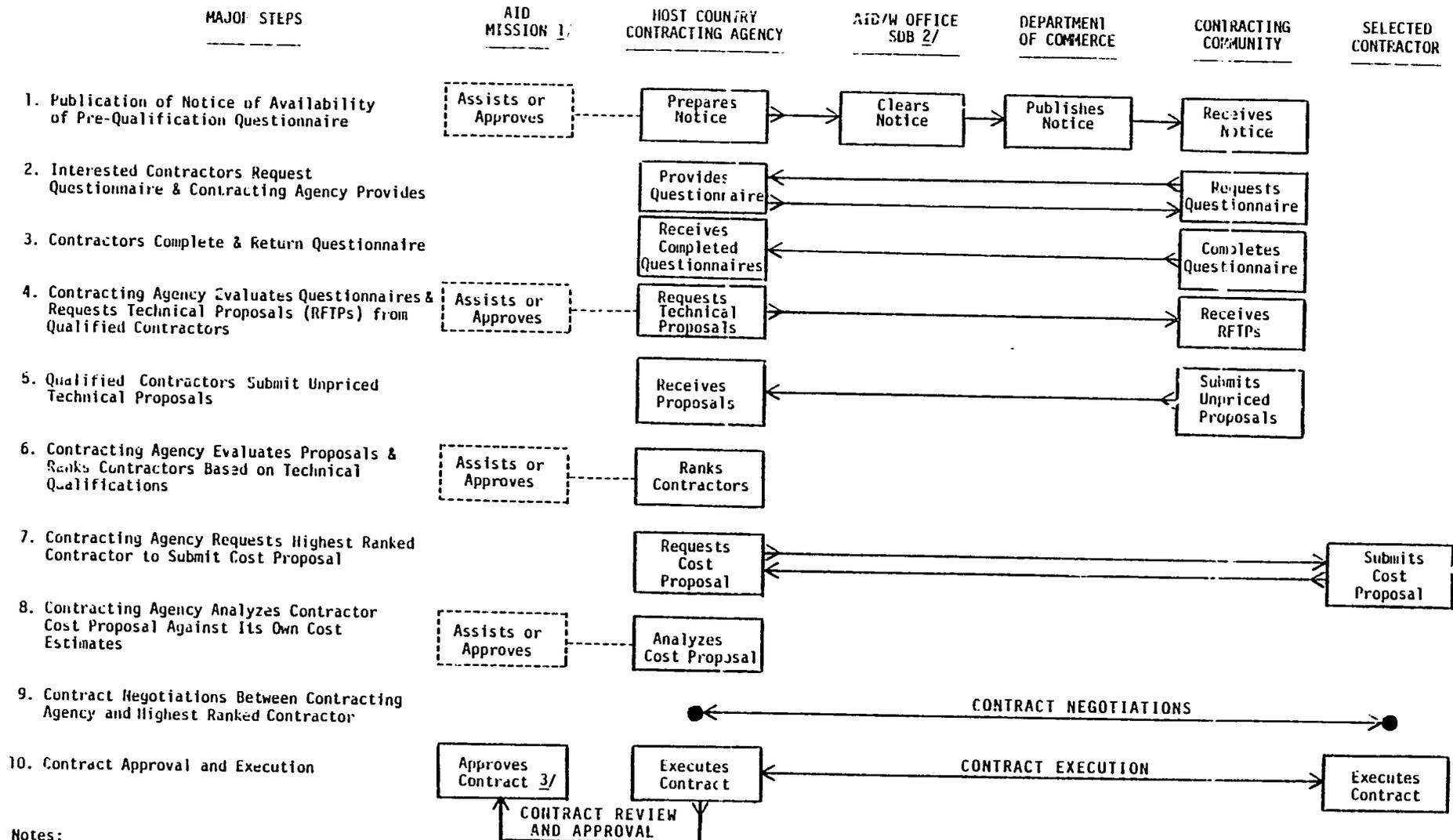
2/ Office of Small and Disadvantaged Business Utilization, AID Washington.

3/ Also require approval of contracts under this amount where considered necessary.

**MAJOR STEPS IN HOST COUNTRY CONTRACTING PROCESS  
USING PRE-QUALIFICATION PROCEDURE  
FOR TECHNICAL AND PROFESSIONAL SERVICES**

**CHART B**

**ILLUSTRATIVE**



**Notes:**

1. Dotted squares above denote optional AID Mission participation in steps indicated, depending upon experience and capabilities of the host country Contracting Agency. Mission involvement may range from providing advice and assistance to the Contracting Agency, to requiring prior review and approval of specific steps (e.g., adequacy of questionnaires; evaluation of technical proposals; etc.).
2. Office of Small & Disadvantaged Business Utilization, AID Washington.
3. AID approval of all contracts over \$100,000 is mandatory. Missions may also require approval of contracts under this amount where considered necessary.

CHAPTER IV  
PROFESSIONAL AND TECHNICAL SERVICES CONTRACTS

A. Principle of Competition (Chapter 1, 2.3; 2.4)

It is an AID requirement that the Contracting Agency award contracts for professional and technical services on the basis of technical competition. Except as indicated below, advertising is required in order to provide the broadest possible basis for selection.

It is stressed, however, that the basis for the competition is not price but the professional qualifications of the competitors for the contract. The award of professional and technical services contracts is made on the basis of negotiation instead of formal bids. Technical proposals of prospective contractors are evaluated without reference to price. A price proposal is requested from the offeror submitting the highest ranked technical proposal, and negotiations are conducted with that offeror as to both his technical and cost proposals. If a satisfactory contract cannot be concluded, negotiations are then terminated with the highest ranked offeror, and are begun with the next ranked offeror.

The purpose of the rule requiring the submission of unpriced proposals is to avoid a possible decision by the Contracting Agency of the host country to select a professional or technical services contractor on the basis of price alone, without appropriate consideration of professional qualifications. Exceptions to this rule may be authorized only by the regional Assistant Administrator or his delegate (Chapter 1, 2.3).

B. Competition Without Advertising and Written Requests for Technical Proposals  
(Chapter 1, 2.4.1.1)

AID may finance the following types of host country contracts negotiated competitively but without advertising or written requests for technical proposals:

Note: Unless otherwise noted, all Chapter references cited herein pertain to Handbook 11.

- Personal services contracts, with the understanding that consideration should be given to a reasonable number of candidates. Annex A to Chapter 1 provides guidance in contracting with individuals for services.
- Contracts whose estimated value does not exceed \$100,000 may be negotiated without formal solicitation of proposals from more than one source. However, informal solicitation of several sources is required unless a waiver of competition has been approved pursuant to Chapter 1, 2.4.2.

C. Follow-on Work (Chapter 1, 2.4.1.2)

If the contractor was initially selected competitively and competing firms were informed that the selected firm might be contracted for follow-on work, competitive selection need not be used for follow-on work.

D. Waiver of Competition -- Negotiation With a Single Source (Chapter 1, 2.4.2)

AID regulations permit the waiver of competition in favor of negotiation with a single source for such reasons as emergencies, special design or operational requirements, unique capability of one firm, follow-on work under certain conditions, or to avoid impairment of the objectives of the AID program. The Project Officer should note the above cited reference which provides additional information with regard to such waivers, including procedures to be followed in obtaining them.

The Project Officer should also note that failure of the Contracting Agency to plan procurement sufficiently in advance, with the result that the use of competitive procedures would delay the project, would be difficult to justify as an emergency situation or as impairing the objectives of the AID program.

Amendments to existing contracts for new procurement also may come under the waiver of competition rule. If the new procurement envisages a significant increase in either the scope or level of effort of the original contract, a determination should be made whether a waiver is justifiable under any of the five criteria mentioned above, or whether competitive means should be used for the new procurement.

E. Advertising (Chapter 1, 2.5; 4.1.1)

Solicitation of interested suppliers of technical and professional services, other than for contracts with individuals or for contracts valued at less than \$100,000, is achieved by means of publication of a notice of the availability of a prequalification questionnaire, or, if prequalification is not used, of the availability of a request for technical proposals (RFTP). Both the questionnaire and the RFTP are discussed in greater detail below.

The notice of the availability of the prequalification questionnaire or of the RFTP, if prequalification is not used, is published in the Commerce Business Daily, which is issued by the United States Department of Commerce. Publication is arranged by sending a notice to the Office of Small and Disadvantaged Business Utilization (SDB), AID/Washington, Department of State, Washington, D.C. The form and contents of either notice are explained in Attachment M to Chapter 1. The Project Officer should provide the Contracting Agency with copies of that attachment for use in preparing the notice. The Project Officer should assist in preparing the notice if required by the Letter of Implementation, and, in any event, he should review the notice before publication. He should also assure the prompt availability to requesting contractors of all pertinent documents, such as RFTPs or questionnaires.

The notice, plus copies of the RFTP and/or questionnaire, should be sent to arrive at AID/Washington not less than 60 days prior to the date by which the completed prequalification questionnaires are due at the Contracting Agency, or the date specified for the receipt of the RFTP, if prequalification is not used. This will allow ample time for interested contractors to obtain copies of the questionnaire or RFTP and to provide the Contracting Agency with the specified information. Normally, the advertisement notice is sent by cable to AID/Washington. Where appropriate, additional publication may be accomplished in industry trade journals, the Wall Street Journal, and local publications.

In order to facilitate the mailing and delivery of the prequalification questionnaires, or the RFTP if prequalification is not used, the Contracting

Agency may wish to designate a host country consulate or embassy in the United States as a mailing address. As an alternative, with the concurrence of the AID/W Project Officer, the Mission may wish to provide an appropriate address and telephone number at AID/Washington for a similar purpose.

Where services are sought from firms in eligible countries other than the United States or from local firms, notification of the availability of the prequalification questionnaire, or of the RFTP if prequalification is not used, is prepared according to local law and practice. The Project Officer should review this notification before publication to ensure that minimum informational requirements are included, e.g., description of services, source/origin requirements, financing methods, control dates. Copies of advertisements should be included in the contract monitoring file.

Where advertisement notices are to be published in two or more countries, arrangements should be made to assure that the notices are published simultaneously.

Chapter 1, 2.5.3 explains the provision for obtaining waivers from the advertising requirement.

F. Prequalification (Chapter 1, 3.3; 4.1)

For major contracts, AID generally recommends prequalification, a procedure which determines in advance the best qualified offerors who will be requested to submit formal technical proposals. Prequalification serves to judge the capability (e.g., technical, managerial, and financial) of the responding firms. Prequalification also saves marginally qualified firms the time and expense in preparing proposals, and saves the Contracting Agency the time and expense in evaluating such proposals.

The Project Officer, particularly where he is dealing with a less experienced Contracting Agency, should review the sample questionnaire with his counterparts, and assist them in adapting its contents to meet the requirements of the project under consideration. In addition, the Project Officer may need to

assist the Contracting Agency in the preparation of criteria and procedures on the basis of which to evaluate the questionnaires that are received. (Chapter 1, Attachment 1D.)

The extent to which the Project Officer or other Mission staff may need to review the results of the Contracting Agency's evaluation of the prequalification questionnaires will depend upon the degree of experience and expertise in the Agency. Evaluation procedures along the lines of those described in Chapter 1, 3.4.4 should be considered when there are complex projects involving a significant number of completed questionnaires.

Where considered advisable, the Project Officer (or the Project Committee of which the Project Officer is normally Chairman) may perform an independent evaluation of the completed questionnaires, using the same criteria adopted by the Contracting Agency for this purpose. The results of the independent evaluation are then compared with the results of the evaluation made by the Contracting Agency. Where there are significant variations in the two evaluations, an explanation satisfactory to the Mission must be obtained. Where the variations are of minor significance, the Contracting Agency's evaluation should be accepted.

From the responses received, the Contracting Agency then prepares a shortlist which includes the firms found to be the best qualified. The shortlist should include at least three firms, but may include others, depending on the qualifications of the firms under consideration and the complexity of the RFTP which will be sent to the firms on the shortlist. The Project Officer should review the procedures used to establish the competitive range for firms appearing on the shortlist, and determine that no firms have been unfairly excluded from the competitive range. However, no member of the Mission should ever participate in the evaluation by the Contracting Agency of prequalification questionnaires.

The Contracting Agency should prepare a memorandum (Chapter 1, 3.4.4) explaining the basis for the selection of the firms on the shortlist, and provide a copy of the memorandum to the Project Officer for Mission approval

and for retention in the Mission contract monitoring file. Firms not selected for the shortlist should be so notified by the Contracting Agency.

G. Request for Technical Proposals (RFTP) (Chapter 1, 3.4)

1. Nature of RFTP

Where prequalification has been used, an RFTP is sent to all firms on the shortlist. Where prequalification has not been used, the RFTP must be advertised in accordance with the procedures described under Section E above. In this event the RFTP is distributed to any firm requesting it and must include all factors, listed in the order of their importance, on the basis of which the proposal of the contractor will be evaluated.

Among other things, the RFTP includes a description of the project, a statement of responsibilities and relationships, a statement of work, starting and completion dates, a request for data on personnel, a work plan and schedule including person months, and a draft of the proposed contract. (Chapter 1, 4.2.1)

The due date indicated in the RFTP must allow all offerors sufficient time to visit the host country, if appropriate, and to submit their proposals to the designated place by the specified time. The allowance of insufficient time for the preparation and submission of the technical proposals could result in the need for extensions or amendments, thereby causing delays and increased costs in project implementation.

The RFTP is another stage in host country contracting procedures which should involve the prior review and approval by the Project Officer. In this review the Project Officer should be assisted by legal, contract, controller, technical, and engineering personnel. The degree of involvement by the Project Officer in the RFTP stage will depend again upon the experience and competence of the Contracting Agency.

## 2. Statement of Work

The core of the RFTP is the statement of work to be performed by the contractor. Attachments 1N, 1P, and 1Q to Chapter 1 provide guidance for the preparation of the statement of work, as well as samples of such statements for use in an architect/engineer and supervisory construction contract and in a fixed price contract for an end product.

The statement of work must be as precisely defined and articulated as possible if the offerors are to understand clearly the dimensions and purposes of the tasks to be undertaken. For example, the statement of work should include such factors as the responsibilities of the parties, the resources to be provided, payment procedures, and such other relevant information needed to facilitate the submission of responsive, contractable proposals. A poorly prepared statement of work is self-defeating in that it may result in unsatisfactory proposals with attendant delays while clarification is sought, or worse, in a contract replete with ambiguities and imprecisely stated contractor responsibilities.

To make possible meaningful monitoring and evaluation, the statement of work, and the resultant contract, should include specific indicators of progress or benchmarks which will permit measurement of the contractor's progress against the expenditures of both time and money. Provision should be made for periodic reports by the contractor to facilitate assessment of his actual progress. Particular care should be taken to assure that each statement of work meets these requirements.

As the most substantive part of any contract, it is the statement of work which constitutes the essence of the agreement between the parties on what is to be done, and which sets forth the precise obligations of the contractor with respect to performance. While standard provisions and "boiler plate" clauses in the contract further define rights and responsibilities, it is the statement of work which describes contract objectives and the steps which must be taken to achieve them.

The RFTP should also include a description of the procedure by which potential offerors may request clarifications of any aspect of the scope of work as well as other sections of the RFTP.

In those host countries with limited contracting experience, it may be necessary for the Project Officer to play a leading role in drafting the statement of work and other parts of the RFTP.

### 3. Types of Proposed Contracts (Chapter 1, 3.1)

The RFTP should indicate the specific type of contract for which technical proposals are being requested. Determining the type of contract is a responsibility of the Contracting Agency. However, the Project Officer, depending on the experience of the Contracting Agency, can provide valuable guidance to the latter in selecting the kind of contract best suited to meet the needs of the related project.

When, because of uncertainties in the duration or exact nature of the work to be performed by the contractor, it does not appear feasible to pre-determine with accuracy the total scope of effort and/or cost of the contract, a cost reimbursable contract is commonly used. The contractor is reimbursed for the actual cost of previously authorized expenditures in accordance with an agreed budget, plus overhead at an agreed provisional rate. If the contractor is a "for-profit" organization, it is also paid a fixed fee. The contractor's expenditures and overhead are always subject to audit to determine the accuracy of the amounts reimbursed and actual rate of overhead. (Chapter 1, 3.1.2; 4.3.16c (1)) An example of a cost reimbursable contract is provided as Annex 1 to Chapter 1.

Where the skills to be provided by the contractor are known with certainty, but where there are uncertainties as to the length of time such services will be required, a time-rate contract can facilitate contract administration. This type of contract combines salaries, overhead, and profit into a fixed rate for the actual time worked per day, week, or month, up to a maximum contract amount. In addition, there may be provisions for reimbursement of the contractor for such direct costs as travel and

allowances. Since the contractor's fee is included in the fixed rate, the longer the contractor works or the greater his effort, the greater his fee. (Chapter 1, 3.1.3)

If the services to be provided by the contractor can be defined in advance with sufficient precision to permit a realistic pre-determination of the costs involved, a fixed price or lump sum contract may be used. The contractor is paid the amount specified in the contract, irrespective of actual costs of such items as salaries, travel, and overhead. Contract costs should be carefully estimated by the Contracting Agency. These costs should be ascertainable with reasonable accuracy prior to signing a lump sum contract with a view toward avoiding either a windfall profit or efforts by the contractor to use short cuts to avoid losses. Accurate cost estimates can also help the Contracting Agency in assessing offers which are unreasonably priced. (Chapter 1, 3.1.4)

The Contracting Agency should be advised of the rule against entering into a cost-plus-percentage-of-cost contract. This is a contract in which the contractor's fee or profit increases without limitation as the cost of the contract increases. AID will not finance contracts of this nature. (Chapter 1, 2.9)

#### H. Receipt and Analysis of Technical Proposals (Chapter 1, 3.4.4)

The Contracting Agency should record the receipt of the proposals in an orderly manner and safeguard them pending the closing date specified in the RFTP for their receipt. All proposals must be received prior to the prescribed deadline. Observance of sound procedures by the Contracting Agency will be important in avoiding later problems and protests relating to the timeliness of receipt or the handling of sealed proposals.

After the passage of the announced closing date and time, the Contracting Agency should begin evaluating the technical proposals against the factors specified in the RFTP. In host countries with limited contracting experience, it may be necessary for the Project Officer to assist the Contracting Agency

in setting up an evaluation panel, and in providing objective criteria to be considered in the evaluation. Attachment 1D to Chapter 1 provides some useful guidance in this respect. If there are oral reviews or presentations involved, a representative of AID may attend as an observer.

The AID Project Officer, assisted by such other AID personnel as appears appropriate (e.g., engineer, technical officer, legal advisor or controller) should review the results of the Contracting Agency's evaluation, or, as in the case of the prequalification awards, the Mission may appoint a panel to make a parallel evaluation of the technical proposals. In the absence of significant variations in the two evaluations, the Contracting Agency's evaluation is accepted. Any significant variations in the Contracting Agency's evaluation from that of the Mission should be explained. In any event, if AID finds that the agreed upon selection procedures have been followed and the proposal of the contractor selected by the Contracting Agency demonstrates that it can carry out the work described in the RFTP, it is not necessary that AID agree with the Contracting Agency's ranking of the proposals. (Chapter 1, 3.4.5d)

In any event, the Project Officer is responsible for checking out any AID work record claimed by the prospective contractor so that the evaluation may take into account performance on prior AID jobs.

#### I. Selection of Contractor (Chapter 1, 3.4)

Upon the selection of the contractor, the Contracting Agency prepares a selection memorandum, the contents of which are described in Chapter 1, 3.4.4. The Project Officer should assure that a copy of the selection memorandum is incorporated in the contract file at the Mission. In accordance with the criteria listed in Chapter 1, 3.4.5, the Mission should now be able to concur with the Contracting Agency on the selection of the contractor.

The Contracting Agency then invites the highest ranked firm to submit a cost proposal, and the time and place of negotiations are established. If negotiations with the highest ranked contractor prove unsuccessful, the

negotiations are terminated, and begun again with the next highest ranked competitor. In this case, the Contracting Agency should document the reasons for the failure of the negotiations with the highest ranked contractor.

J. Negotiations (Chapter 1, 3.5.3)

Inasmuch as AID is not a party to a host country contract, negotiations leading to agreement should be conducted by the Contracting Agency of the host country and the contractor. The Contracting Agency should not invite the contractor to visit the host country for the purpose of negotiating the contract until all preparations and plans for the negotiations have been completed and the Contracting Agency is ready to proceed. The goal should be to permit the contractor to negotiate the contract in a single visit to the host country.

Unless the Project Officer exercises considerable caution, involvement of AID in these negotiations could mislead the contractor to conclude that AID is, in effect, a party to the contract. This could make AID, as well as the host country, subject to such legal remedies as might eventually be sought by the contractor.

On the other hand, as the financier, AID will be called upon to approve the contract. Unless AID can be assured that the contract was negotiated in such a manner as to respect its statutory requirements and its standards of prudence and fair play, the contract will not be approved. Contracts negotiated without AID's approval or prior review of the Contracting Agency's negotiating procedures could fail to meet AID criteria, with the resulting loss in valuable time required for renegotiation.

Where the Contracting Agency of the host country follows procedures that are known to be compatible with AID's contracting standards, is fully familiar with AID's statutory requirements, and has a well established record of proven results in prior negotiations, the Project Officer may need to become only marginally involved as an impartial observer or monitor of contract negotiations.

As a general rule, direct participation of the Project Officer in face-to-face negotiations between the Contracting Agency and the contractor is not considered desirable for obvious reasons. His informal participation in such negotiations, however, may be appropriate or even necessary on occasion, depending upon the Contracting Agency's general procurement experience and familiarity with AID's requirements.

One means for the Project Officer to provide guidance without being present during actual negotiations is to make himself available for separate discussions with both parties prior to and during the negotiations. He could then clarify for both parties AID regulations or policies which have come into question, and use his good offices to try to resolve issues which could affect successful implementation or administration of the contract.

However, there are other instances where the Project Officer's presence during negotiations may be essential if progress toward a mutually acceptable agreement is to be made. In such event, the Project Officer may tactfully volunteer his services as an informal intermediary during the negotiations. He should keep in mind, however, that where negotiations are at a difficult juncture, his efforts to mediate could be resented by one or both parties or even be counter-productive.

Normally, the Project Officer should be present at the negotiations only with the concurrence of the Contracting Agency and the prospective contractor. In such cases the Project Officer should make clear to both parties that he is present solely to interpret AID regulations and policies with a view toward facilitating AID's eventual approval of the contract. It should also be made clear to both sides that the Project Officer's presence at the negotiations is not to be interpreted as indicative of AID's approval, pending AID's subsequent review of the draft contract. In this role of "honest broker", the Project Officer should be accompanied by such Mission legal, contracting, and engineering expertise as he deems warranted.

The Project Officer and accompanying AID staff should not be present when the contractor's proposed fee is discussed with the Contracting Agency. The Project Officer, however, should be prepared to provide separate advice to the

Contracting Agency on the reasonableness of the fee proposed by the contractor. He should never, in any event, permit himself to become entangled in the bargaining between the contracting parties. He should insist that the negotiations take place directly between the parties and should not attempt to accomodate either side.

There follows a brief discussion of some of the more significant issues that are commonly raised in negotiations.

#### 1. Cost Estimates

A funding estimate of contract costs will normally have been included in the Project Paper. It should be recognized that such estimates may unfortunately become available in advance to prospective contractors who may obtain this information from such sources as the Project Paper, AID's Congressional Presentation, or from sources within the host government. Therefore, it is essential that the funding estimates be as realistic as possible. Overly generous estimates can invite inflated technical proposals. On the other hand, proposed funding that is too low may discourage the more reputable and serious firms from submitting proposals. In any event, the Project Officer and other AID officials should never disclose to a prospective contractor the amount of AID funds available for the contract. Officials of the Contracting Agency should be advised to follow the same rule.

Before commencing the negotiations, the Contracting Agency should attempt to refine the contract cost estimate, to the extent possible, using the most recent and detailed data available. A realistic cost analysis will facilitate an examination and evaluation of the cost proposal to be submitted by the contractor. The Contracting Agency will be readily able to locate major variations between its cost estimate and the proposal of the contractor and to focus negotiations on those items.

Negotiations should permit reimbursement to the contractor of allowable costs plus a fair profit. Windfalls to the contractor, whether in the guise of overly generous cost allowances or fees, must be avoided. On the other hand, unduly limiting allowable costs can result in an inferior quality of

work offered by the contractor, and in morale problems for its personnel. The Contracting Agency should be made aware that AID's objective is to obtain quality services at a fair and reasonable cost, and that excessive or unreasonable haggling could impair the attainment of this purpose.

During contract implementation the Project Officer should be concerned with anything that extends the life or cost of the contract, leading to subsequent amendments requiring AID approval. (Please see Chapter VII L of the Guidebook.) He should be alert to changes in the contract and to the cost of changes. Cost overruns or extensions of a contract should not result in increases in the contractor's fee unless new work is added.

The Project Officer should play an important role in assisting the Contracting Agency, where necessary, in the preparation of cost estimates. The Mission controller should also be called upon to participate in this endeavor. Chapter 4 of Handbook 11, "Cost Principles for Borrower/Grantee Contracts," should be transmitted and explained to the Contracting Agency. Additional guidance on cost principles will be found in Chapter 1, 3.5.2 and 4.3.16 as well as in Attachments 1G and 1H of that Chapter.

## 2. Overhead

### a. Overhead as Percentage of Salaries

One of the most difficult costs to estimate is that of the contractor's indirect expenses or overhead, which is usually expressed as a percentage of home office and field staff salaries. Up-to-date information on overhead rates of United States contracting firms may be available from the Overhead and Special Costs Branch, Office of Contract Management, AID/Washington. Additional information on overhead may be obtained from the Mission controller or contract officer.

If the contractor's overhead is to be expressed as a percentage rate, the rate should always be made provisional, subject to adjustment based on audit or renegotiation. The adjustment may be made periodically or at

the end of the contract. Some contracts include a ceiling on percentage adjustments - a protective provision much desired by some host countries.

Permitting the contractor's indirect costs to be applied at a fixed percentage of salaries, without provision of adjustment, could result in a form of cost-plus-percentage-of-cost contracting, because the indirect costs chargeable to the contract would always increase in proportion to the increases in salary costs. AID will not approve a contract where the overhead is expressed as a fixed percentage rate which is not subject to adjustment based on audit or renegotiation. (Chapter 1, 4.3.16c(3))

Clause 5.16B3 in the sample host country contract appended to Chapter 1 requires the contractor, as soon as possible but not later than six months after the close of each fiscal year during the term of the contract, to submit a proposed final overhead rate for the period together with supporting cost data. The Contracting Agency is responsible for having the proposed rate audited or renegotiated. The final rate is agreed upon and approved by AID.

In connection with the planning of the contract, the Mission will have made a determination concerning the capability of the host country to properly audit the contract. The Mission controller can usually provide assistance in this matter. Where a finding has been made that the host country maintains the capacity for auditing the contract, the audit facility of the host country may be assigned this task. Where the host country is without the proper audit resources, the determination of final overhead rates should be assigned to an independent public accounting firm selected by the Contracting Agency and acceptable to AID. Where the Mission determines that suitable audit facilities are not available locally, the Project Officer should make arrangements through the AID Inspector General for an audit either by AID or by the Defense Contract Audit Agency.

The Project Officer (or controller) should maintain records showing, according to contract, when audits for overhead determinations are due.

When such audits are not promptly made, the Contracting Agency of the host government should be so informed. If after a reasonable period the necessary audit action has not been taken, the matter should be referred to the Mission Director to review the issue with appropriate officials of the host country.

b. Fixed Overhead

The contracting parties may wish to consider a fixed amount of overhead in lieu of a percentage overhead rate in view of the administrative problems involved in establishing the latter. A fixed amount of overhead does not have to be audited, and will eliminate the friction between the parties often caused by negotiating final percentage rates. On the other hand, the parties should have a firm basis for determining a fair and reasonable amount of fixed overhead if this basis for overhead is to be agreed upon.

3. Personnel Selection

Approval of key personnel nominated by the contractor may be left to the Contracting Agency where the Mission is satisfied with the adequacy of the Contracting Agency's approval procedures. However, the Project Officer, assisted by appropriate technical personnel of the Mission, can play an important role in independently reviewing the qualifications of the contractor's nominees. If AID reserves this right, it should be made clear in a letter of implementation and in the RFTP. AID should not nominate personnel for the Contracting Agency's or contractor's consideration. This is a function of the contractor.

Where major contracts involving highly specialized American personnel are involved, it has been found useful to authorize Contracting Agency representatives to travel to the United States for the purpose of interviewing the contractor's nominees prior to their selection. Funding for such travel may be charged directly to the project or to the appropriate Regional Bureau's program development and support funds.

The contractor will have been selected largely on the basis of the personnel specified in the technical proposal. Therefore, care must be taken to ascertain that the personnel so specified, or others of equal qualifications, are actually employed under the contract.

Each contract should contain a clause providing for the prior review and approval by the Contracting Agency and the Mission of the removal or replacement of the contractor's key personnel. (Chapter 1, 4.3.7 and 5.7)

The Contracting Agency, with the Project Officer's assistance or concurrence, will have previously estimated, for budgetary purposes, the levels of salaries and other benefits for the contractor's personnel. However, the estimated amounts may well vary from the cost proposal submitted by the contractor for negotiation. Officials of the Contracting Agency, conscious of their own more modest salaries, may indicate some reservations during negotiations in approving the salaries and other benefits requested by the contractor for his employees.

While there is no fixed limitation as to the salary levels that AID will finance in a host country contract, the salary levels must be reasonable and defensible. For example, some missions require special justification for any salary requested above the highest United States direct hire level.

In addition, for employees to be recruited in the United States, the Project Officer can help the Contracting Agency in determining reasonable salary levels by obtaining up-to-date information on salaries in the United States through the AID/W Project Officer for the various categories of professional staff to be employed under the contract.

For contractor employees to be recruited from eligible third countries or local employees, similar information can be collected by the Contracting Agency.

Where the requested salaries and benefits appear excessive, the Project Officer should so advise the Contracting Agency. Where the personnel costs requested by the contractor appear to be at levels necessary to attract

well qualified personnel to the host country, the Project Officer should be prepared to explain the necessity of meeting the going market rate for such personnel.

4. Logistical Support for Contractors (Chapter 1, 4.3.21; 5.21)

In many instances it has been found advantageous for the Contractor to assume responsibility for providing its own logistical support, in accordance with the terms specified in the contract. This arrangement relieves the Contracting Agency of a number of burdensome details, and can result in a more timely and adequate provision of support for the contractor.

If the contracting parties do not agree that the contractor should assume responsibility for its own logistical support, this responsibility should be assumed by the Contracting Agency. In this instance, the contract should specify exactly what is to be provided for the contractor's employees in the nature of such facilities as housing, office space, secretarial help, transportation, etc. Each contract should include a provision which protects the rights of the contractor in the event that the Contracting Agency fails to provide essential support services or commodities on a timely basis. Some contracts authorize the contractor itself to procure essential support items, and to be reimbursed from contract funds, if the Contracting Agency fails to provide them.

Finally, there may be situations where neither the contractor nor the Contracting Agency is able to assume responsibility for providing logistical support for the contractor. In such a case provision of the contractor's logistical support must fall to the Mission, if the contract is to be implemented. If the Mission must assume this responsibility, the related expenses should be charged to the project. The preferred method for the Mission to supply the contractor with needed facilities would be through a direct Mission contract or contracts negotiated with appropriate local sources for this purpose. Where such a contract or contracts are not feasible, the Mission would have to undertake directly to provide essential support services for the contractor.

Pursuant to State Cables 061620 of March 19, 1977 and 055336 of March 3, 1978, U.S. citizens serving abroad under host country contracts, and their authorized dependents, may have access to Embassy health rooms and medical services, (as provided in Paragraph 2(c) of Appendix E in the AID Procurement Regulations), upon approval of the Ambassador. Copies of the above referred to cables are provided as Appendix C to this Guidebook.

Each Mission should have available a document which explains the items of logistical support it is prepared to provide for employees under direct as well as host country contracts. All employees should be treated equitably, but there are likely to be significant variations. For example, employees under direct AID contracts may be permitted to use the Mission's commissary facilities, but this privilege may not be extended to employees of host country contractors for reasons pertinent to the host country. The availability of such a document should facilitate negotiations on logistical support between the Contracting Agency and the contractor.

In a situation where the host country has agreed to use its own funds, rather than AID funds for logistical support, but for budgetary reasons cannot undertake to provide a level of support acceptable to the contractor, the Mission may agree with the Contracting Agency to supplement or "top off" certain support items (e.g., housing), charging the supplemental amounts directly to AID funds available for the related project. Any arrangement to this effect should be reflected in an appropriate provision in the contract.

K. Mandatory Contract and Payment Provisions (Chapter 1, 2.12; 4.3)

Notwithstanding the fact that AID is not a party to a host country contract, there are a number of provisions stemming from AID legislation or policy which must be incorporated in the contract if it is to be eligible for AID financing. These provisions, as they apply to professional and technical services contracts, are summarized in Appendix D to this Guidebook.

AID authorizes three methods of payment for the host country contracts it finances: direct reimbursement by AID to the host government; direct letter

of commitment from AID to the contractor; and letter of commitment from AID to a United States banking institution. Appendix F summarizes these methods, together with the documentation required by AID in order to effect payment.

The Project Officer should be able to explain the various mandatory and payment provisions to his counterparts in the Contracting Agency, and to assist the Contracting Agency in selecting the method of payment most appropriate to the requirements of the host country and the contract that is to be financed. In his discussions of these matters with the Contracting Agency, the Project Officer should be accompanied by such Mission expertise as is deemed appropriate.

L. Sample Provisions (Chapter 1, 4.3)

While the clauses discussed in Chapter 1, 4.3 and the sample contract format in Chapter 1,5 are not mandatory, they are nonetheless considered fundamental to sound contracting practice, e.g., statement of work, relationship of parties, term of contract, subcontracts, etc. These clauses should be considered as a checklist against which the requirements of the host country's contract should be reviewed. The sample clauses reflect the requests received by AID/W from the Missions for guidance on sound contracting principles, depending on the nature of the contract. No host country contract for professional and technical services will require all of these clauses. Some host country contracts may well require other clauses designed to meet the specific circumstances of the work to be done. It is stressed that the sample clauses need not be copied verbatim, but should be adapted to local law and usage as well as to the particular requirements of the transaction under consideration. Whenever possible the Contracting Agency may wish to incorporate in the contract its customary wording of provisions designed to achieve the same objectives as the sample clauses.

Where significant contracting volume is involved, it has been found useful for the Contracting Agency, with assistance from the Project Officer, to develop a model contract which will include the agreed upon text of all "boiler plate" clauses, including the mandatory provisions referred to above under Section K. Such clauses may all be incorporated in a so-called "one part" contract

which includes specially designed clauses that are tailored to meet the requirements of the project (e.g., nature of the project, statement of work, etc.). On the other hand, the "boiler plate" clauses may be prepared as the general provisions of a "two part" contract, the second part of which consists of those provisions designed to meet the particular requirements of the project.

To the extent necessary the Project Officer should be prepared to advise the Contracting Agency in these matters. In this connection, the Project Officer should seek the services of the Mission or regional legal advisor, if available, or of a competent local attorney if duly authorized by the Mission, as well as assistance from the Mission controller and regional contract officer.

The use of approved sample clauses or provisions will facilitate the Project Officer's review of host country contracts, since his review can be limited to those portions of the contract that have been designed specifically for the project in question and to those sample clauses that have been modified to meet the needs of the project.

M. Contract Approval (Chapter 1, 3.5.5)

If the Project Officer has reviewed and approved the various actions of the Contracting Agency in soliciting and evaluating offers and in negotiating and awarding the contract, he will be in a position readily to review and approve the contract. Sometimes the contractor will prepare a draft of its own contract, incorporating the mandatory and sample clauses that will have been discussed during the negotiating process, as a counter proposal to the draft contract which was part of the RFTP. The contractor will normally submit its draft first to the Contracting Agency. On the other hand, the contractor may submit the draft first to the Project Officer, who should then review it and suggest any necessary changes before the contractor forwards the draft to the Contracting Agency for its review.

In any event, the Project Officer should normally review the contract in draft before it is signed by the contracting parties to avoid the necessity of

amending a signed contract possibly after the contractor has left town. Participating in this review should be such additional Mission expertise as is appropriate, including the regional or Mission legal advisor and Mission controller.

In addition to the selection memorandum which was previously submitted to the Mission (Section I above), the Contracting Agency should now supply the Mission with an analysis of the cost or price of the proposed contract as well as biographic data of key personnel. (Chapter 1, 3.5.5.1; Mission approval criteria are contained in Chapter 1, 3.5.5.2)

The Project Officer should prepare a contract approval memorandum for the record, which is signed by the Mission Director (or his designee), and which, among other things, demonstrates that the contract was negotiated in accordance with the agreed contracting principles, explains any waivers, certifies the reasonableness of price, and describes what issues, if any, arose during the award of the contract. (Please see Handbook 3, Chapter 8C3c(4)(f) for further information on the contract approval memorandum.)

When a copy of the signed contract is received, the Project Officer should verify whether it is identical to the draft of the document that the Mission has previously reviewed and approved.

Following approval of the contract, the Project Officer should assure that copies are made available at all Mission offices concerned, and that a copy of the signed contract, as well as any amendments, is retained in the contract monitoring file maintained by the Project Officer.

If AID/W has issued a direct or bank Letter of Commitment to finance the contract, a copy of the signed contract must also be provided to the Office of Financial Management, AID/W.

CHAPTER V  
CONSTRUCTION SERVICES CONTRACTS

A. Use of Formal Competitive Bids (Chapter 2, 2.3.1)

It is an AID requirement that procurement of construction services be effected by means of formal competitive bids. This normally means public advertisement for the prequalification of bidders, the issuance of invitations for bids (IFB), the public opening of sealed bids, and evaluation of the bids.

Price is the key factor in determining the award of the contract. The contract is awarded to the lowest responsive and responsible bidder. A responsive bidder is one whose bid does not alter in any material way the conditions set forth in the IFB. Any bidder who has met the test of prequalification is deemed responsible. Particular attention should be focused on the financial condition of the low bidder with a view toward avoiding an award to a firm which could find itself in financial difficulties. Although AID approval is required only for contracts in excess of \$100,000, all AID-financed construction contracts, irrespective of amount, must be awarded by formal competitive bids, except as provided below.

B. Exceptions

1. Competitive Negotiation (Chapter 2, 2.3.2)

Where the Contracting Agency, after diligent efforts, has tried and failed to obtain a contract through formal competitive bidding procedures, the Project Officer may recommend authorization of competitive negotiation. Prior authorization for this procedure must be obtained from the appropriate Regional Assistant Administrator.

If this procedure is approved, the Contracting Agency determines those firms (at least two) with which to commence negotiations, supplying all

**Note: Unless otherwise noted, all Chapter references cited herein pertain to Handbook 11.**

such firms with the same information as to the basis for negotiation, including the factors to be considered in making the award. The procedures recommended for the Contracting Agency's use in competitive negotiation will be found in Chapter 2, 3.9.

2. Negotiation with a Single Source (Chapter 2, 2.3.3)

The cited reference provides the criteria for a waiver of the rule of competition so as to permit negotiation for a construction contract with a single source. The criteria include: utilization of an already mobilized contractor for additional work outside the scope of the original contract; receipt of only one bid which is not fully responsive but where the Contracting Agency wishes to negotiate with the bidder involved; or adherence to competitive procedures which would result in impairment of the objectives of the United States foreign assistance program or would not be in the best interests of the United States. Approval of an amendment to an existing contract, if it means negotiation with a single source for additional procurement, must be justified by meeting at least one of the above criteria.

Where the estimated value of the procurement does not exceed \$500,000, the Contracting Agency's application for a single source waiver should be addressed to the Regional Assistant Administrator, who has the authority to redelegate the waiver authority to the Mission Director if the amount of the procurement does not exceed \$100,000. If the value of the procurement is \$500,000 or more, application for a single source waiver must be made to the Administrator.

The Project Officer should informally review with the Contracting Agency any request for a single source waiver. The Project Officer should review the application for the waiver to determine that it is properly documented, prepare a waiver request in accordance with AID requirements, and clear it with the Mission legal advisor and such other officers as are appropriate. He then forwards it to the Mission, Regional, or AID/W office having authority for such approvals.

C. Role of the Consulting Engineer (Chapter 2, 3.1)

On a construction project the Contracting Agency will usually employ a consulting engineer who is assigned such responsibilities, for example, as design work; preparation of construction schedules and cost estimates which are essential to determine the reasonableness of bids; preparation of prequalification questionnaires and the evaluation of responses thereto; development of the IFB and assistance in the evaluation of bids; and supervising the work of the contractor. The engineer will be employed pursuant to the professional and technical services contracting procedures described under Chapter IV of this Guidebook. Please refer also to Chapter 1, Attachment 1P of Handbook 11 for a sample statement of work in a contract for a consulting engineer.

The employment of a well qualified consulting engineer should greatly facilitate the concerns of the Project Officer in dealing with a construction contract. Whatever the level of experience in the Contracting Agency, the consulting engineer can usually provide assurance that the contracting procedures for the construction at hand are being carried out in a sound and professional manner. For example, with a well qualified consulting engineer in charge of the project, the Project Officer's role in such areas as cost estimation, prequalification questionnaires, the preparation of the IFB, and the evaluation of bids can normally be limited to a review function concentrated on the procedures set forth in the PIL. In view of the key role played by the consulting engineer in a construction contract, it is essential that he be well qualified and that his personnel be selected with care.

The consulting engineer provides additional valuable services of interest to the Project Officer, such as, for example, supervising the purchasing and construction activities of the contractor, reviewing and certifying the requests of the contractor for payment, and generally seeing that the contractor carries out the terms of the contract.

The functions, responsibilities, and authority of the consulting engineer should be clearly defined in his own contract with the Contracting Agency. The consulting engineer should, moreover, be clearly informed as to AID's

requirements. For his part, the Project Officer should at all times bear in mind that the consulting engineer works for the Contracting Agency, and not AID, and thus avoid preempting the Contracting Agency's authority with respect to the consulting engineer.

D. Types of Contracts (Chapter 2, 3.3)

It is up to the Contracting Agency to determine the type of contract to be used. Normally, for construction projects, a fixed price contract is selected. There are two kinds of fixed price contracts commonly used in construction work: (1) a lump sum contract is used when the amount of construction work under contract can be accurately determined, permitting agreement between the contracting parties as to the total amount to be paid; and (2) a unit price contract is used when the quantities, such as earth moving, cannot be precisely pre-determined, with the Contracting Agency therefore agreeing to pay the contractor a fixed price per unit of earth actually moved.

In both types of contracts, the fixed price is all the contractor may expect to recover, including his profit and all of his costs, whatever they may eventually prove to be. Such contracts may include a combination of the lump sum and unit price items.

In exceptional cases, where the construction to be performed cannot be defined with sufficient accuracy to permit the contractor to arrive at a reasonable estimate of his costs, a cost reimbursement plus fixed fee contract may be negotiated. This type of contract is more difficult to administer and less desirable than a fixed price contract because of additional paperwork, quantity checks, audits, etc. The Project Officer should seek the guidance of the regional or Mission lawyer and engineer if ever a construction contract of this type is contemplated.

Another kind of contract used in construction work, principally of industrial plants, is known as the turnkey contract, a contract in which the same contractor is responsible for both the design and construction of a project.

A turnkey contract will normally be on a fixed price basis but may include both lump sum and reimbursable items. Further information on turnkey contracts will be found in Chapter 2, 3.1.2.

E. Bonds and Guaranties (Chapter 2, 3.6.3)

Bid and performance bonds or guaranties are an essential part of any construction contract. These instruments protect the Contracting Agency against the premature withdrawal of bids and against failure of the contractor to perform. A performance bond assures performance if default under the contract were to occur. On the other hand, under a guaranty, default triggers a cash payment to the Contracting Agency.

A payment bond or guaranty secures payment to all persons supplying labor and material for performance of the work under a construction contract.

A copy of each bond or guaranty should be placed in the official project file. The above cited reference provides additional information with regard to bonds and guaranties.

F. Contracting Procedures

1. Prequalification (Chapter 2, 3.5)

In all but exceptional cases prequalification is used in the selection of contractors for construction work. By means of prequalification the responsibility of prospective contractors is pre-determined, thereby avoiding the serious problems which can arise if a low bid must be rejected because of a lack of responsibility on the part of the bidder. Moreover, prequalification saves the less well qualified or unqualified firms the time and expense of preparing bids and the cost of visiting the construction site, and it saves the Contracting Agency the time and expense of evaluating such bids.

a. Advertising (Chapter 2, 2.4; 3.5.2)

Where the estimated cost of the contract is \$500,000 or more, prospective contractors in the United States must be invited to apply for prequalification by means of a questionnaire, the availability of which is announced in the Commerce Business Daily published by the United States Department of Commerce. The format and content of the notice to appear in that publication are provided in Chapter 2, Attachment 2B. The Project Officer should provide the Contracting Agency or the consulting engineer with copies of the latter attachment for use in preparing the notice.

The notice and pertinent documents should be sent to the Office of Small and Disadvantaged Business Utilization (SDB), AID/Washington, Department of State, Washington, D.C. so as to arrive at least 60 days in advance of the date when the completed questionnaires are due at the Contracting Agency. This will normally allow ample time for the interested contractors to obtain copies of the questionnaire and to provide the Contracting Agency with the specified information. The advertisement notice is usually sent by cable to SDB, AID/Washington. Where the advertisement notices are to be published in two or more countries, arrangements should be made to assure that the notices are published simultaneously. The Project Officer should determine that appropriate measures are taken to assure the prompt availability to requesting contractors of all pertinent documents, such as IFBs or questionnaires.

If the estimated contract value is under \$500,000, publication in the Commerce Business Daily is not a requirement, but is optional. In any event, if the notice is not published in the Commerce Business Daily, the Contracting Agency must place suitable advertising in appropriate local, regional, or international publications in accordance with local practice.

(1) Waiver of Advertising Requirement in Commerce Business Daily  
(Chapter 2, 2.4.2)

Advertisement in the Commerce Business Daily may be waived by the Regional Assistant Administrator to avoid a serious delay in project implementation, provided that efforts are made to secure bids from a reasonable number of potential contractors. A waiver of this type is meant for an emergency situation, and not to compensate for inadequate project planning which fails to allow adequate time to meet the advertisement requirement.

b. Questionnaire

The responsibility for preparing the prequalification questionnaire rests with the Contracting Agency and the consulting engineer if one is employed. A sample of a prequalification questionnaire is provided in Attachment 2C of Chapter 2. However, another format used or developed by the Contracting Agency or consulting engineer may also be acceptable to AID, provided that it covers substantially the same points as the AID questionnaire and is not inconsistent with the objectives of that questionnaire.

c. Distribution of Prequalification Questionnaires and Evaluation of Responses (2, 3.5.3 through 2, 3.6.2)

The prequalification questionnaire is sent by the Contracting Agency to all interested firms responding to the notice, as well as to any other firms which it desires to solicit. There is always a deadline date for the submission of responses to the questionnaire, but never less than 30 days after publication.

The consulting engineer is normally responsible for developing the weights to be used in evaluating the responses to the prequalification questionnaires, as well as for the actual evaluation process, subject to the approval of the Contracting Agency. The prequalified firms are so notified by the Contracting Agency, and are either provided with an IFB or informed where to obtain one. Firms that were not prequalified are also so notified by the Contracting Agency.

d. AID Approvals

With the exception of mandatory AID approvals of the IFB and the signed contracts in construction procurement exceeding \$100,000 in value, the prior approvals by AID in other steps in the contracting process are worked out with the Contracting Agency, and are set forth in the Project Agreement or in an Implementation Letter. Where a well qualified consulting engineer is in charge of the project for the Contracting Agency, the Project Officer may feel comfortable in accepting without prior approval the engineer's prequalification questionnaire, as well as his evaluation of the responses to the questionnaire. On the other hand, the Project Officer may wish to review the evaluation procedures employed and to be assured that the firms to be prequalified are reputable and were selected in a manner as fair as possible to all firms submitting responses to the questionnaire, and that no firms were unduly denied prequalification.

2. Where Prequalification Is Not Used (Chapter 2, 3.6.5)

If prequalification is not used, the IFB is advertised in accordance with the procedures described under Section Fla above. However, pre-qualification information of the type included in the questionnaire must be included in the IFB in order for the Contracting Agency or consulting engineer to be able to evaluate the responsibility of the bidders.

3. Special Procedure for Complex Construction (Chapter 2, 3.6.6)

Where the construction is of so complex a nature that accurate determination of the scope of services and/or technical specifications is not feasible, it may be advisable to provide for a two-stage procedure, subject to approval of the Mission Director. In the first stage, following advertisement and prequalification, if used, invitations are distributed requesting unpriced technical proposals. The technical proposals are

evaluated and a short list of responsive bidders is developed. In the second stage, a request for priced bids is sent to the short listed firms. Such bids are then evaluated as in the single stage procedure. The advantage of the two-stage system is that technical details and issues can be clarified before bidders are required to establish prices.

The above cited reference provides additional details on this procedure.

#### 4. Invitation for Bids (IFB) (Chapter 2.4)

In a construction contract the IFB includes instructions to the bidders; a form of tender to be signed by the bidder in submitting his bid; a bill of quantities; technical specifications; forms of bid, performance, and payment bonds or guaranties; a form of agreement; and conditions of the contract. Attachments 2J through 2S to Chapter 2 constitute a sample of an IFB considered acceptable to AID.

Thus, the IFB, when its accompanying form of agreement is signed by the contracting parties, becomes the contract. It is for this reason that it is mandatory that the IFB, as well as any amendments or corrections thereto, be reviewed and approved by AID before it is distributed to interested bidders. This is normally done by the Project Officer, assisted by appropriate legal, engineering, contracting, and controller personnel. For example, the Mission or regional legal advisor should always review the terms of the IFB. The Mission controller should review the method of payment and documentation requirements, and the Mission or regional engineer should review the scope of services and technical and materials specifications.

Subsequent objections raised by AID to a contract signed pursuant to an unapproved IFB could require the bidding process to commence anew, resulting in serious delays in the project.

a. General Conditions (Chapter 2, 4.7.1)

The conditions of contract consist of general conditions and conditions of particular application. (Attachments 2R and 2S, respectively, referred to above under Section F4.)

AID has used for illustrative purposes for civil works contracts the general conditions as published by the Federation Internationale des Ingenieurs-Conseils (FIDIC). While these general conditions are not mandatory, they are internationally recognized in the construction industry, and are strongly recommended for civil works construction contracts that are intended for AID financing. If the illustrative general conditions are less appropriate in a given host country, alternative general conditions acceptable to AID may be used.

b. Conditions of Particular Application (Chapter 2, 4.7.2)

The conditions of particular application are used to elaborate or modify the general conditions so as to meet the requirements of the project under consideration and conditions in the host country. These conditions are discussed in detail in the cited reference and include the mandatory provisions stemming from AID legislation or policy, which are summarized in Appendix D to this Guidebook.

Also included in the conditions of particular application is the method to be used in paying the contractor. Appendix F summarizes the various methods of payment authorized by AID, as well as the documentation required by AID in order to effect payment.

The use of mobilization advances as a means of lowering bid prices and stimulating the number of bidders is explained in Chapter 2, 4.7.2.1.m(3). (Please refer also to State cable 273219 of October 19, 1973, paragraph IID(4)(b), a copy of which is attached hereto as Appendix F-(i)).

Another useful payment device is the withholding of "retention money" from a contractor's progress payments to ensure his responsiveness to problems that may surface immediately after construction is completed. (Please refer to Chapter 2, Attachment 2S, Clause 60, Section 8.)

The Project Officer should be able to explain the various mandatory and payment provisions to his counterparts in the Contracting Agency, and to assist the Contracting Agency in selecting the method of payment most appropriate to the requirements of the host country and the contract that is to be financed. In his discussion with the Contracting Agency the Project Officer should be accompanied by such legal, engineering, and/or contracting advisors as are deemed appropriate. The Mission controller can provide essential guidance with regard to payment methods and documentation requirements.

5. Distribution of the IFB (Chapter 2, 3.7.1)

The Contracting Agency must distribute the IFB to all firms that were prequalified. If prequalification was not used, the IFB is distributed to all firms responding to the announcement of the IFB in the Commerce Business Daily or other publications, as well as to any other firms that the Contracting Agency cares to solicit.

6. Prebid Conference (Chapter 2, 3.7.2)

The Contracting Agency may require or AID may suggest a prebid conference to take place at a time and place of mutual convenience to the Contracting Agency and the prospective bidders. The purpose of the conference is to exchange information with prospective bidders concerning local conditions, answer questions relating to bid documents, and provide further explanations that may be necessary concerning AID and other requirements. The Mission or regional engineer, and, as appropriate, the Project Officer should cooperate with the consulting engineer in arranging such a conference, and will want to represent AID at the conference.

Any clarification or elaboration of the IFB considered warranted in the light of the prebid conference is communicated to all bidders, including those who may not have attended the conference. Such a clarification or elaboration is issued as an addendum to the IFB, and it must receive the prior approval of the Project Officer or appropriate Project Committee members.

7. Contract Award (Chapter 2, 3.8)

The Contracting Agency records the receipt of the bids in an orderly manner, and safeguards them pending the public opening of the bids at the time and place specified in the IFB. The bids are evaluated by the Contracting Agency or consulting engineer, who will have prepared an up-dated cost analysis against which to measure the bids. The award is made to the lowest responsive and responsible bidder. Factors other than price which may be considered in the evaluation are discussed in Chapter 2, 3.8.4 which provides further information on evaluation procedures.

If all bids are substantially in excess of the costs as calculated by the consulting engineer, the Contracting Agency may elect to reject all bids subject to AID approval if required in the PIL.

The Mission or regional engineer and/or the Project Officer will want to review the evaluation procedures leading to the proposed award, or if such is the case, the rejection of all bids.

G. AID Approval of Proposed Award (Chapter 2, 3.8.5)

The Project Officer should arrange for Mission review and approval of the proposed award before the contractor is notified and before the contract is signed. In order to accomplish this, the Contracting Agency should submit to AID the proposed final contract before signature, with the statement that it is identical to the contract included in the previously approved IFB, or a statement explaining any changes between the IFB and the final contract.

As additional support for the contract submitted to AID for approval, the Contracting Agency also should provide a record of the bids received, and, if required, an explanation of why any low bid was rejected. The Contracting Agency should, in addition, confirm that the selected bidder is responsible and that it submitted the lowest responsive bid, that the contractor meets the tests of eligibility, and that the bid price is reasonable.

The Mission or regional engineer and/or Project Officer should review the documentation supplied by the Contracting Agency, and see that it is retained in the contract monitoring file. Reviewing officials should always include the regional or Mission legal advisor as well as the Mission controller. If all is in order, the award as represented by the unsigned contract should be recommended to the Mission Director for approval.

The Project Officer prepares a contract approval memorandum for the record, which is signed by the Mission Director (or his designee) and which, among other things, demonstrates that the contract was awarded in accordance with the agreed contracting principles, explains any waivers, certifies as to the reasonableness of price, and describes what issues, if any, arose during award of the contract. (Please see Handbook 3, Chapter 8 C3c(4)(f) for further information on the contract approval memorandum.)

If, on the other hand, the Project Committee cannot recommend approval of the proposed award, the Project Officer so informs the Mission Director. With the Director's concurrence, the Project Officer informs the Contracting Agency of the reasons for disapproving the award, and endeavors to reach agreement on a mutually acceptable alternative award.

However, if the Project Officer and other Committee members have worked closely with the Contracting Agency during the procurement process, the Contracting Agency will have been made fully aware of that which AID can and cannot approve. In this event, it is unlikely that the Mission will be confronted with a proposed award with which it cannot concur.

Mission contract approvals should be scheduled with a view toward the expiration dates of bids as well as of bonds or guaranties. Expiration of bids or of bonds or guaranties during the course of the Mission contract approval process could result in unnecessary delays and increased contract costs.

After receipt of AID approval of the proposed award, the Contracting Agency informs the successful bidder that it has been awarded the contract, and arranges a time and place for signing the contract. The document to be signed is usually the Form of Agreement incorporated in the IFB (Attachment 2Q to Chapter 2).

A copy of the signed contract is then sent to AID for its approval. (Chapter 2, 2.2) Following approval of the contract, the Project Officer should assure that copies are made available to all Mission offices concerned and that a copy of the signed contract, as well as any amendments, is retained in the contract monitoring file maintained by the Project Officer.

If AID/W has issued a direct or bank letter of commitment to finance the contract, a copy of the signed contract must be provided to the Office of Financial Management, AID/W.

CHAPTER VI  
PROCUREMENT OF EQUIPMENT AND MATERIALS

A. Formal Competitive Bidding (Chapter 3, 2.2.1; 3.5)

1. General Description

Formal competitive bidding procedures are normally used in the procurement of equipment and materials estimated to cost more than \$100,000. These procedures may include prequalification and always include advertising, issuance of an Invitation for Bids (IFB), evaluation of bids, and award of the contract to the lowest responsive and responsible bidder.

2. Types of Contracts

The types of contracts used in the procurement of materials and equipment are discussed in Chapter 3, 3.3. This is a matter for the Contracting Agency to decide. Normally, for the procurement of equipment and materials a fixed price contract is used under which the supplier is paid the agreed price either in one payment upon completion of the contract, in a series of partial payments as deliveries are made, or on an agreed schedule.

In exceptional cases where specifications cannot be defined with sufficient precision to permit a supplier to estimate the costs of manufacturing the equipment under order, a cost plus a fixed fee contract may be used.

A cost plus a percentage of cost contract is not eligible for AID financing.

3. Advertising (Chapter 3, 2.3; 3.5.1)

A notice of forthcoming procurement of equipment and materials must be placed in the Commerce Business Daily published by the United States Department of Commerce, and in the Export Opportunities Bulletin published

**Note: Unless otherwise noted, all Chapter references cited herein pertain to Handbook 11.**

by AID. The notice covers prequalification, if this procedure is to be used, or the availability of the IFB, if prequalification is not used.

The Project Officer should inform the Contracting Agency of the requirement that the advertisement needs to be sent in time to reach the Office of Small and Disadvantaged Business Utilization (SDB), AID/W, at least 60 days in advance of the closing date of the IFB or due date for the prequalification questionnaires. This is required in order to allow sufficient time for processing the notice and for interested contractors to obtain their IFBs or questionnaires and submit the required information to the Contracting Agency. Normally the advertisement notice is sent by cable to AID/Washington. Where advertisement notices are to be published in two or more countries, arrangements should be made to assure that the notices are published simultaneously. The Project Officer should determine that appropriate measures are taken to assure the prompt availability to requesting contractors of all pertinent documents, such as IFBs or questionnaires.

Further information on advertising the procurement of equipment and materials may be found in Chapter 3, 2.3; and 3.5.1. Waiver provisions for the advertising requirement may be found in Chapter 3, 2.3.2.

Attachment 3C to Chapter 3 contains a sample of the format and content of the notices for both the Commerce Business Bulletin and the AID Export Opportunities Bulletin. The Project Officer should provide copies of these sample notices to the Contracting Agency for use in preparing the advertisement.

#### 4. Prequalification (Chapter 3, 3.5.2)

Prequalification in the procurement of equipment and materials is used only when custom-made, specialized, highly technical, or complex equipment is under consideration and it is important to establish in advance the qualifications of firms that are to be invited to submit bids. The Contracting Agency's advertisement announces the availability of a prequalification questionnaire, a sample of which is provided as Attachment 3D to Chapter 3. Procedures for prequalification are discussed in more detail in the above cited reference.

All interested firms receive copies of the prequalification questionnaire. Their replies are evaluated in accordance with previously determined criteria by the Contracting Agency, which establishes a list of qualified firms that are to receive copies of the IFB.

Prior review and approval by the Project Officer of the prequalification questionnaire and of the Contracting Agency's procedures for evaluating the questionnaires are not mandatory. However, depending on the experience and the record of the Contracting Agency, (or of its procurement agent, if used (Chapter 3, 3.2)), the Project Officer, assisted by appropriate Mission legal, contracting, and engineering advisors, may find it advisable to review the prequalification questionnaire as well as the evaluation procedures of the Contracting Agency for fairness and completeness with a view toward determining that a representative group of reputable firms are to be invited to submit bids.

5. Invitation for Bids (IFB) (Chapter 3, 3.5.3 through 3.5.7)

The IFB not only invites contractors to bid on the procurement, but it sets forth the scope and specifications of the goods being purchased, and all the conditions of the contract that is being offered, as well as the formula to be used in evaluating bids if factors other than price are to be considered.

The IFB includes a cover letter, instructions to the bidder, a bid/award contract form, a bid schedule, forms of bid and performance bonds, conditions of contract, and technical specifications. Attachments 3G through 3N to Chapter 3 provide samples of the various elements of an IFB which AID considers acceptable. The Contracting Agency should adapt these forms to meet the requirements of the procurement under consideration and local law and customs. The above reference provides additional details with regard to the IFB.

Upon the signature of both parties to the bid/award contract form the IFB becomes the contract. It is for this reason that prior AID approval of the IFB is required. Thus, the Project Officer should review the IFB before

its issuance to determine that it meets AID's contracting standards in general, as well as its mandatory procurement rules, which are referred to below. The regional or Mission legal advisor should participate in reviewing the terms of the IFB, the Mission or regional engineer or commodity specialist should review the specifications, and the Mission controller should review the proposed method of financing.

If prequalification has been used, the IFB is provided to all firms that are prequalified. If prequalification has not been used, the IFB is provided to all firms that responded to the IFB advertisement, and to such other firms as the Contracting Agency may care to solicit.

6. Prebid Conference (Chapter 3, 3.5.4.2)

Where major equipment purchases are under consideration, it may be useful to hold a prebid conference at a time and place of mutual convenience to the Contracting Agency and to the bidders. The purpose of the conference is to exchange information with prospective bidders concerning complex technical requirements for the equipment under consideration and to explain any contract terms or requirements that require clarification. The Project Officer and/or other appropriate Project Committee members should attend or be represented at the prebid conference.

7. Two Stage Bidding (Chapter 3, 3.6)

Where specialized equipment is being procured, the technical specifications of which are not readily established, it is useful to employ a two stage bidding procedure. In the first stage the submission of unpriced technical proposals is requested, with the understanding that such proposals will be subject to discussion between the bidder and the Contracting Agency. In the second stage those firms whose technical proposals were found acceptable, as modified by the discussions, are requested to submit priced bids. Further details on the two-stage bidding procedures are contained in the above cited reference. A request by the Contracting Agency for two-stage bidding should always be subject to the prior approval of the Mission.

8. Mandatory Contract and Payment Provisions (3, 2.13)

Notwithstanding the fact that AID is not a party to a host country contract, there are a number of provisions stemming from AID legislation or policy which must be incorporated in the contract if AID is to finance it. These provisions as they apply to equipment and materials contracts are summarized in Appendix D to this Guidebook.

AID authorizes three methods of payment for the host country contracts it finances: direct reimbursement by AID to the host government; direct letter of commitment from AID to the contractor; and letter of commitment from AID to a United States banking establishment. Appendix F summarizes these methods, together with the documentation required by AID in order to effect payment.

The Project Officer should consider the possibility of the need for advance or progress payments before the equipment is procured. For equipment that is custom-made or is of a type not normally built for inventory, AID may approve advance or progress payments to the contractor provided certain criteria, which are set forth in Chapter 3, 3.10.2.2, are met. (Please refer also to State cable 273219 of October 19, 1973, paragraph IID(4)(b), attached hereto as Appendix F(i)). These criteria must be included in the IFB so that all bidders may be informed. The Project Officer, assisted by the Mission or regional engineer and the Mission controller, should verify that requests for advance or progress payments do in fact meet the established criteria.

The Project Officer should be able to explain the various mandatory and payment provisions to his counterparts in the Contracting Agency, and to assist the Contracting Agency in selecting the method of payment most appropriate to the requirements of the host country and the contract that is to be financed. In these briefing discussions with the Contracting Agency, the Project Officer should normally be accompanied by the regional or Mission legal advisor and contract officer. The Mission controller should also participate to provide essential guidance with regard to payment methods and documentation requirements.

9. Bonds and Guaranties (Chapter 3,3.9)

Bid and performance bonds or guaranties are used in contracts for equipment and materials to protect the Contracting Agency against the premature withdrawal of bids and against the failure of the contractor to perform. A payment bond or guaranty secures payment to all persons supplying labor and material for performance of the work under the contract. An advance payment bond or guaranty secures fulfillment of the supplier's obligations with regard to payments advanced under the contract. A copy of each bond or guaranty should be placed in the official project file.

The above cited reference provides additional information with regard to bonds and guaranties.

10. Award of Contract (Chapter 3, 3.5.5; 3.5.6; 3.5.7)

The Contracting Agency should record the receipt of the bids in an orderly manner, and safeguard them pending public opening of the sealed bids at the time and place indicated in the IFB. This is followed by an evaluation of all bids, with the award being made to the lowest responsive and responsible bidder, based on an evaluation of the bids if factors other than price were considered.

11. AID Approval of Contract (Chapter 3,5.8.1)

As in the case of the IFB, AID approval of the signed contract is also mandatory. Again, depending on the experience and record of the Contracting Agency, the Project Officer, with appropriate Mission legal, contracting, and engineering assistance, may wish to review the evaluation procedures leading to the proposed award. In any event, in order to avoid possible misunderstandings, it is recommended that the proposed award be submitted to the Mission for approval before the contract is signed.

The documentation supporting the proposed award to be provided by the Contracting Agency to the Mission is outlined in the cited reference.

Reviewing officials should always include the regional or Mission legal advisor, Mission or regional engineer or commodity specialist, as well as the Mission controller. The Project Officer should see that the supporting documentation is placed in the contract monitoring file, following its review by, and any substantial comments of, appropriate Mission officials.

If the Project Officer agrees with the proposed award, he recommends acceptance to the Mission Director. At the same time, the Project Officer prepares a contract approval memorandum for the record, which is signed by the Mission Director (or his designee) and which, among other things, demonstrates that the contract was awarded in accordance with the agreed contracting principles, explains any waivers, certifies as to the reasonableness of price, and describes what issues, if any, arose during award of the contract. (Please see Handbook 3, Chapter 8 for further information on the contract approval memorandum.)

If, on the other hand, the Project Officer does not concur with the proposed award, he so informs the Mission Director. With the Director's concurrence, the Project Officer informs the Contracting Agency of the reasons for disapproving the award, and endeavors to reach agreement on a mutually acceptable award.

However, if the Project Officer has worked closely with the Contracting Agency during the procurement process, the Contracting Agency will have been made fully aware of that which AID can and cannot approve. In this event, it is unlikely that the Mission will be confronted with a proposed award with which it cannot concur.

Mission contract approvals should be scheduled with a view toward the expiration dates of bids as well as of bonds or guaranties. Expiration of bids or of bonds or guaranties during the course of the Mission contract approval process could result in unnecessary delays and increased contract costs.

Upon receipt of the Mission's approval of the proposed award, the Contracting Agency awards the contract, usually by signing on the appropriate line in the bid/award/contract form. (Chapter 3, Attachment 3I). At this point

the contract is sent to the Mission for final approval, after which the successful bidder is notified of the award. Following approval of the contract, the Project Officer should assure that copies are made available to all Mission offices concerned, and that a copy of the signed contract, as well as any amendments, is placed in the contract monitoring file maintained by the Project Officer.

If AID/W has issued a direct or bank letter of commitment to finance the contract, a copy of the signed contract must be provided to the Office of Financial Management, AID/W.

## B. Exemptions to Formal Procurement Procedures

### 1. Single Source Procurement (Chapter 3, 2.2.5)

Negotiations with a single source may be permitted in the event of an emergency situation, because of special design or operational requirements, or because competitive procedures would result in the impairment of the AID program, or would not be in the best interests of the United States. The above cited reference provides additional details, including procedures for obtaining waivers of competition. Advertising is not required where a single source waiver has been authorized.

The Project Officer should be aware that it would be difficult to justify as an emergency, or as support for a claimed impairment of the AID program, a breakdown in the host country's planning procedures with the result that it becomes too late to use the competitive process without delaying the project.

### 2. Proprietary Procurement (Chapter 3, 2.4)

Normally, specifications of equipment and materials should not be limited to brand or trade names so as to unduly restrict competition. When necessary to use brand or trade names to identify the type of item which would be satisfactory, bidders should be permitted to offer an item equal to the named item.

Waivers permitting procurement of a specific manufacturer's product line or specific model may be permitted for such reasons as economies in the maintenance of spare parts inventories, stronger local dealer organization, better repair facilities, greater technical familiarity of operating personnel, or compatibility with equipment on hand. The above cited reference provides additional details concerning proprietary procurement, including procedures for obtaining the necessary waivers.

The Project Officer should be aware that a waiver for proprietary procurement does not authorize a purchase from a single source. For example, authorization to purchase a certain type of Ford trucks would still require that quotations be obtained from a reasonable number of sellers of such trucks. On the other hand, a single source waiver (Section B1 above) includes the authority to procure proprietary goods and no separate waiver is necessary.

C. Informal Competitive Procedures (Chapter 3, 3.7)

1. Request for Quotations (RFQ)

The Mission Director is authorized to approve informal competitive procedures in lieu of the above described formal procurement procedures when it is not feasible to develop adequate specifications for an IFB, when proprietary procurement has been authorized, or when adherence to formal procurement procedures would impair project objectives. For example, the Contracting Agency may hesitate to issue an IFB in view of the need to negotiate on spare parts availabilities and local repair facilities for various makes of road construction machinery.

Informal competitive procedures may also be authorized by the Mission Director when formal competitive bidding procedures have failed, all bids have been rejected, and further use of such procedures would clearly not be productive. Chapter 3, 3.7.3 provides guidance as to the procedure to be followed in such situations.

A Request for Quotations (RFQ) rather than an IFB is used in the informal competitive procedures. The RFQ may also be used in conjunction with a prequalification questionnaire. The basic differences between the RFQ and the IFB are that in the RFQ procedure it is possible to negotiate with the offerors for changes in specifications and terms, and there is no public opening of the RFQ. The RFQ must include all of the criteria to be used in evaluating the offers, price and other factors considered. An evaluation formula is not required. In general, the contract provisions that were referred to above in connection with the IFB, mandatory and otherwise, also apply to the RFQ. Chapter 3, 3.7 and 4.2 discuss the informal competitive procedures and the RFQ in greater detail.

## 2. Advertising

The RFQ, as well as the prequalification questionnaire if used, are advertised in the Commerce Business Daily of the United States Department of Commerce, and in the Procurement Information Bulletin published by AID. Chapter 3, 3.7.2.1 and Attachment 3C provide additional details concerning this advertising, including the form of notices to be submitted to the Office of Small and Disadvantaged Business Utilization (SDB), AID/Washington. The procedures to be followed by the Project Officer are similar to those discussed above in this Chapter under Section A3 in connection with the advertising of the IFB. Chapter 3, 2.3.2 explains the provision for waivers of the advertising requirement.

Where an RFQ is used following failure of the formal competitive bidding procedure as mentioned above, re-advertising the procurement in question is not required. (Chapter 3, 3.7.3)

## 3. Processing the RFQ

Prior approval by AID of the RFQ is mandatory. This will avoid possible subsequent misunderstanding by the Contracting Agency and the offerors with regard to the eligibility of proposed contract provisions for AID financing. The Project Officer, assisted by such Mission legal, engineer, controller, contracting, and supply officer expertise as he deems

warranted, should review the RFQ before publication to determine its consistency with AID approved contracting principles and procedures.

The RFQ is distributed by the Contracting Agency to all firms requesting it, and to such other firms as the Contracting Agency wishes to solicit. If prequalification has been used, the RFQ is distributed to each firm that has been prequalified. In the case of failed competition, the RFQ is distributed to all first round bidders.

The Contracting Agency should record the receipt of the quotations in an orderly manner, and should keep them secure and unopened until the date and time specified for their opening in the RFQ. The Contracting Agency, or its procurement agent if one is used, is responsible for the evaluation of the offers, which are ranked in order. (Chapter 3, 3.7.4 and 3.7.5)

As indicated above the criteria for evaluation by the Contracting Agency are included in the RFQ. Depending on the experience and capability of the Contracting Agency, or its procurement agent, the Project Officer may find it advisable to review the evaluation procedures used in order to ascertain that the various offers have been judged accurately and ranked fairly.

#### 4. Negotiations (Chapter 3, 3.7.6)

Negotiations may be conducted by the Contracting Agency with the highest ranked offeror or with all offerors within a competitive range. The purpose of these negotiations is to achieve for the Contracting Agency the procurement under the most advantageous terms possible, taking into account such factors as design, price, terms of delivery, availability of service and spare parts, warranties, etc.

Minor changes in the Contracting Agency's requirements (e.g., scope of work, contract terms) should be given simultaneously in writing to all offerors. Where such changes are substantial, the Contracting Agency should consider issuance of a new RFQ for all prequalified firms.

The guidance provided for the Project Officer in negotiating host country contracts for professional and technical services contracts (Chapter IV J of this Guidebook) is also applicable in dealing with negotiations involving the suppliers of equipment and materials.

5. Contract Award (Chapter 3, 3.7.7)

It is normally a sound practice for AID to reserve the right to approve the supplier and the contract before the latter document is signed. AID's prior approval rights should be set forth in the Project Agreement or in a Letter of Implementation.

The Contracting Agency should submit to the Project Officer an unsigned copy of the final contract and other documentation supporting the proposed award. This documentation, which is detailed in Chapter 3, 3.7.7, is reviewed by the Project Officer and such other Mission officials as are appropriate. If all appears to be in order, the Project Officer then recommends to the Mission Director that the award and contract be approved. The procedures described above under Section A 11 of this Chapter are then followed.

D. Small Value Procurement (Chapter 3, 2.2.4; 3.8)

AID is prepared to finance host country contracts for equipment and materials not exceeding \$100,000 which are informally solicited and negotiated, and awarded pursuant to special procedures for small value procurement. Quotations should nonetheless be obtained from a reasonable number of sources, with the award being made for the most advantageous offer, taking into account such factors as quality, price, terms of delivery, warranties, and availability of repair and maintenance facilities.

With the exception of the advertising requirement as modified below, other basic AID rules set forth in Section 2 of Chapter 3 of Handbook 11 apply to small value procurement. Further guidance in such matters as shipping instructions, the use of purchase orders, or financial arrangements may be obtained from the Mission or regional supply advisor, contract officer, and Mission controller.

Procurement of equipment and materials estimated to cost from \$25,000 to \$100,000 must be advertised in the AID Procurement Information Bulletin. The format for the notice of the advertisement is included in Attachment 3C to Chapter 3. The Project Officer should provide the Contracting Agency with a copy of this notice format for use in preparing the advertisement. The notice should be sent so as to reach the Office of Small and Disadvantaged Business Utilization (SDB), AID/Washington, at least 45 days prior to the date when it is proposed to let a contract for the procurement under consideration.

Procurement estimated to cost less than \$25,000 does not require advertising, although an honest effort should be made to canvass a reasonable number of sources with a view toward obtaining the most advantageous offer possible.

Further details with regard to small value procurement will be found in the above cited references.

The extent of Project Officer concern with small value procurement undertaken by the Contracting Agency will depend upon the experience, competence, and record of the latter. If the analysis of the Contracting Agency's procurement capability described in Chapter II C of this Guidebook indicates the existence of satisfactory Contracting Agency procedures, the Project Officer should normally not need to become directly involved in small value procurement. Subsequent reviews of the Contracting Agency's transactions financed by AID may be left to the auditors.

Where the analysis of the Contracting Agency's capability indicates other than satisfactory procedures, Chapter II C of the Guidebook also provides alternative options which should be considered by the Project Officer.

CHAPTER VII  
CONTRACT IMPLEMENTATION AND MONITORING

A. Monitoring Principles and Methods

Monitoring a host country contract is the process whereby a designated AID Field Project Officer observes and reports upon the activities and performance of the host country Contracting Agency and the contractor during the project implementation phase. The basic objective of such surveillance is to facilitate successful completion of the AID-financed contract involved while simultaneously safeguarding AID's interests and investment.

Although many of the monitoring principles and methods applicable to the oversight of direct AID contracts would also be appropriate in the case of host country contracts, it is imperative that the Project Officer keep continually in mind the fact that AID itself is not a party to host country contracts. Nor should it be overlooked that, properly, the host country Contracting Agency should in its own interests and on its own initiative maintain continuing oversight of the work of the contractor it has legally engaged. While monitoring by the AID Project Officer may in some respects be considered as complementary to that performed by the host country, the significant distinction is that his activities are intended primarily to serve AID purposes. The Project Officer's relationships with the host country and the contractor, as well as his "style" of monitoring, should reflect appropriate recognition of these important considerations, as stressed in Chapter I of the Guidebook.

In terms of AID interests, monitoring is essential to assure that U.S. public funds are being expended in accordance with statutory and AID administrative requirements and that the services and commodities being procured are delivered and used properly. Effective project monitoring also enables the Project Officer to keep abreast of a contractor's activities and to anticipate problems or bottlenecks which neither the contractor nor the country Contracting Agency may be able to resolve promptly (e.g. technical difficulties; procurement delays; inadequate logistical support or local currency availability; etc.). In such circumstances, the Project Officer should of course assist wherever possible and appropriate in the resolution of such problems.

Chronologically, host country contract monitoring should commence as soon as feasible following execution of the contract by the Contracting Agency and the contractor. At the outset of this process, the Project Officer should establish a contract monitoring file (see also Section Q of this Chapter) containing a copy of at least the following documents:

- analysis of the host country's procurement capabilities
- project procurement plan
- monitoring plan
- related Project Agreement (and Project Implementation Letters (PILs) relating to contracting or procurement)
- related host country contract (and ancillary documents)

The Project Officer should be thoroughly conversant with the substantive content and provisions of the Project Paper, the Project Agreement (including related PILs), and the contract itself, inasmuch as these basic documents constitute the framework within which he will be overseeing the procurement-related undertakings of both the host country and the contractor. Of special importance to his monitoring tasks are the procurement, financing, and logistical support provisions of the Project Agreement and PILs; and the scope of work, performance schedules or benchmarks, procurement, payment methods, budget, staffing, reporting, and logistical support provisions of the contract.

Building upon the foregoing, the Project Officer should develop his own monitoring schedule or checklist, keyed to the specific major events and requirements encompassed by the contract as well as to the basic monitoring tasks for which he is responsible. Although no uniform monitoring system is prescribed, the Project Officer should design this schedule or checklist to include as a minimum identification and timing of each of the significant events or activities covered by the contract (e.g. arrival of key staff; provision of logistical support requirements; disbursement schedules; procurement and installation of equipment; submission of reports and their projected completion dates; proposed site visits; joint reviews of contract progress with the Contracting Agency and the contractor; etc.). Proper preparation and maintenance of a management tool along these lines should materially facilitate methodical monitoring, follow up, and reporting.

In preparing this monitoring schedule or checklist, the Project Officer should note particularly Appendix H, Contract Monitoring Task List, which summarizes the principal functions for which he is responsible. Although designed for monitoring all aspects of project implementation, Appendix A of Chapter 11, Handbook 3, also provides a suggested checklist format which may be helpful as a guide for Project Officers in developing a simple contract monitoring system for their own use.

Meaningful contract monitoring relies upon a number of managerially accepted oversight methods and mechanisms. Among the more widely used are the following:

- maintaining personal liaison with senior officials of both the Contracting Agency and the contractor;
- meeting periodically with the Contracting Agency and the contractor to review work progress and problems;
- analyzing technical, procurement, financial, shipping, and other reports and documents required of the contractor, and maintaining a record of the contractor's progress in meeting the contract's scope of work;
- visiting the work site periodically to observe ongoing activities (including the receipt and utilization of contract-related supplies and equipment; adequacy of participant training, if any, required under terms of the contract);
- identifying and resolving problems impeding the work of the contractor (e.g., adequacy of logistical support; availability of local currency; customs clearances; etc.);
- assuring that required financing arrangements are made, analyzing disbursements against planned expenditures, and approving contractor payment vouchers;
- submitting periodic or special contract status reports to meet internal AID management or information needs;
- coordinating actions required of other officials (whether host country, AID, or contractor officials), and following up to assure that required actions are taken in a timely manner;
- assuring that required contract audits are made, and that corrective actions are taken where necessary; and
- maintaining a complete and current contract monitoring file, including all relevant documents and reports.

The extent and frequency of use of these monitoring methods by a Project Officer will vary, of course, depending upon the scope and complexity of the contract involved, particularly the incidence of problems which may arise as the work progresses. In the final analysis, each Project officer is expected to use his judgment in applying and adapting these techniques to the nature of the contract being monitored and the circumstances prevailing at the country level.

Project Officers should be thoroughly conversant with Chapter 11, "Project Monitoring", of Handbook 3 which deals with all aspects of project implementation monitoring, including contracting and procurement. Of particular interest to Project Officers responsible for monitoring host country contracts are Sections 3, 4, 6, and 8 of Appendix 11E of the same Chapter insofar as these Sections relate to the oversight of contractor operations.

Guidance regarding the preparation and submission of contract status and site visit reports required of Project Officers will be found in Sections O and N, Chapter VII, of this Guidebook.

#### B. Project Officer Relations with the Host Country

In the conduct of contract monitoring, the Project Officer will normally work closely and meet frequently with responsible officials of the host country Contracting Agency. Generally, his association with these officials will have begun sometime prior to the actual initiation of the contracting process due to his participation in the joint country/AID project implementation planning phase.

Ideally, the Project Officer's relations with the Contracting Agency should be characterized by an atmosphere of mutual confidence and shared objectives in overseeing the work of the contractor. Although fully prepared to advise and assist the Contracting Agency where required, the Project Officer should make clear, by his actions and attitude, that he recognizes the responsibilities of the former, as a principal to the contract, and the special nature of its contractual relationships with the contractor. To the extent necessary, he should guide and support the Contracting Agency in its oversight of the

contractor's performance, as for example, in arranging site visits, and in scheduling progress review meetings with the contractor. Wherever feasible, joint monitoring of the contract -- involving the participation of both the Project Officer and an official of the Contracting Agency -- should be sought as the most desirable and effective approach serving both host country and AID purposes.

Where substantive problems arise between the Contracting Agency and the contractor which warrant intervention by the Project Officer, he should endeavor to assist in the resolution of the difficulties as informally as possible in the capacity of mediator or "honest broker." Or where the host country is delinquent in meeting its commitments, (e.g., in approving contractor invoices; arranging customs clearances), he should review the situation with the Contracting Agency, expressing appropriate concern and urging prompt attention to the problem. In these and similar circumstances, he should of course avoid any actions or statements which could appear to commit AID or otherwise infringe upon the contractual relationship between the Contracting Agency and the contractor.

"Unilateral" monitoring of the contractor's performance by the Project Officer should also be avoided (although this should not be interpreted as precluding informal relationships and discussions between the contractor and the Project Officer). As a general rule, where the Project Officer wishes to visit or meet with the contractor, he should so advise the Contracting Agency in advance, urging its participation. This approach not only minimizes the possibility of misunderstandings about the role of AID in the monitoring process, but serves to underscore the fact that host country contract administration and oversight are in the first instance basic Contracting Agency responsibilities.

### C. Project Officer Relations with the Contractor

Logically and properly, the contractor reports to, and accepts instructions from, the host country Contracting Agency regarding the provisions of the contract and the work to be done. The contractor is also aware that AID, though not a party to the contract, is the financing agency of the U.S. Government with certain rights and responsibilities as set forth in the contract itself.

In establishing relationships with the contractor, the Project Officer should strive to create an atmosphere of professional informality and mutual cooperation. He should make clear AID's substantive interest in the successful completion of the contract, as well as his general role in the monitoring process as AID's representative. He should stress particularly his availability and preparedness to advise and assist the contractor on matters relating to AID's rules and procedures, in facilitating financial arrangements and payments, and in other respects where AID involvement would be appropriate.

In dealing with the contractor, the Project Officer should proceed on the assumption, unless and until events prove otherwise, that the contractor has been selected after full consideration of its competence and reliability. Accordingly, his monitoring of the contractor should be conducted with tact, sensitivity, and judgment, and in particular with due recognition of the contractual relationship between the Contracting Agency and the contractor. Excessive monitoring or "over the shoulder" surveillance should be avoided.

In monitoring the contractor's performance, the Project Officer should refrain from any action which could be misconstrued as interference between the Contracting Agency and the contractor, or which could adversely affect relations between these two parties. The basic objective of the Project Officer should be to create a mutually cooperative, productive working relationship with the contractor while maintaining his status as the AID official responsible for protecting AID's interests.

Finally, each Project officer must decide how best, and in what manner, to establish his relationships with a particular contractor. The real test of his effectiveness may be the extent to which the contractor seeks his informal advice and assistance as the work progresses.

#### D. Initial Meeting with the Contractor

The Project Officer should encourage the host country Contracting Agency to convene an initial familiarization meeting with the contractor as soon as possible following execution of the contract. This would provide the opportunity for both the Contracting Agency and the Project Officer to become

acquainted with the contractor and his key staff and to ease the transition from the contract negotiation stage to the contract operational stage. It also serves to establish the credentials of the Project Officer as the AID official with whom the contractor will be dealing on matters of concern to AID.

Meetings of this kind are also useful in enabling the Contracting Agency to:

- review with the contractor the importance of the related project and its development objectives;
- verify that the contractor clearly understands the scope of work, major provisions of the contract, and the general nature of his relationships with the Contracting Agency and the AID Mission;
- outline plans for periodic reviews of the contractor's progress; and
- generally to assist the contractor during the mobilization stage of the contract (e.g. by assuring that arrangements for logistical support of the contractor have been, or are being made; payment procedures and documentation requirements are understood; etc.).

#### E. Periodic Meetings/Discussions with the Contractor

Meeting periodically with the contractor and his key staff to review work progress and problems is an established and effective monitoring technique. Regular meetings of this kind should be convened by the Contracting Agency, and should be so scheduled as to minimize disruption of the contractor's efforts. The frequency of these contract status reviews should normally be keyed to the planned completion of major events or activities under the contract to facilitate comparison of actual versus planned accomplishments. The Project Officer should participate in such meetings, and should make arrangements with the Contracting Agency at the outset of contract operations to assure his routine attendance.

Where the significance of problems discussed or decisions reached at such meetings warrant, the Project Officer is expected to record the facts in a summary memorandum, with copies made available to senior Mission management and the contract monitoring file. This is particularly important where some action by AID itself may be required, such as expediting financing arrangements or obtaining needed waiver approvals. Memoranda of this kind can serve a number

of purposes, by alerting and enlisting the assistance of other Mission officials regarding specific problems (e.g. the Controller in the case of payment problems), by providing a useful follow up reminder of further actions required, and by documenting the Mission files for future reference.

F. Commodity Procurement

A host country contract for services (whether technical/professional or construction services) may also authorize the contractor to procure project-related commodities (e.g., laboratory equipment; vehicles; generators; etc.). Chapters IV and V of the Guidebook should be consulted for guidance relating to services contracts which are on a fixed price basis and which include a commodity procurement component. Chapter VI provides guidance relating to services contracts which are on a cost reimbursable basis and also include a commodity procurement component.

In other cases, a host country may contract separately for project-related commodities, particularly where specialized equipment is required or where the volume and value of the commodity component of a project warrants such treatment. Such host country commodity procurement is subject to the rules and procedures set forth in Chapter VI of the Guidebook.

Prompt procurement and proper utilization of project-related supplies and equipment may be, and often are, critical to the effective overall performance of the contractor and achievement of the project's goals. Monitoring such procurement is therefore an important aspect of both project and contract oversight.

In its own interests, the Contracting Agency should assure that the procurement of needed commodities is undertaken expeditiously, in conformance with the terms of the related contract, and that deliveries are made on schedule. To the extent necessary, the Project Officer should assist the Contracting Agency in developing a procurement schedule, reporting mechanisms, and a monitoring checklist for these purposes. This checklist should include all details relevant to each procurement transaction -- such as shipping and inland transportation to the work site; inspection and testing; customs

clearances; storage and warehousing; documentation; etc. -- to facilitate the monitoring process. Useful guidance in this respect will be found in Appendix IIE (Specific Monitoring Responsibilities) of Chapter 11, Handbook 3.

The Project Officer will be particularly concerned that such AID-financed procurement complies with the specific AID requirements applicable to commodity transactions, such as source and origin, commodity eligibility, marking, and transportation services. These requirements should of course have been incorporated in the related host country contract, as required by the provisions of Handbook 11.

Actual arrival, clearance through customs, and proper utilization of such commodities should also be verified by the Project Officer during the course of his site visits and periodic reviews of the procurement and shipping documents provided to the Contracting Agency by the contractor.

#### G. Participant Training Services

Host country contracts for professional and technical services frequently require the contractor to train, or arrange the training of, country nationals in project-related activities (e.g. in the operation and maintenance of equipment; in health administration methods; etc.).

Whenever the contractor provides participant training in the United States or in a third country, the contractor is required to submit a special report to both the Contracting Agency and the AID Office of International Training, pursuant to Section 4.3.44 of Chapter 1, Handbook 11. The Project Officer should assure that the contractor complies with this requirement.

Although no special report is required in those circumstances where the contractor provides training in the host country itself under the terms of the contract, the details of such training should be included in the contractor's periodic progress reports. Because of its development significance, the Project Officer should review the adequacy and effectiveness of such training

during the course of his contract monitoring. Visits to the site of the training, and interviews with some of the participants, should provide adequate insight into the contractor's progress in this aspect of its responsibilities.

#### H. Contractor Logistical Support

The logistical support of contractors is a troublesome implementation problem in many countries, particularly in Africa. As a general policy, host country contractors are expected to be administratively and logistically self-supporting to the maximum practicable extent, with the host country providing only such support services as are specified in the related contract. AID Missions are not staffed to provide support to host country contractors, nor should they be, although in some particularly difficult country situations the Mission Director may authorize the provision of limited support services in some areas (e.g. emergency use of vehicles) as an exception to the general policy.

Problems affecting the provision, adequacy, or timeliness of the logistical support of contractors may have potentially serious consequences. Additional contract costs may be incurred, the work of the contractor unnecessarily delayed, and the morale of the contractor's staff adversely affected.

The Project Officer should be alert to these considerations, particularly during the mobilization phase of the contractor's operations. Whether to be provided by the contractor itself or by the host country, support services -- such as housing, customs clearance, visas, internal transportation, duty free privileges, office space and equipment, access to medical facilities, etc. -- should be assured and available as needed.

Where the host country is delinquent in supporting the contractor as required by the terms of the related contract (or Project Agreement), the Project Officer should review the matter promptly with the Contracting Agency, stressing the importance of prompt resolution of the problem and the cost implications thereof. If the Contracting Agency fails to rectify the

situation, the Project Officer should then report the facts to the Mission Director for such action as the latter considers appropriate under the circumstances.

Please see Chapter IV J4 of the Guidebook for a further discussion on logistical support of contractors.

#### I. Financial Arrangements and Methods of Payment

As noted in Chapter III of the Guidebook, all host country contracts include appropriate provisions relating to methods of payment (e.g., direct reimbursement; letters of commitment; etc) and the documentation required for payments to the contractor.

During the course of contract implementation, questions frequently arise relating to the application of these requirements, such as how bank letters of commitment are arranged or what additional documentation may be needed to support a contractor's invoice. The Project Officer should be guided by the Mission controller (or his staff) in advising the Contracting Agency or the contractor on such matters.

For a summary of the basic AID financial arrangements, Project Officers will find it useful to note Appendix F, "Methods of Payment and Documentation".

#### J. Administrative Approval of Vouchers

An essential feature of host country contract monitoring is the requirement for administrative approval by the Project Officer of vouchers (and supporting documentation) submitted by a contractor for payment pursuant to the terms of the contract. This responsibility stems from the fact that the Project Officer is the AID official who is most completely and currently informed about the progress, problems, and accomplishments of the contractor. He is thus the logical U.S. official to acknowledge that the services and/or commodities covered by a contractor's vouchers have in fact been satisfactorily delivered. His approval of such vouchers not only helps assure that AID's interests are

adequately protected in financing specific transactions, but as necessary can also serve as a useful means of influencing corrective action in the event of significant deficiencies in a contractor's performance.

The administrative approval of vouchers by the Project Officer -- in the form of prescribed certifications -- is supplementary to the normal U.S. Government requirement for the financial certification of all payment vouchers by an authorized U.S. certifying officer (normally the Controller or a member of his staff in the AID Mission). It is also additional to such certifications as may be required from the host country Contracting Agency -- e.g. as specified in Sections 3.6.5.4. et seq. in Chapter 1, Handbook II -- which vary depending upon the payment documentation requirements of the contract.

If for some valid reason the Project Officer feels it necessary to withhold administrative approval of a contractor's voucher, he should do so only after consultation with the Mission controller and legal advisor, and where appropriate with the Mission senior officer most familiar with the project. The problem should also be reviewed informally with both the Contracting Agency and the contractor before action to withhold approval is taken. In any event, the Project Officer's administrative approval should be withheld only from the item or items in the voucher which are questionable, thus permitting payment to be made on the other items of expenditure included in the voucher.

It should be noted that certain types of vouchers are exempted from the requirement for administrative approval by the Project Officer. These are vouchers for payments made pursuant to an AID letter of commitment to a bank or for payments for the procurement of equipment and materials. In this respect, refer to Appendix F of the Guidebook which includes Circular Telegram State 286425 of November 2, 1979.

Further guidance relating to the administrative approval of contractor vouchers (including variations in the text of the Project Officer's approval statement applicable to differing circumstances) will be found in Chapter 3H of Handbook 19, Financial Management.

## K. Waivers

Under ideal circumstances, the need for waivers of AID rules applicable to the procurement of services or commodities should have been anticipated during the project development cycle, or at the latest during the contract negotiation and approval process. Frequently however, as a contractor proceeds with its work following execution of a host country contract, a waiver of one or more AID rules may become necessary. It should be remembered that waivers are exceptions to the rules, requiring substantial justification, and are not granted as a matter of routine.

Preparing and justifying waiver requests where the need arises in the implementation of a contract is an important responsibility of the Project Officer. Since at this stage work under the contract may be well under way, prompt action is required to minimize frustrating and possible costly delays.

The Project Officer is expected to be reasonably familiar with AID's basic procurement policies in Handbook 1, Supplement B, and with the waiver provisions of Handbook 11 which apply to specific contracting circumstances (such as waiving competition in the procurement of services pursuant to Chapter 1, 2.4.2, of the same Handbook). Experience indicates that most waiver requests arise from AID's rationality, source, and origin requirements. These and other AID procurement rules, together with their related waiver authorities and limitations -- applicable to host country contracts for technical and professional services, construction services, and commodities -- are set forth in the relevant Chapters of Handbook 11.

The Project Officer should also refer to Chapters IV, V, and VI of this Guidebook and the relevant sections therein which deal with the specific procurement rules and waivers by type of contract. As in other aspects of his monitoring functions, the Project Officer should of course seek the assistance of other Mission officers (e.g. legal advisor, engineer, commodity specialist, controller) in considering the validity of waiver requests and in documenting them properly. It is generally advisable to clear such requests in every case with the legal advisor, particularly where interpretation of an AID rule stemming from a statutory requirement may be necessary.

Appendix E, "Waivers In a Nutshell," provides a summary tabulation of basic waiver authorities, as well as some helpful hints relating to the preparation of waiver requests.

L. Contract Extensions and Amendments

The dynamics of project operations overseas frequently necessitate extensions or amendments of host country contracts. Action to effect such changes in the contract requires the agreement of both the Contracting Agency and the contractor, and generally speaking, the prior approval of the AID Mission.

Host country contracts should contain a provision specifying the kinds of amendments requiring AID prior approval. As a minimum, any amendments which increase the cost of the contract or extend its completion date, however, should be approved by AID. The Project Officer should normally be aware of the potential need to amend or extend any contract he is monitoring, by virtue of his familiarity with the circumstances and the status of the work. He should apprise Mission management promptly of this eventuality, particularly where additional contract costs may be likely, or where the completion date of the contract may require a significant extension affecting the overall targets of the related project.

He should also review the situation with the Contracting Agency and assist the latter in determining the validity of proposed extensions or amendments. His participation in this process should facilitate action by the Mission on such changes, as and when submitted to AID for approval.

When a Project Officer is considering proposed extensions of a host country contract, he should check to ensure that the related project's terminal disbursement date and the terminal dates for requests of letters of commitment, as well as the project agreement completion date, permit the financing of the contract extension and the work to be accomplished thereunder.

Where a contractor alerts the Project Officer to the need for an extension or amendment, under no circumstances should the contractor be led to believe that AID will approve the changes. Informal commitments, explicit or implied, to

this effect must be scrupulously avoided. The contractor should be reminded that in the first instance approval of the Contracting Agency must be obtained, following which the proposed change is to be submitted to AID for its consideration and approval.

Project Officers should be familiar with the provisions in host country contracts relating to change orders and amendments, particularly those requiring prior AID approval. In this respect, please note, for example, Handbook 11, Chapter 1, 4.3.25 and 4.3.26 relating to change orders and amendments in contracts for technical or professional services. Please see also similar provisions in Chapters 2 and 3 of Handbook 11.

#### M. Contractor Reports

Effective monitoring systems demand the timely receipt and analysis of relevant contract status information. Normally, under the provisions of the Project Agreement (and related PILs) and the terms of host country contracts, both the host country and the contractor are required to submit progress, financial, shipping, and other reports. Copies of these reports should prove invaluable to Project Officers in monitoring country contracts and in generally apprising them of the status of the work of contractors.

Maximum use should be made of these reports by the Project Officer as the basis for his general oversight of the contractor and his performance. Special or additional reports should be required only where the Project Officer can justify them for essential monitoring purposes.

To assure the availability of contractor reports, the Project Officer should make arrangements with the Contracting Agency or with the contractor to receive routinely copies of all reports which the contractor is required to submit to the Contracting Agency. Upon receipt of each report, the Project Officer should review the document for its adequacy and responsiveness, particularly its relationship to planned targets or benchmarks and its identification of potential problems likely to impede the work of the contractor.

Where a contractor's report is seriously delinquent or identifies major problems, the Project Officer should meet with the Contracting Agency and, if appropriate, with the contractor to review the situation. Deficiencies should be frankly discussed and courses of action to resolve the problems should be suggested by the Project Officer.

Where the significance of a problem warrants, the Project Officer should record his concerns in a memorandum to the Contracting Agency, with copies to both the contractor and the Mission Director. This technique puts the Contracting Agency and the contractor on notice that AID considers the matter of some importance, and expects that appropriate corrective action will be taken promptly.

#### N. Site Visits and Inspections

Among the more productive methods of contract monitoring are periodic visits by the Project Officer to the site of the work in progress. In most cases, and particularly where the contract is of major significance, there is simply no substitute for personal observation of the work site to enable the Project Officer to obtain first-hand impressions of the contractor's progress and to identify incipient problems which may adversely affect the contractor's performance unless remedied.

For reasons noted earlier, site visits by the Project Officer should be arranged in conjunction with the responsible officials of the Contracting Agency. Ideally, the scheduling of such joint inspections should be developed in advance by the Contracting Agency, and the Project Officer should encourage and assist it in this effort.

The frequency of site visits obviously depends upon a number of variables, such as the scope, complexity, and term of the contract; the urgency of outstanding issues or problems; the availability of travel funds; and other demands upon the time of the officials of the Contracting Agency and the Project Officer. As a general approach, site visits should be so scheduled as to coincide with the estimated completion dates of major events or activities required under the provisions of the contract.

Normally, the contractor should be notified in advance of a proposed site visit to minimize unnecessary interruption of the work and to assure the availability of key staff familiar with the substantive and technical aspects of the contract. Merely knowing that such site visits are contemplated serves to keep the contractor "on his toes" and provides additional incentive to meet projected targets and deadlines.

There may be instances where the Project Officer feels it necessary to make a site visit, but where a joint Contracting Agency/Project Officer inspection may not be feasible or desirable. Under these circumstances, the Project Officer should normally advise the Contracting Agency in advance of his intention to visit the work site in order to avoid any appearance of unilateral monitoring or usurpation of the Contracting Agency's oversight functions.

Whether a site visit is conducted jointly or by the Project Officer unilaterally, as soon as possible following each visit he should prepare a summary report highlighting his observations and findings for internal Mission management and information purposes. Normally, a copy of this report should be made available to the Contracting Agency. Appendix G provides a sample format for use by Project Officers in preparing a Site Visit Report to meet internal Mission management needs. This is a dual-purpose format which can be used for either a periodic Contract Status or a Site Visit Report, modified or adapted as necessary to the nature and circumstances of the specific host country contract(s) being monitored.

Copies of each Site Visit Report should be made available to the Mission officers concerned and to the contract file maintained by the Project Officer.

#### 0. Project Officer Contract Status Reports

As required by the Mission Director or as circumstances otherwise dictate, the Project Officer is responsible for the preparation and submission of periodic reports on the implementation status of each contract being monitored. These reports should describe briefly the progress achieved by the contractor against the schedules or benchmarks set forth in the contract, actual versus planned

expenditures, major problems encountered or anticipated, remedial actions taken or required to resolve such problems, and the entities (or individuals) responsible for further action or follow up.

In preparing these reports intended for internal AID use, the Project Officer should draw upon Contracting Agency and contractor progress and financial reports, prior site visits if any, and his own independent analyses and conclusions. The primary objective is to provide the Mission Director and Mission management with a frank and objective assessment of the contract's current status, as well as identifying significant problems and courses of action needed to facilitate the timely and cost effective completion of the contract.

Appendix G provides a sample format for use by Project Officers in preparing periodic Contract Status Reports to meet internal Mission management and information needs. As noted earlier, this is a dual- purpose format designed to be used for either periodic contract status or site visit reports. Intended as a guide only, the format may be modified and adapted as the Project Officer sees fit to reflect the circumstances applicable to the specific host country contract(s) being monitored. Copies of each Contract Status Report should be made available to the Mission officers concerned and to the contract file maintained by the Project Officer.

P. Project Officer Special Reports

From time to time, special ad hoc reports may be required regarding a host country contract for purposes of the Congressional Presentation, public information requirements, AID management, or for other reasons. It is the responsibility of the Project Officer to prepare or to coordinate the preparation of such reports, and to assure their submission on or before the deadline prescribed.

Q. Contract Monitoring File

To facilitate his work, the Project Officer should establish and maintain a file for each host country contract he is monitoring. Copies of all relevant

documents (project procurement plan; contract monitoring plan; related Project Agreement; project implementation letters; the host country contract; financial, progress, shipping, and other reports; contract amendments or change orders; letters; memos; cables; etc.) should be readily accessible in this file.

It should be noted that the contract monitoring file is in addition to the official project files which are maintained by the Mission in accordance with Handbook 3, Chapter 11. The Project Officer should see that copies of all pertinent documents are also included in the official project files.

The maintenance and accessibility of a completely documented, current contract monitoring file is important for several reasons. This file (1) serves as a basic tool for effective contract oversight, (2) facilitates the transfer of monitoring responsibility from the Project Officer to his successor in event of the former's reassignment, and (3) provides an invaluable institutional record of accomplishments and/or problems under the contract.

Where a Project Officer is departing from post during the implementation phase of a host country contract, he should see to it that his replacement is thoroughly familiar with the contents of the file, and has a clear conception of the status of the contract, its progress and its problems. Where the Project Officer leaves the post prior to the arrival of his replacement, he should assure that the file is current and contains all documents necessary to permit his replacement to assume prompt monitoring of the contract upon his arrival.

The Project Officer can also assist the process of strengthening the Agency's "memory" by submitting a copy of any document in the contract file which he believes reflects either noteworthy development accomplishments or major problems of a potentially recurring nature to the AID/W Office of Development Information and Utilization and to the AID/W Project Officer.

#### R. Correspondence

As the AID focal point of contact with the Contracting Agency and the contractor, the Project Officer will normally be the recipient of letters and memos

from both, or from other sources, relating to contract implementation and monitoring. Where a reply to such correspondence is required, the Project Officer will either respond promptly in writing, or arrange to have the response prepared by the AID officer primarily responsible for the subject matter concerned. He should assure that a copy of all such correspondence is incorporated in the contract monitoring file and the official contract file maintained at the Mission level.

S. Briefings and Presentations

Because of his special role, the Project Officer may be required on occasion to brief AID or other officials about the progress or problems being encountered in the implementation of specific host country contracts. Such briefings or presentations may be conducted for the benefit of senior AID officials or for external groups such as members of Congress, GAO representatives, or the media.

Depending on the complexity of the contract, the Project Officer may wish to arrange the participation of other Mission officers, such as the senior technical or development officer most concerned with the related project which the contractor is helping to implement.

T. Disputes and Appeals

Host country contracts normally contain a provision (e.g. Chapter 1, 4.3.27, of Handbook II) prescribing the procedure to be followed in the event of a dispute between the contractor and the Contracting Agency. Resolving such disputes by negotiated settlement between the parties, rather than through formal arbitration, is of course highly preferable.

Because of his role and AID's recognized interest in the successful completion of the contract, the Project Officer may be asked, by either or both parties, to assist in the resolution of disagreements. This may occur even where the matter does not directly affect AID's rights or obligations, as for example a dispute over compliance with technical specifications in the contract. Where

the disagreement does involve an AID right or rule, such as the application of AID's source/origin requirements, the Project Officer can expect to be consulted as either or both parties seek a solution.

Under any of these circumstances, the Project Officer should discuss the matter with the Mission legal advisor and enlist his counsel and assistance. If it is agreed that his involvement in the dispute would be appropriate or necessary, he should then use his good offices to influence the parties in settling the issue as informally as possible. In some cases, arranging to have the legal advisor participate in a discussion of the problem with the Contracting Agency and the contractor may be the most effective way of resolving the difficulty.

Serving as an impartial advisor and mediator in disputes is a difficult and challenging role. Determining when, how, and with whom to intervene, if at all, depends largely upon the nature and gravity of the problem, the state of relations between the Contracting Agency and the contractor, and the judgment of the Project Officer. The critical consideration is to do whatever is feasible and appropriate to facilitate settlement of the issue without damaging contractual relationships so that both the Contracting Agency and the contractor can proceed with the work to be done.

## II. Enforcement and Remedies

The host country Contracting Agency has the primary responsibility for administering the contract and ensuring that the contractor performs in accordance with the terms of the contract. In the event of contractor non-performance (such as failure to comply with significant provisions of the contract, or serious delinquency in meeting prescribed deadlines), the Contracting Agency may consider exercising its rights to suspend the work or terminate the contract.

In these difficult circumstances, it is almost inevitable that the Project Officer will be drawn into the matter. Although he may counsel and assist the Contracting Agency as it reviews the performance of the contractor and

considers its options, he should proceed with the utmost caution to avoid encroaching upon the rights and obligations of either party to the contract or taking any action which might conceivably risk entangling AID in possible subsequent litigation.

The guidance in Section T above relating to disputes would appear to be equally appropriate to unfortunate situations of this nature.

#### V. Contract Audits by Host Country

Audits of host country contracts are the responsibility of the host country as required under the standard provisions of each Project Agreement. This is particularly important in the case of host country contracts on a cost reimbursable basis in order to determine final overhead rates (as noted in Guidebook Chapter IV J2).

The capability of the host country to conduct such audits -- using its own audit facilities or qualified independent public accountants -- should have been determined by the Mission in its analysis of the country's management capabilities during the project development stage. The Mission controller is responsible for assessing the technical capability of the host country in the financial area, as described in Chapter 8, Section A5g, of Handbook 19, Financial Management.

Working in close collaboration with the Mission controller, the Project Officer should take such steps as are necessary to see that the host country meets its responsibility for the conduct of such audits. For follow up purposes, the Project Officer (or controller) should maintain records, particularly of cost reimbursable contracts, indicating when contract audits should be made and when actually completed. Where the host country fails to make or arrange for such audits promptly, the matter should be discussed with the Contracting Agency. If after a reasonable period audit action has not been taken, the Project Officer should report the delinquency to the Mission Director so that he may review the issue with appropriate officials of the host country.

Where the Mission determines that suitable audit facilities are not available locally, the Project Officer should make arrangements through the AID Inspector General for an audit either by AID or by the Defense Contract Audit Agency.

Where an audit report discloses the need for corrective action, as for example the need to obtain refunds from a contractor for overbilling, the Project Officer should assure that the required action is taken promptly by the Contracting Agency and that appropriate adjustments are made in the Mission financial and other records.

W. Audits and Investigations by U.S.

From time to time, audits or investigations relating to host country contracts may be undertaken by representatives of the AID Inspector General, the General Accounting Office, Congressional Committees or other U.S. Government Agencies. Where such audits or investigations involve a host country contract which the Project Officer is monitoring, he must cooperate fully with these officials and assure their ready access to all pertinent documents.

Where the Project Officer feels that special circumstances may warrant audit or investigative action by the AID Inspector General, he should promptly refer the matter to the Mission Director for his information and for such further action as may be necessary.

The Project Officer also serves as the action officer in preparing the Mission comments on any resultant audit or investigative report which may be issued. If the findings or recommendations in such reports appear justified, he should then arrange for, and coordinate, appropriate corrective action to be taken by the Contracting Agency, the AID Mission, or both as required.

Particular attention should be given by the Project Officer to any investigation which results from a protest by an unsuccessful bidder. In the first instance, the Project Officer should promptly inform all appropriate AID officials, including the Mission or regional legal advisor. In collaboration

with appropriate personnel (e.g., contract officer, engineer, controller), the Project Officer should review the protest with the Contracting Agency in order to ascertain the facts in the case and to arrive at a Mission position on the merits of the protest.

If the protest has been addressed to the Contracting Agency, it should be acted upon by the latter in accordance with its procedures established to handle bid protests or contractor complaints. If the protest has been addressed to AID, however, a determination needs to be made whether AID's response should originate from the Mission or from AID Washington.

Depending upon the circumstances, a determination may also need to be made by the Mission whether to advise the Contracting Agency to proceed with the award or suspend it pending disposition of the bid protest. In making a determination of this kind, a number of factors need to be weighed. For example, is the protest an allegation of a substantive or serious nature, such as alleged favoritism in the bidding or award procedures? Or is the protest based on a technical interpretation of the bid specifications? For another example, what would be the effect of delaying the related project by suspension of the award, particularly where the award is of relatively small size and significance? These and other relevant factors need to be considered as the Mission reviews the bid protest.

#### X. Contract Closeout and Termination

Host country contracts for services provide for their termination under varying circumstances. For example, Chapter I of Handbook 11 notes the provisions under which the Contracting Agency may terminate a contract for default or convenience (Sections 4.3.33 and 4.3.34 respectively), or under which a contractor may terminate the contract for non-payment (Section 4.3.35). Similar provisions will be found in Chapters 2 and 3 of Handbook 11.

Contracts should also be "closed out" in an orderly fashion upon satisfactory completion of the work by the contractor. Final payment to the contractor is

withheld until the contractor provides evidence that it has met all of its obligations under the contract and all required certifications (including acceptance of the work by the Contracting Agency) have been executed.

Under any of these circumstances, it is the responsibility of the Project Officer to assure that termination or closeout of the contract is promptly effected in accordance with the terms of the contract, and that all AID rights and obligations have been properly satisfied. A copy of all relevant Contracting Agency and contractor certifications should be obtained and filed in the contract monitoring file.

Y. Project Evaluation Summary (PES)

As a corollary of his general responsibilities, the Project Officer is expected to prepare or to participate in the preparation of the "Project Evaluation Summary" (PES) which assesses the project as a whole. The timing of project evaluations requiring a PES is keyed to the approved project evaluation schedule. Chapter 12, Appendix 12A, of Handbook 3 provides guidance with respect to this requirement.

Given the critical role of contracts in project implementation, meaningful evaluations obviously must include some discussion of each contract's relevance to, and impact upon, the related project's purposes and goals. As the contract monitor, the Project Officer is the logical official to submit a general assessment of the quality and effectiveness of the contractor's work, for incorporation in the overall PES.

APPENDIX A  
AID LOCAL NATIONAL EMPLOYEES

FILE: (PER-FSN)

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY  
AGENCY FOR INTERNATIONAL DEVELOPMENT  
WASHINGTON, D C 20523

September 17, 1981

THE ADMINISTRATOR

MEMORANDUM FOR THE EXECUTIVE STAFF, AID/W AND OVERSEAS

SUBJECT: A.I.D. Local National Employees

The immediate reason for this memorandum is to call to your attention a new amendment to Handbook 31 (See attached Handbook Transmittal Memorandum) concerning the role of local national employees in A.I.D. Missions and offices. It is not my intention to write a personal transmittal message for every change in our Handbooks but it seems to me important to take this occasion to make a clear statement on the professional role of local national employees, as well as certain real limitations on that role.

Local national employees are an invaluable asset to A.I.D.'s operations around the world. They bring to their work not only expertise in their particular fields but also often a deeper understanding of local language and culture than U.S. citizen employees are likely to acquire during their time at a particular post. Each of you has, I'm sure, dealt with and relied upon individual local national employees whose contribution to our work in development has been extraordinary. It must be the policy of this Agency, within the limitations indicated below, to maximize the contribution of local national employees to our program and to enhance their sense of professional achievement and dignity.

There are certain real limitations built into our personnel system concerning local national employees which it is not my purpose to modify at the present time. First, of course, as a constituent element of the U.S. country team, A.I.D. must abide by certain security requirements. As Handbook 31 points out, local national employees may not have access to classified material or to material containing loyalty or security information. Their actions are governed in all respects by local laws, including taxes, some of which are not applicable to U.S. citizen employees. In addition, local employees may not be placed in a position of final decision making on policy issues, of undertaking official representation functions before the cooperating government, or involvement, on a regular basis in supervision of U.S. citizens. Finally, pay scales for local national employees are based on local conditions and may vary widely from those of their U.S. colleagues.

Though the above limitations and differences exist, sensible interpretation of them may be crucial to the effectiveness of A.I.D. Missions around the world. They are not intended to prevent capable local employees from performing many functions which they can and should perform (which they, in fact, already do perform on an informal basis in many Missions) and for which they should receive appropriate recognition. For example, many Missions around the world have for years, on an informal basis, utilized capable local national employees as project managers or coordinators within their areas of competence. Such employees are often fully capable of carrying out such functions as site inspections, reviews of project schedules, training, and other communications with local counterpart officials, and administrative review of vouchers, provided that these activities are carried out under the supervision of a division chief or other responsible U.S. citizen employee. Similar responsibilities may be entrusted to local national employees in Mission program, administrative, engineering and controller offices among others. It is the supervisor, however, who must retain decision making power on policy issues and power of final approval of significant project actions.

I wish to make it quite clear that the prohibition on "representation" by local national employees does not extend to normal and significant technical contacts with officials of the cooperating government, normal oral or written communication with regard to A.I.D. activities or appropriate participation in meetings between U.S. and host country officials on unclassified matters. Local national employees may not however, sign formal Implementation Letters or be assigned as Contract Officers.

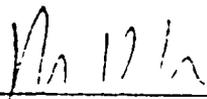
It is not my intention at the present time to modify the rule against regular supervision of U.S. citizen employees by local national employees though the Agency will be giving further thought to this matter. Meanwhile, however, the existing rule should not be woodenly interpreted so as to prohibit a local national project manager, for example, from calling meetings involving U.S. citizen employees or otherwise coordinating functions or activities for which he or she has responsibility. In addition, if a Mission Director or Division Chief finds that supervision of an intern by a local national employee for a given period would be in the best interest of the Mission and of the intern, such arrangements should certainly be established.

Finally, in addition to encouraging local national employees to assume responsibility which corresponds with their professional capacity, we should do more to provide some measure of formal recognition of the functions which local national employees in

fact carry out. For example, Missions are encouraged, notwithstanding the official title of the position occupied by a local national employee for the purposes of our personnel register, to allow the use of titles on office doors, business cards, etc. which are meaningful within the local culture and which are helpful to local national employees by providing status which will allow them to deal effectively with their counterparts, and perhaps, in the future, to seek employment elsewhere, if they so wish.

The scope of functions outlined above for local national employees is also appropriate for A.I.D. personal service contractors hired directly by A.I.D., including local national and third country nationals. It does not apply to host country-contracted personal service contractors who, though they may be A.I.D.-funded, are legally responsible to the cooperating government and in that capacity, may not function as employees of an A.I.D. Mission.

As indicated above, many of the suggestions contained in this message are already being implemented on an informal basis. What I want to see now is an effort on the part of all A.I.D. Missions and Offices to make these arrangements part of official policy for the sake both of the efficiency of the Agency and of the sense of personal achievement and professional satisfaction of our local national employees.

  
\_\_\_\_\_  
M. Peter McPherson

Attachment:  
Handbook Transmittal Memorandum

HANDBOOK TRANSMITTAL MEMORANDUM

MATERIAL TRANSMITTED -- Handbook Circular, HB 31, Foreign National Personnel

Pending the issuance of revisions to 3 FAM 922.4e, 926.2c(1) and (2), a Handbook 31 Circular, Responsibilities of AID Foreign Service National Employees, is issued to clarify and elaborate upon AID's policy regarding the role of Foreign Service National employees, as well as local and third country national direct personal service contractors.

The attached Circular should be filed with HB 31 pending the issuance of the revisions to 3 FAM 922.4e, 926.2c(1) and (2).

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## AID HANDBOOK CIRCULAR - HB 31

Responsibilities of AID Foreign Service National Employees

Pending the issuance of revisions to 3 FAM 922.4e, 926.2c(1) and (2), the following should be made available to all AID personnel overseas:

1. New material which will be issued to follow immediately after the current 3 FAM 922.4e:

Notwithstanding the above, it is the policy of AID to encourage local national employees to assume as much professional responsibility as they are capable of handling and, within the constraints outlined in Section 922.4, to work in an atmosphere of full professional equality with U.S. citizen employees. For example, local national employees may, under the supervision of a division chief or other responsible U.S. citizen employee, be designated as project managers or coordinators for specific projects within his or her area of competence. In such capacity, a local national employee may conduct site inspections, review project scheduling and other, technical project elements with counterpart officials and conduct administrative review of vouchers. Similar responsibilities may be assumed by local national employees in other mission divisions including administrative, program office, controller, etc., subject to appropriate supervision by division chiefs or other U.S. direct-hire personnel. In carrying out these functions, local national employees may not be placed in the position of making final decisions on policy matters, official representation of the U.S. Government (including signing of Implementation Letters) or supervision, on a regular basis, of U.S. citizen employees. They also may not be designated as contracting officers.

This guidance is equally applicable to local and third country national direct personal service contractors. It does not apply to host country personal service contractors who, because of legal responsibility to the cooperating government, may not function as employees of an AID mission.

2. Paragraphs 3 FAM 926.2c(1) and (2) are being revised to read as follows:

(1) Services Which May Be Performed Under PSC

Custodial, housekeeping, maintenance, transportation, and other service-type activities requiring skilled or unskilled labor; also professional, subprofessional, and clerical services directly related to the conduct of project activities or assignments within the host country ministries, and mission administrative activities which do not involve the elements indicated in (2), below.

(2) Services Which May Not Be Performed Under PSC

Services which involve classified material, policy formulation, program planning, representation, or supervision of direct-hire employees of the U.S. Government.

APPENDIX B  
ASSESSMENT OF HOST COUNTRY PROCUREMENT CAPABILITIES

## APPENDIX B

ASSESSMENT OF HOST COUNTRY PROCUREMENT CAPABILITIES

Section C, Chapter II, of the Guidebook stresses the essentiality of a realistic Mission assessment of the procurement capabilities of the proposed host country Contracting Agency. To assist Project Officers in making such assessments, the following basic questions should be explored:

A. Where AID has had prior experience with the Contracting Agency:

- Was the performance of the Contracting Agency considered satisfactory enough to warrant continued contracting under AID standards?
- If not, were the deficiencies noted susceptible of remedy or correction through further Mission assistance which, if provided, would justify additional contracting by the same Agency? and
- Does the Mission have the resources or can they be otherwise made available to provide such additional assistance?

B. Where AID has had no prior experience with the Contracting Agency:

- Is contracting for services or commodities a regular and continuing function of the Contracting Agency? If not, is the procurement to be undertaken likely to be a limited or isolated experience with little or no institutional benefit warranting use of the host country contracting mode?
- Does the Agency have a technically qualified procurement staff capable of soliciting competition, evaluating and selecting contractors? Capable of negotiating, awarding, administering, and monitoring contracts?
- Are the Agency's bidding, evaluation, and award systems fair and defensible?
- Is the Agency experienced in international competitive bidding? Is it familiar with cost reimbursement and time-rate contracts? Contracting for professional and technical services? Does it have sound procedures for dealing with bid protests?
- Is the Agency's general reputation favorable? Does its record indicate that it functions with reasonable efficiency and responsiveness to schedules and deadlines?
- Does the Agency have a disputes and claims settlement process which is considered fair and equitable? Does it have adequate legal counsel available to it?

- Does the Agency have adequate authority to negotiate and award contracts, approve contractor vouchers, pay contractors promptly, amend contracts, etc. without requiring the approval of other host country entities? If not, are such external approval requirements likely to delay or complicate the contracting process excessively?
- Are there local laws, regulations, or practices governing host country procurement which are significantly inconsistent with AID rules or which are likely to hamper seriously the procurement process? If so, how specifically can these be reconciled or dealt with?
- Are there any impediments -- legal, cultural, administrative, or other -- which may make it difficult for U.S. firms to compete?
- Are qualified audit facilities available to the Contracting Agency to assure that contracts are properly audited as required?
- What demands are likely to be made on AID Mission staff to instruct the Contracting Agency concerning AID procurement rules and procedures, and to provide guidance and assistance to it during the contracting process? Does the Mission have the staff resources to meet such demands?

APPENDIX C

MEDICAL FACILITIES FOR HOST COUNTRY CONTRACT EMPLOYEES



- WHETHER THE EXISTING EMBASSY FACILITIES AND SERVICES CAN MEET THE NEED WITHOUT SERIOUS DILUTION OF CONTINUING HEALTH CARE TO ITS OFFICIAL CLIENTELE.
  - WHETHER IT COULD BE IN THE BEST INTERESTS OF THE U.S. GOVERNMENT.
3. WHERE AID MISSIONS BELIEVE THAT THE NEED EXISTS, THEY SHOULD ADDRESS AN ACTION MEMORANDUM TO THE AMBASSADOR OR PRINCIPAL OFFICER LISTING THE CONTRACTS AND U.S. CITIZEN EMPLOYEES AND ELIGIBLE DEPENDENTS SETTING FORTH THE CIRCUMSTANCES AND JUSTIFYING THE NEED IN TERMS OF THE ABOVE. IF THE AMBASSADOR MAKES THE REQUIRED DETERMINATION, AID WILL KEEP CURRENT THE LISTING OF INDIVIDUALS MADE ELIGIBLE BY HIS DECISION. THESE WILL BE TAKEN INTO ACCOUNT IN DETERMINING AID'S SHARE OF JOINT ADMINISTRATIVE SUPPORT FUNDING.
  4. THE STATE/AID PROVISIONS FOR MEDICAL SERVICES TO THE EMPLOYEES AND ELIGIBLE DEPENDENTS OF AID DIRECT CONTRACTS ARE SET FORTH IN PARAGRAPH (C) (2) OF APPENDIX L OF THE AID PROCUREMENT REGULATIONS. THESE PROVISIONS SHOULD ALSO APPLY FOR U.S. CITIZEN EMPLOYEES AND THEIR ELIGIBLE U.S. CITIZEN DEPENDENTS UNDER AID-FINANCED HOST COUNTRY CONTRACTS WHERE THE AMBASSADOR HAS MADE THE NECESSARY DETERMINATION.
  5. THIS MESSAGE HAS BEEN PREPARED IN CONSULTATION WITH STATE MED WHO HAVE CONCURRED IN ITS CONTENTS.  
VANCE

UNCLASSIFIED

Department of State

TELEGRAM

APR 01 10 45 AM '78

1811 C-3

STATE 055336 P003 DUFE

10 OCT 01 PCH-B1 AF-10 EA-12 EUR-12 HSP-10 IO-14  
MID-01 OPR-B2 A-01 SIG-B3 HHO-B4 170 R

OFFICER'S DISCRETION IN DEALING WITH EMERGENCY SITUATIONS  
REFERRED TO IN SUBPARAGRAPH 2 (C) (I) (V) IN APPENDIX E.

4. FOR BAKAO THIS RESPONDS TO YOUR MESSAGE 0523  
DTG 2/2/78. CHRISTOPHER

NOTE ATTACHED BY 00/T

DRAFTED BY DIR/CP MIDWELLEY:PM  
APPROVED BY DIR/CP MIDWELLEY  
DIR/PS/OSL/IFM (DRAFT)  
STATE/M/MD (ER/IGOS) (DRAFT)  
STATE/M/MD (EDUST) (DRAFT)  
AFR/EMO (ROOM) (DRAFT)  
AFR/SPWA (WILSON) (DRAFT)  
DIR/MD (STONKE) (D/PHORE)  
M/DP/ W. F. (H/EG) (INFO)  
DISP/DIR (TRIEULTON)  
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PAGIA 14 CCADA OALMO UOLA LA 14 RATA EASTA CTR TAYH PERS 59P  
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R 011110 MAR 78  
FM SECRETARY WASHDC  
TO AID FF N FOLTSV  
AMBASSY ANKARA  
COMMISSION GENEVA  
AMBASSY PARIS  
AMBASSY ROME  
AMBASSY LUDAKA  
AMBASSY LILONGWE  
AMBASSY BEIRUT POUCH

UNCLAS STATE 055336

AIDAC

BAKAO FOR USAID AND RED, DAKAF FOR FDO AND OHVS COORD,  
GUATEMALA FOR USAID AND FOCAP, KARACHI FOR AAU AND IIS,  
NAIROBI FOR USAID AND REDUC EA, PARIS FOR UNESCO AND USOECD,  
ROME ALSO FOR AID OFFICE TRIULI  
E.O. 11652: N/A

TAGS:

SUBJECT: AVAILABILITY OF EMBASSY HEALTH ROOM  
FACILITIES AND MEDICAL SERVICES: HOST COUNTRY CONTRACTS

REFERENCE: STATE 061020 DTD MARCH 19, 1977

1. AID'S BASIC AGREEMENT WITH STATE PROVIDES FOR, QUOTE, )  
THOSE U.S. CITIZENS SERVING ABROAD, AND THEIR AUTHORIZED  
DEPENDENTS, WHO ARE ENGAGED UNDER A CONTRACT BETWEEN A  
CONTRACTOR AND AID OR WHO ARE ENGAGED UNDER A SUBCONTRACT  
THEREOF, END QUOTE, TO HAVE ACCESS TO EMBASSY HEALTH ROOM  
FACILITIES AND MEDICAL SERVICES AS SET FORTH IN PARAGRAPH  
2 (C) OF APPENDIX E IN THE AID PROCUREMENT REGULATIONS.

2. REFTEL AUTHORIZED AMBASSADORS TO EXTEND SIMILAR  
SERVICES TO U.S. CITIZEN EMPLOYEES AND THEIR DEPENDENTS  
UNDER AID-FINANCED HOST COUNTRY CONTRACTS. REFTEL WAS  
IN ERROR IN SPECIFYING THAT AUTHORIZED DEPENDENTS MUST  
ALSO BE U.S. CITIZENS TO BE GRANTED ACCESS. ONCE THE  
DETERMINATION TO GRANT ACCESS CALLED FOR IN REFTEL HAD  
BEEN MADE, IT WAS INTENDED TO TREAT EMPLOYEES AND  
DEPENDENTS UNDER HOST COUNTRY CONTRACTS THE SAME AS UNDER  
CONTRACTS DIRECTLY WITH AID, I.E., THE EMPLOYEE MUST BE  
A U.S. CITIZEN BUT ELIGIBLE DEPENDENTS ARE THOSE

AUTHORIZED TO ACCOMPANY TO POST WITHOUT ANY ADDED TEST  
OF NATIONALITY.

3. YOU SHOULD NOTE ALSO THE REFERENCE TO POST MEDICAL

UNCLASSIFIED

APPENDIX D  
MANDATORY CONTRACT PROVISIONS

## APPENDIX D

MANDATORY CONTRACT PROVISIONS

The following provisions are required in AID-financed contracts because of United States Government statutes or AID regulations. Not all of the provisions pertain to every contract. For example, the regulations concerning marking and cargo preference are not normally applicable to a contract for professional or technical services. Similarly, the provision concerning vesting of title and diversion rights would normally be used only in contracts for materials and equipment.

Each provision refers to the applicable references in Chapters 1, 2, and 3 of Handbook 11.

1. Legal Effect of AID Approvals and Decisions

This clause provides that AID's rights of prior approval of a host country contract do not make AID a party to the contract, and that by the exercise of these rights AID does not incur any liability to the parties to the contract. This clause must be incorporated verbatim in each AID-financed contract. (Chapter 1, 5.11; Chapter 2, Attachment 2S, Clause 73; Chapter 3, Attachment 3N, Clause 5)

2. Nationality, Source, and Cargo Preference

The rules on nationality and source pertaining to professional and technical services contracts are set forth in Chapter 1, 2.6 and 5.22. For construction contracts the rules on nationality, source, and cargo preference are provided in Chapter 2, 2.5 and in Clause 74 of Attachment 2S. Similar information with regard to contracts for equipment and materials will be found in Chapter 3, 2.6; 2.7; and Clause 10 of Attachment 3N. In view of the complexities involved, the wording of the latter clause is recommended verbatim for inclusion in all contracts for AID-financed equipment and materials.

The restrictions on nationality do not apply to employees of contractors or subcontractors, with the exception that all such employees must be citizens of countries included in AID Geographic Code 935 or be non-United States citizens lawfully admitted to permanent residence in the United States.

The statutory cargo preference requirements are enforced on a project basis, and not a contract basis. Thus, a host country is required to determine that at least 50 percent of all tonnage used in a given project (including at least 50 percent of gross freight revenues in the case of dry cargo liners) is shipped on United States bottoms. The tonnage can be divided at the discretion of the host country according to contracts implementing the project.

Handbook 15, Chapter 7, also discusses cargo preference requirements, including the procedures to be followed in the event of non-availability of U.S. shipping.

### 3. United States Air Carrier Travel and Transportation

United States flag air carriers must be used for all travel and air transportation authorized in grant funded contracts, unless such service is not available. When United States flag air carriers are not available, any Code 935 flag air carrier may be used. Verbatim wording concerning the unavailability of United States flag air carriers has been prescribed for each contract. (Chapter 1, 5.23B(1); Chapter 2 Attachment 2S, Clause 76; Chapter 3, Attachment 3N, Clause 11.)

There is no statutory requirement for use of United States flag air carriers under loan-financed contracts. The restrictions governing the use of non-United States flag air carriers for such contracts are found in Chapter 1, 2.12.4b; Chapter 2, 2.5.6b(3); and Chapter 3, 2.6.4.3c.

### 4. Workmen's Compensation

Each host country contract financed by means of an AID grant or the Economic Support Fund (formerly referred to as Security Supporting Assistance) must provide for workmen's compensation as required by the Defense Base Act, 42 USC 1551.

Blanket waivers have been obtained for local employees and third country nationals in most countries where AID conducts operations. (Chapter 1, 4.3.41; Chapter 2, 4.7.2.2e(1); Chapter 3, 4.1.6.22a). A condition imposed by these blanket waivers is that the employees in question be provided workmen's compensation coverage as required by local law and custom.

For persons who are hired in the United States or who are citizens of the United States, waivers of the provisions of the Defense Base Act cannot be obtained under any circumstances. The Project Officer may obtain information concerning availability and cost of coverage of Defense Base Act insurance requirements from SER/CM/FSR, AID/Washington.

Employees hired under contracts financed by AID loans other than from the Economic Support Fund must be covered by other adequate workmen's compensation, equivalent to the coverage required by law or custom in the location where the contractor's employees are performing services. (Chapter 1, 4.3.41e; Chapter 2, 4.7.2.2e(2); Chapter 3, 4.1.6.22b).

#### 5. Contractor's or Supplier's Certificate

Each contract must contain a clause providing for the submission by the contractor, with each request for payment of a certificate prescribed by AID. For professional and technical services contracts and for construction contracts the certificate is known as Form 1440-3, "Contractor's Certificate and Agreement with the Agency for International Development Contractor's Invoice and Contract Abstract." For contracts for equipment and materials the certificate is known as Form 1450-4, "Supplier's Certificate and Agreement with AID for Project Commodities/Invoice and Contract Abstract."

Through these forms the contractor or supplier certifies that he has complied with the terms of the contract, and he makes specific representations with regard to the nationality of services and source of commodities, price, payments, and commissions. These forms also include the commitment of the contractor to maintain pertinent business records for a period of three years following the date of payment, and concedes to AID the right of audit of those records. (Chapter 1, 2.12.3; Chapter 2, 2.11.3; Chapter 3, 2.14.)

### 5. Marking

This clause applies only to contracts for construction services and for the procurement of equipment and materials. It is mandatory pursuant to a statutory requirement that job sites and commodities be identified to show that the source of financing is the AID program.

If marking is impractical, this requirement may be waived by the Regional Assistant Administrator. If the Mission Director finds that marking would produce an adverse local reaction, he may waive the requirement. (Chapter 2, Attachment 2S, Clause 78; Chapter 3, Attachment 3N, Clause 16)

### 7. Host Country Taxes

The exemption of AID funds and AID funded commodities and services from host country taxes is generally set forth in the bilateral agreement between AID and the host country. Each host country contract must contain a provision which is consistent with this exemption. (Chapter 1, 5.20; Chapter 2, Attachment 2S, Clause 79; Chapter 3, Attachment 3N, Clause 9)

### 3. Equal Opportunity

If employees are to be recruited or employed in the United States by a professional or technical services contractor, a clause must be included in the contract which provides that the contractor will not discriminate because of race, color, religion, sex, or national origin in the recruitment or employment of such personnel. (Chapter 1, 5.39) In addition a firm incorporated or legally organized in the United States must certify prior to the award of a contract for professional or technical services that it is in compliance with its equal employment opportunity obligations under Executive Order 11246.

Where the bidder for a construction services contract is incorporated or legally organized in the United States, it must include a certification in its tender, which is included in the IFB, to the effect that the bidder is in compliance with its equal opportunity obligations under Executive Order 11246. (Chapter 2, Attachment 2K) Further reference to equal opportunity in the Conditions of Particular Application is not required.

Each United States firm supplying AID-financed equipment or materials must include in its contract a clause to the effect that it practices non-discrimination in its hiring policies in the United States, and that it complies with its equal employment opportunity obligations under Executive Order 11246. (Clause 29, Attachment 3N, Chapter 3.)

9. Vesting of Title and Diversion Rights

This clause, which is applicable only to contracts for equipment and materials, permits AID to take title to undelivered commodities and to direct carriers to deliver them to alternate destinations. (Chapter 3, Attachment 3N, Clause 30).

APPENDIX E  
WAIVERS IN A NUTSHELL

WAIVERS IN A NUTSHELL

Of all the operational documents which we prepare in A.I.D., none is more simple to do properly than a waiver. But in practice waivers seem to cause more problems, more rewrites and more frustration than practically any other document. Remember that waivers are exceptions to the rules and that they require sound justification. They are not routinely granted.

1. Tell the addressee what rule he or she is being asked to waive and describe the transaction in question. For example, "you are being asked to waive source/origin requirements for the purchase of \$40,000 dollars worth of Arabic text books which are not available in the United States or the cooperating country." Or "you are being asked to waive the requirements for competition in the procurement of technical services in the amount of \$75,000."
2. Cite the handbook provision or delegation of authority under which the official in question is empowered to grant the waiver. For example, "you are authorized to waive source and origin for the procurement of commodities pursuant to Handbook I Supplement B Section 5b4d(2) for individual transactions up to \$250,000." If you have difficulty finding your way through delegations of authority or handbooks on these subjects, GC or your regional legal advisor will help.
3. Tell the addressee which of the criteria for waivers you are relying on in making your request and quote the relevant language. The handbooks indicate, in each case, several criteria which may justify a waiver. You may use more than one but tell the addressee which criteria you are relying on and even better quote the language from the handbook or delegation. For example, "you are authorized to waive geographic eligibility if "the commodity is not available from countries included in the authorized geographic code." Placing this language before the responsible official will be a great help to him or her. Unfortunately, however, this is where about 50% of the waivers stop. There is one more vital step.
4. Explain how your factual situation fits within the criterion you have selected. You cannot simply say, for example, that a particular waiver is "critical to the success of project objectives." You have to say why! What will happen in the implementation of the project if the requested waiver is not granted? Be detailed and specific. For example, "because funding under the existing contract has been exhausted, failure to grant this waiver will require the contractor presently on the job to demobilize with a resulting six month delay in project implementation." If the waiver is requested because of "impelling political considerations" describe those political considerations. A backup cable from the Missions or a memorandum from the State desk should be attached if possible. If you want a waiver of source, origin or nationality on the ground that the item is not available from the authorized geographic

code don't just say that it is not available. Explain what you have done to reach that conclusion, e.g. despite advertising, no U.S. suppliers have offered eligible items or review of this request with SER/COM indicates that this problem has arisen in many previous cases and that widgets are not manufactured in the United States.

Remember, no matter how much confidence the addressee of your waiver request may have in your judgment or thoroughness, he or she needs an adequate record in your memorandum to defend their decision. Cover the four items listed above and they'll have it.

To help you further in processing waiver requests, please note attached samples.

Please see the accompanying Table for a summarization of waiver authorities.

SAMPLE

ACTION MEMORANDUM FOR THE ACTING ASSISTANT ADMINISTRATOR, NE

FROM: NE/TECH, Lewis P. Reade

Problem: A waiver of competition in the procurement of goods and services is requested under the Central Tunisia Development Project (664-0312) to permit the procurement of four (4) agricultural research items of a combined approximate value of \$100,000 (O.S.) from West German and Austrian manufacturers for the Dryland Farming Systems Research subproject (664-0312.2).

Discussion: Oregon State University (OSU) requires four agricultural research items to carry out its host country contract with the Government of Tunisia (GOT). Each item is described in the GOT-OSU contract and is necessary for the successful implementation of the Subproject. These include the following:

- (1) Two Ojyord cone-type plot seeders - 2-10 rows equipped with double dish openers and press wheels, 3-point attachment -- approximately \$17,000 each, manufactured by Wintersteiger in Austria;
- (2) One Hege-type plot combine, - self-propelled 4-5 foot (1.5 m) -- approximately \$25,000, produced by Hege in West Germany;
- (3) One plot combine harvester - 4-5 foot (140 cm - 150 cm) Hege-type -- approximately \$37,000, manufactured by Rautenschlein in West Germany.

Although competitive procurement was anticipated for these items, solicitations by OSU, including an unsuccessful invitation for bids, disclosed that these items were available only from the above-listed Austrian and West German manufacturers. AID/W's own inquiries, conducted through SER/COM, revealed a list of U.S. suppliers which manufacture equipment similar, but not identical, to that requested by OSU. OSU's inquiries of these suppliers revealed that the U.S. equipment was not suitable for the conditions of this project in Tunisia.

Pursuant to AID, HBI, Supp. B, 12C4c, competition in the procurement of goods and services may be waived and a single-source negotiated contract authorized by you in consultation with the AA/SER, if the value of the procurement does not exceed \$500,000.

Under AID, HBI, Supp. B, 12C4c(1) (3), (incorporating 12C4c(1) (c)), a waiver of competition for the procurement of these items is justified because special design or operational requirements require a product available from only one source.

Recommendation: That you waive competition in the procurement of the above described goods and authorize single source negotiated contracts therefor.

Approve: \_\_\_\_\_

Disapprove: \_\_\_\_\_

Date: \_\_\_\_\_

Clearances:

GC/NE: J. Kessler	Date
NE/PD: S. Taubenblatt	Date
NE/DP: B. Langmaid	Date
NE/NENA: J. Phippard	Date
SER/COM/NE: T. Looper	Date
DAA/SER: J. Owens	Date

Drafter: GC/NE: B.Janigian;MAKleinjan:paj:2/9/80:X28826

SAMPLE

ACTION MEMORANDUM FOR THE ACTING ASSISTANT ADMINISTRATOR, NE

FROM: NE/TECH, Lewis P. Reade

Problem: A source/origin waiver is requested under the Central Tunisia Development Project (664-0312) to permit the procurement of four (4) agricultural research items of a combined approximate value of \$100,000 (U.S.) from West German and Austrian manufacturers for the Dryland Farming Systems Research subproject (664-0312.2)

Discussion: Oregon State University (OSU) requires four agricultural research items to carry out its host country contract with the Government of Tunisia (OT). These are two 0jyerd cone-type plot seeders (approximately \$17,000 each), one Ikege-type plot combine (approximately \$25,000) and one Ikege-type plot combine harvester (approximately \$57,000), the specifications for which are described in the OT-OSU contract. Each research item is necessary for the successful implementation of sub Subproject.

Although procurement of these items was anticipated from U.S. manufacturers, solicitations by OSU, including an unsuccessful invitation for bids, disclosed that these items were available only from Austrian and West German sources. AID/W's own inquiries, conducted through SER/COM, revealed a list of U.S. suppliers which manufacture equipment similar, but not identical, to that requested by OSU. OSU's inquiries of these suppliers revealed that the U.S. equipment was not suitable for the conditions of this project in Tunisia.

A waiver in this case is permitted under A.I.D. IBI, Supp. B, 5B4b2, because the commodities are not available from countries included in the authorized geographic code. The authority to waive the source and origin requirements for this procurement was delegated to you to A.I.D. Delegation of Authority 40. The estimated cost of the procurement, \$100,000 (U.S.), does not exceed your authority of \$500,000.

Recommendation: That you find that exclusion of procurement from Free World countries other than the cooperating country and countries included in Code 941 would seriously impede attainment of U.S. foreign policy objectives and objectives of the foreign assistance program, that you waive existing source/origin requirements for this procurement, and that you authorize procurement from Code 899 source and origin.

Approve: \_\_\_\_\_

Disapprove: \_\_\_\_\_

Date: \_\_\_\_\_

Clearances:

GC/NE: J. Kessler	Date
NE/PD: S. Taubenblatt	Date
NE/DP: B. Langmaid	Date
NE/NEA: J. Hippard	Date
SER/COM/NE: T. Looper	Date
DAA/SER: J. Owens	Date

Drafter: GC/NE: BJanigian:MAKleinjan:paj:2/9/80:X28826

**AID WAIVER AUTHORITIES  
HOST COUNTRY CONTRACTS**

WAIVER	HANDBOOK 1B	HANDBOOK 11	HANDBOOK 15
<p><u>ABORTION EQUIPMENT AND SERVICES</u></p> <p>Waiver of policies governing procurement of abortion equipment/ commodities and direct support/promotion of abortion.</p>	<p><u>Sec. 404d</u></p> <p>Waiver only by President under FAA Sec. 614(a)</p>		
<p><u>AGRICULTURAL COMMODITIES -- PRIOR APPROVAL</u></p> <p>Waiver of prior approval in AID/W for procurement of specific agricultural commodities: wheat, rice, corn, soybeans, sorghums, flour, meal, beans, peas, tobacco, hides, cotton, vegetable oils, animal oils, and fats.</p>	<p><u>Sec. 401d(1)</u></p> <p>Project Assist.: AA with program responsibility in consultation w/FFP &amp; GC.</p>		
<p><u>AGRICULTURAL COMMODITIES -- PRIOR APPROVAL RE PARITY</u></p> <p>Waiver of prior approval in AID/W w/respect to parity of agricultural commodity to be procured.</p>	<p><u>Sec. 401d(2)</u></p> <p>Waiver only by President under FAA Sec. 614(a).</p>		
<p><u>ADVANCES</u></p> <p>Waiver to conditions authorizing advance and progress payments.</p>	<p><u>Sec. 15B2, 15B3</u></p> <p>Geographic AA.</p> <p>--except waiver of Treasury Circ. 1075 to be submitted through AID/W controller</p>		
<p><u>ADVERTISING</u></p> <p>Requirement to publicize in the Commerce Business Daily and an AID publication</p> <p>See "Cooperating Country Contracts"</p>			
<p><u>AIR CHARTERS</u></p> <p>Waiver of prior approval (and retroactive approval in appropriate cases) of charter requirements.</p>	<p><u>Sec. 7E4</u></p> <p>Waiver by SER/COM</p>		
<p><u>AIR TRANSPORTATION</u> - Code 941 authorized source but Financing limited to U.S. and Cooperating Country air carriers:</p> <p>waiver of limit to authorize use of air carriers in any Code 941 country.</p>	<p><u>Sec. 7C4</u></p> <p>waiver by AA/SER with appropriate Geographic Bureau.</p>		

AID WAIVER AUTHORITIES  
HOST COUNTRY CONTRACTS

WAIVER	HANDBOOK 1B	HANDBOOK 11	HANDBOOK 15
<p><u>AIR TRANSPORTATION</u> - Code 941 authorized source but financing limited to U.S. and Cooperating Country air carriers:</p> <p>waiver of limit to authorize use of Code 899 air carriers when U.S. Cooperating Country and Code 941 air carriers not available.</p>	<p><u>Sec. 7E4</u></p> <ol style="list-style-type: none"> <li>1. Up to \$250,000-SER/COM w/Geographic Bureau</li> <li>2. \$250-\$500,000-AA/SER w/Geographic Bureau</li> <li>3. Over \$500,000-Administrator</li> </ol>		
<p><u>AIR TRANSPORTATION</u> - Code 000 authorized source for goods and services</p> <p>Waiver to authorize procurement in:</p> <ol style="list-style-type: none"> <li>1. Cooperating Country, when U.S. carriers unavailable, <u>or</u></li> <li>2. Any Code 941 country, <u>or</u></li> <li>3. Any Code 899 country</li> </ol>	<p><u>Sec. 7E4</u></p> <ol style="list-style-type: none"> <li>1. Up to \$250,000-SER/COM w/Geographic Bureau</li> <li>2. \$250-\$500,000-AA/SER w/Geographic Bureau</li> <li>3. Over \$500,000 - Administrator</li> </ol>		
<p><u>CARRIERS</u> - Eligibility of Commodity Determined By Ineligibility of Carrier</p> <p>Waiver of rule prohibiting financing of commodities because of carrier on which commodity shipped.</p>	<p><u>Sec. 4E4(a)</u></p> <p>Project Assist.: Waiver by AA w/program responsibility in consultation w/GC.</p>		
<p><u>CHARTERS (OCEAN AND AIR)</u></p> <p>Waiver of prior approval (and retroactive approval in appropriate cases) of ocean charter requirements.</p>	<p><u>Sec. 7E4</u></p> <p>Waiver by SER/COM</p>		
<p><u>COMMINGLING</u></p> <p>Waiver of comingling rules.</p>	<p><u>Sec. 9D</u></p> <p>AA in consultation w/GC to determine if AID projects assist "bloc projects." Administrator to determine if assisting "bloc" projects" contrary to best interests of United States</p>	<p><u>Chap. 1, Sec. 2.6.5.</u></p> <p>(Prof. Services): Administrator on recommendation of AID Mission and American Embassy.</p> <p><u>Chap. 2, Sec. 2.5.7</u></p> <p>(Const.) Administrator on recommendation of AID Mission and American Embassy</p>	

AID WAIVER AUTHORITIES  
HOST COUNTRY CONTRACTS

WAIVER	HANDBOOK 1B	HANDBOOK 11	HANDBOOK 15
<p><u>COMMODITY ELIGIBILITY LISTING</u></p> <p>Waiver for commodities which cannot be explicitly related under one of the following categories: abortion equipment and services, agricultural commodities, commodities ineligible because of carrier or marine insurance policy, gantling equipment, law enforcement support commodities and services, luxury goods, motor vehicles, pesticides, pharmaceuticals, rubber, cooperating chemicals and plasticizers, used equipment, and weather modification equipment. For these commodities, see specific waiver policy listed in this chart.</p>	<p><u>Sec. 4A1</u></p> <p>AA w/program responsibility</p>		
<p><u>CONTRACTOR'S CERTIFICATE</u></p> <p>Waiver of requirement for contractor's certificate.</p>	<p><u>Sec. 801</u></p> <p>AA/SER with concurrence of GC</p>		
<p><u>COOPERATING COUNTRY CONTRACTS</u></p> <p>Advertising of IFB's and RFP's</p> <p>Waiver of notice of publication of IFB or RFP in Commerce Business Daily</p>	<p><u>Sec. 12C4b</u></p> <p>Regional AA, qualified waiver</p> <p>USAID Directors for contracts less than \$500,000 estimated value, if authority redelegated</p>	<p><u>Chap. 1, Sec. 2.5.3</u></p> <p>Regional AA</p> <p>USAID Directors for contracts less than \$500,000 estimated value, if authority redelegated</p> <p><u>Chap. 2, Sec. 2.4.2</u></p> <p>Regional AA</p> <p><u>Chap. 3, Sec. 2.3.2</u></p> <p>Regional AA</p>	
<p><u>COOPERATING COUNTRY CONTRACTS</u></p> <p>Waiver of competition--negotiation with a single source.</p>	<p><u>Sec. 12C4a</u></p>	<p><u>Professional &amp; Technical Services</u></p> <p>Chap. 1, Sec. 2.4.2</p> <p><u>Construction</u></p> <p>Chap. 2, Sec. 2.3.3</p> <p><u>Equip. &amp; Materials</u></p> <p>Chap. 3, Sec. 2.2.5</p>	
<p><u>DEAD FREIGHT</u></p> <p>Waiver of rule prohibiting financing of transportation costs attributable to dead freight.</p>	<p><u>Sec. 7G4</u></p> <p>SER/COM in consultation with GC</p>		

AID WAIVER AUTHORITIES  
HOST COUNTRY CONTRACTS

WAIVER	HANDBOOK 18	HANDBOOK 11	HANDBOOK 15
<p><u>DELIVERY SERVICES - INLAND TRANSPORTATION - DISPATCH AND DEMURRAGE</u></p> <p>Waiver of rule prohibiting financing delivery costs beyond point of entry and rule against financing demurrage</p>	<p><u>Sec. 714 and 715</u></p> <p>Delegated to Geographic AA's in consultation with SER/COM</p>		
<p><u>FERTILIZER</u></p> <p>Agreement for U.S. source and restriction on shipping from February through May.</p>	<p><u>Sec. 4C8d</u></p> <p>Director SER/COM. Source waiver under Delegation of Auth. 40 may also be required</p>		
<p><u>GAMBLING EQUIPMENT</u></p> <p>No waiver.</p>	<p><u>Sec. 4D5d</u></p> <p>No waiver</p>		
<p><u>GEOGRAPHIC CODES</u></p> <p>See "Source, Origin, and Nationality," this chart.</p>			
<p><u>INCIDENTAL SERVICES</u></p> <p>Waiver of eligibility of incidental services.</p>	<p><u>Sec. 13B4</u></p> <p>Director, SER/COM</p>		
<p><u>INTERMEDIATE CREDIT INSTITUTIONS</u></p> <p>Waiver of policies applicable and <u>peculiar</u> to intermediate credit institutions.</p>	<p><u>Sec. 19D</u></p> <p>Geographic AA</p>		
<p><u>LOCAL COST FINANCING</u></p> <p>Waiver of policies applicable and <u>peculiar</u> to local cost financing.</p>	<p><u>Sec. 18D</u></p> <p>AF, in consultation with GC. Source waiver under Delegation of Authority No. 40 may also be required.</p>		
<p><u>LUXURY GOODS</u></p> <p>Waiver to allow procurement of luxury goods.</p>	<p><u>Sec. 4D5d</u></p> <p>For Project Assistance: Geographic AA.</p>		

AID WAIVER AUTHORITIES  
HOST COUNTRY CONTRACTS

WAIVER	HANDBOOK 1B	HANDBOOK 11	HANDBOOK 15
<p><u>MARINE INSURANCE - PROJECT ASSISTANCE</u></p> <p>Waiver of marine insurance policies.</p>	<p><u>Sec. 1101</u></p> <p>Geographic AA in consultation with GC</p>		
<p><u>MARINE INSURANCE</u></p> <p>Commodity eligibility determined by marine insurance. Waiver of requirement that all commodities be insured in the U.S. when discrimination is found to exist.</p>	<p><u>Sec. 4E4(a)</u></p> <p>Waiver only by President under FAA Section 514(a)</p>		
<p><u>MARKING</u></p> <p>Waiver of requirement that projects and commodities be marked to identify them as U.S. foreign assistance.</p>	<p><u>Sec. 221, 2, 3</u></p> <p>Regional AA or designee in consultation with SER/COM when requirement is impractical. Mission Director when adverse reaction or for goods titled in Mission.</p>	<p>Chap. 1, Sec. 2.12.6 <u>Contractor/Services</u> Regional AA or delegate</p> <p>Chap. 2, Sec. 2.11.6 <u>Construction</u> Regional AA or delegate</p> <p><u>Equipment and Materials</u> Chap. 3, Sec. 2.13.5</p>	
<p><u>MILITARY EQUIPMENT</u></p> <p>AID will not fund any goods or services whose purpose is to meet military requirements.</p>	<p><u>Sec. 4D1d</u></p> <p>No waivers</p>		
<p><u>NATIONALITY OF SUPPLIERS OF SERVICES</u></p> <p>Blank waiver from Codes 000 or 941 to Cooperating Country.</p>	<p><u>Sec. 5C4c(1)(b)</u></p> <p>AA</p>		
<p><u>NATIONALITY OF SUPPLIERS OF SERVICES - Individual</u></p> <p>Waivers</p>	<p><u>Sec. 5C4c(2)</u></p> <p>Administrator, \$500,000 and up AA, up to \$500,000 Mission Directors, up to \$250,000 if AA redelegates</p>	<p><u>Chap. 1, Sec. 2.6.2.3.c&amp;d</u></p> <p>Administrator, in consultation w/GC and SER/CM, \$500,000 and up. AA, in consultation w/GC and SER/CM, up to \$500,000 Mission Directors, up to \$250,000 if AA redelegate</p>	

AID WAIVER AUTHORITIES  
HOST COUNTRY CONTRACTS

WAIVER	HANDBOOK 18	HANDBOOK 11	HANDBOOK 15
<p><u>OCEAN TRANSPORTATION - FLAG ELIGIBILITY</u></p>	<p><u>Sec. 7B4b</u> SER/COM in consultation with Geographic Bureaus. Field officials have waiver authority for shipments for which they have authorized commodity source waiver.</p>		
<p><u>MOTOR VEHICLES</u> Waiver of requirements that motor vehicles eligible for AID financing be manufactured in U.S.</p>	<p><u>Sec. 4C2d</u> IA with program responsibility in consultation with GC and SER/COM and as redelegated under Delegation of Authority No. 40</p>		
<p><u>NATIONALITY OF SUPPLIERS OF COMMODITIES</u> See "Source, Origin, and Nationality," this chart.</p>			
<p><u>NATIONALITY OF SUPPLIERS OF SERVICES - Blanket</u> Waiver from Codes 000 or 941 to Other Codes. Waiver of nationality requirements for suppliers of services.</p>	<p><u>Sec. 5C4c(1)</u> Administrator over \$500,000 IA, up to \$500,000</p>		
<p><u>PESTICIDES</u> Waiver of interim regulations against procurement of pesticides after EPA notice of intent to suspend pesticide use.</p>	<p><u>Sec. 4C4d</u> Administrator (after consultation with EPA)</p>		
<p><u>PHARMACEUTICALS - NON/U.S. SOURCE PROCUREMENT</u></p>	<p><u>Sec. 4C3d</u> Waiver permitted under Sec. 5B4 authority after consultation with Office of Commodity Management</p>		
<p><u>PHARMACEUTICALS - PROCUREMENT FROM CODE 941 COUNTRY</u></p>	<p><u>Sec. 4C3d(2)</u> SER/COM</p>		

AID WAIVER AUTHORITIES  
HOST COUNTRY CONTRACTS

WAIVER	HANDBOOK 1B	HANDBOOK 11	HANDBOOK 15
<u>POLICE AND OTHER LAW ENFORCEMENT ACTIVITIES</u>	Sec. 403d Presidential waiver only under FAA Sec. 614(a)		
<u>POSTPROCUREMENT POLICIES - CLAIMS AGAINST BORROWER/GRANTEE &amp; REFUNDS</u> Waiver of claims against borrower/grantee.	Sec. 24C4(b) Administrator, with advice of GC		
<u>POSTPROCUREMENT POLICIES - REEXPORT OF COMMODITIES</u>	Sec. 24A4b Geographic Bureaus in consultation with AA/SER		
<u>PROPRIETARY PROCUREMENT</u> Waiver of rule regarding nonrestrictive specification.	Sec. 12C4a(?) (c)	Chap. 3, Sec. 2.4.2. Regional AA in consultation with SER/COM	
<u>RUBBER COMPOUNDING CHEMICALS AND PLASTICIZERS</u> Waivers of policies against financing.	Sec. 4C5d Mission Director		
<u>SOURCE, ORIGIN &amp; NATIONALITY</u> Blanket waiver from Codes 000 or 941 to other codes.	Sec. 5B4d(1) (a) Administrator, if over \$500,000 AA, up to \$500,000		For Geographic Codes: Sec. 2A9a Administrator, over \$500,000 AA, up to \$500,000
<u>SOURCE, ORIGIN &amp; NATIONALITY</u> Blanket waiver from Codes 000 or 941 to cooperating country.	Sec. 5B4d(1) (b) and Sec. 5B4d(2) AA		For Geographic Codes: Sec. 2A9a AA
<u>SURVEILLANCE EQUIPMENT</u> Ineligible for AID financing.	No waivers		

AID WAIVER AUTHORITIES  
HOST COUNTRY CONTRACTS

WAIVER	HANDBOOK 19	HANDBOOK 11	HANDBOOK 15
<p><u>SOURCE, ORIGIN &amp; NATIONALITY</u></p> <p>Individual Waivers</p>	<p><u>Sec. 5049(2) and 5049a</u>                      Administrator, \$500,000 and up                      AA, up to \$500,000                      Mission Director, up to \$250,000 if AA redelegates</p>	<p>For Nationality of Comm. Suppliers:  <u>Chap. 1, Sec. 2.5.2.3(c) and Chap. 2, Sec. 2.5.2.4 (d)</u>                      Administrator, \$500,000 and up                      AA, up to \$500,000                      Mission Director, up to \$250,000 if authority redelegated</p>	<p>For Geographic Codes.  <u>Sec. 2A9b</u>                      Administrator, \$500,000 and up                      AA, up to \$500,000                      Mission Director, up to \$250,000 if authority redelegated</p>
<p><u>SUPPLIERS' AND CONTRACTORS' CERTIFICATES</u></p> <p>Waiver of requirement for suppliers' or contractors' certificates.</p>	<p><u>Sec. 8D7</u>                      AA/SLR with concurrence of GC</p>		
<p><u>USED EQUIPMENT</u></p> <p>Waiver of special conditions applicable to procurement of used equipment.</p>	<p><u>Sec. 406d(2)</u>                      AA in consultation with SER/COM</p>		
<p><u>WEATHER MODIFICATION EQUIPMENT</u></p> <p>Waiver of policy against providing assistance for weather modification.</p>	<p><u>Sec. 406d</u>                      Administrator</p>		

APPENDIX F  
METHODS OF PAYMENT AND DOCUMENTATION

## APPENDIX F

METHODS OF PAYMENT AND DOCUMENTATION

The Mission controller has primary responsibility for all matters relating to financial arrangements and methods of payment, including procedures, forms, and other documentation. The Project Officer should consult with the controller on all questions or issues relating to such matters.

Advance payments may be authorized under large contracts for custom-made, especially fabricated equipment and large construction contracts (mobilization costs) subject to certain conditions set forth in paragraph IID(4)(b) of State cable 273219 of October 1973. A copy of the latter document is attached as Appendix F-(i) hereto. The Project Officer should be aware that no other cash advances from AID are permitted under host country contracts. AID's ability to authorize cash advances under host country contracts is currently under review.

In conjunction with the Mission controller, the Project Officer should discuss with the contracting parties which of the three authorized methods of payment is to be specified in the contract: direct reimbursement by AID to the host government; direct letter of commitment from AID to the contractor; or letter of commitment from AID to a United States banking establishment.

Where feasible AID prefers that the direct method of reimbursement be used. Under the direct reimbursement method, the host government pays the contractor, and submits the required documentation supporting the payment to the Mission, which, if all is in order, reimburses the host government. The Project Officer's administrative approval is required for all payments made under this method. For this method to be used without causing the contractor inconvenience and complaints, the host government must maintain efficient, smooth functioning documentation review and payment procedures. Whether the Project Officer can recommend this payment procedure will depend upon his assessment of the contracting and administrative capability of the host government, which was referred to in Chapter IIC of this Guidebook.

**Note: Unless otherwise noted, all Chapter references cited herein pertain to Handbook II.**

Where the direct reimbursement procedure is not feasible, use of the direct letter of commitment from AID to contractors is preferred to the bank letter of commitment, except where project implementation will produce a profusion of invoices for small amounts, thereby creating for AID an administrative burden whose cost would exceed charges by a bank for similar transactions.

AID Missions are authorized to issue direct letters of commitment to contractors in accordance with State cable 286424 of November, 1979, which is attached hereto as Appendix F-(ii). AID/W may also issue direct letters of commitment. By means of such an instrument the Mission can assure the contractor of prompt payment upon the submission to the Mission of the required documentation. The host government is required to review and approve the documentation before it is transmitted to AID. The contract should allow the paying agency of the host government a specified number of days in which to approve or reject the documentation. If no action is taken within the prescribed time period, the contractor should be authorized to submit his documentation directly to the Mission, which should be authorized by the host government to make payment. Payments made under a direct letter of commitment also require the administrative approval of the Project Officer, except for equipment and materials. (Please see State cable 286425 of November, 1979, which is attached hereto as Appendix F-(iii).)

Where neither the direct method of reimbursement nor a direct letter of commitment to the contractor appears feasible, then an AID letter of commitment to a United States banking establishment may be used. An AID letter of commitment to a bank may be issued only by AID/W. This procedure permits the bank to issue or confirm a bank letter of credit payable to the contractor, pursuant to which the contractor may obtain reimbursement through commercial banking channels, after presenting the required documentation. Included in the documentation are the contractor's invoices which have been reviewed and approved by the host government. The administrative approval of the Project Officer is not required for payments effected under a bank letter of commitment. Additional details with regard to the methods of payment will be found in Chapter 1, 3.6; Chapter 2, 3.6.4; and Chapter 3, 3.10.

Documentation requirements vary somewhat, according to the kind of contract. For professional and technical services contracts there are required a Voucher, Contractor's Invoice, Contractor's Certificate and Agreement, Borrower/Grantee's Certification for Reimbursement, Certification of Performance for Payments Other Than Final, Certificate of Performance for Final Payment, and additional documentation for termination of claims. (Chapter 1, 3.6.5)

Contracts for construction services and for the procurement of equipment and materials require all of the above documentation, plus evidence of shipment of any equipment, materials or commodities during the period covered by the request for payment. (Chapter 2, 3.6.4.2 and Chapter 3, 3.10.3)

Additional documentation of particular interest to the Project Officer is his administrative approval which is required for each payment, under a contract for professional or technical services or for construction services, made pursuant to direct reimbursement to the borrower/grantee or pursuant to a direct letter of commitment to the Contractor. As noted above, the Project Officer's administrative approval is not required for payments made pursuant to an AID letter of commitment to a banking establishment, nor is it required in connection with payments made under contracts for the procurement of equipment and materials. (Chapter 1, 3.6.5.8 and Chapter 2, 3.6.4.2i) Please see also State cable 286425 which is attached hereto as Appendix F-(iii).

STATE OF OHIO  
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AA/LAC:E COY (DRAFT)  
AA/AFR:G BUTCHER (DRAFT)  
AG:H BECKINGTON (DRAFT)  
AA/POC:K FLANNERY (PHONE)  
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GC:C COSTELLO (PHONE)  
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TAGS:  
SUBJECT: CASH MANAGEMENT PROCEDURES

REF: (A) STATE 139036; (B) AIDTO CIRC  
A-125

1. Introduction

This message provides procedures for implementation of AID's cash management policy guidelines which were approved by the deputy administrator on November 21, 1978. The procedures conform to treasury fiscal requirements (TFM

5-8000) published March 21, 1979 and attached to Ref. 3. These procedures are effective immediately and are generally applicable to all AID-financed activities except as explained in the text of the procedures. Handbooks will be revised to incorporate these requirements. Cash management procedures are described below, but certain obvious and self-explanatory provisions of the term have not been repeated. TFRM 5-8000 was revised on May 7, 1979 to include a provision requiring interest charges for past due payments not covered by contracts, agreements or other formal arrangements. This additional treasury requirement is included under Section II A (1) below. A copy of the TFRM as amended will be mailed to all posts.

II. Procedures

A. Billings and Collections

(1) Timeliness, Charges for Late Payments and Volume and Character of Collections -- The TFRM sections 6029.10, 20, 30 are substantially self explanatory. Bills for collection must be issued to individuals and organizations at the earliest possible date by which amounts due aid can be identified, approved and properly charged. Past due receivables will be given vigorous attention in accordance with H.S. 18, Chapter 7.

In accordance with Section 8020.20 8, initial bills for collection for amounts due AID, not covered by contracts, agreements or other formal payment arrangements, will inform the debtor of the basis for the indebtedness, the date by which payment is to be made (due date), and the requirement concerning additional charges for payments received after the due date. Charges for late payments will be at the rate of 3/4 of 1 percent (.0075) of the overdue payment for each 10-day period or portion thereof that the payment is delayed. AID has determined that the

administrative cost of enforcing the collection of late charges exceeds the amount of such charges when the late charge amount is less than 25 dollars. Therefore, all bills for collection will inform the debtor that additional charges must be added to late payments, however, no action will be taken by AID to collect late charges assessed under the provisions of section 8020.20 A and 3 when the amount of such charges is less than 25 dollars.

(2) Use of Treasury Financial Communications System (TFCS). AID borrowers make interest and principal payments by (1) check mailed directly to the AID cashier in Washington; (2) electronic funds transfer (EFT), or (3) check mailed to the federal reserve bank of New York (FRB). The EFT payments are processed through the treasury financial communications system (TFCS). The use of EFT eliminates the quote float unquote (delayed credit) inherent in bank processing of checks and results in immediate fund availability to the treasury. Posts and AID officials responsible for debt service collections should urge borrowers now paying by check to convert to EFT wherever feasible.

#### B. Deposits

Officers responsible for depositing receipts shall assure that all receipts are deposited promptly in accordance with provisions of TFRM Section 8030. As noted in Section 8030.20, deposits should not be delayed pending processing of related documents.

#### C. Disbursements

(1) Timeliness of Disbursements. Section 8040.20 establishes the acceptable method for determining payment due dates. Payment due dates for commodity shipments are frequently established by commercial practice so that, for example, payments may be due a supplier on presentation of ocean bills of lading

rather than on arrival of goods at the foreign destination. FM will establish internal administrative procedures to schedule payments as closely as possible to due dates. USAIDs will also develop procedures to assure that payments approximately coincide with due dates.

(2) Cash Discounts. In many instances it is impractical for AID to take advantage of cash discounts offered by suppliers; e.g., when U.S. supplier invoices are processed for payment by USAIDs through USDOs at regional finance centers. In other instances it should be practical to take discounts through prompt processing of invoices. Accordingly, FM internal administrative procedures for scheduling payments will incorporate procedures which will automatically take advantage of cash discounts as a matter of routine when the discount rate is equivalent to or greater than 1/10/MET 30. USAIDs should examine existing payment procedures to assure that any discounts offered by suppliers are taken whenever possible.

(3) Late Payments. Government obligations must be paid in a timely manner. FM will establish procedures to identify late payments processed by AID/W. USAIDs should develop procedures to assure timely payments and to identify late payment exceptions. Late payments will be reported to AID/W (FM) on request. Section 8040.50 satisfactorily identifies late payments within the treasury definition.

(4) Methods of Financing. AID use of the federal reserve letter of credit procedure is described in the following quote cash advance unquote section of this message. Other common AID methods of financing include: (1) direct reimbursements to borrowers and grantees, (2) direct letters of commitment to suppliers and subcontractors, (3) letters of commitment to U.S. banks, and (4) direct payments by AID pursuant to

the terms of AID direct contracts, purchase orders or grant agreements. Use of these methods may be briefly summarized as follows:

**Direct reimbursements:** AID reimburses the borrower/grantee for payments made. This method of financing gives AID an opportunity for full review of the transaction before AID funds are disbursed.

**Direct letter of commitment:** AID issues direct letters of commitment to suppliers and contractors and makes payments directly to them on receipt of invoices and supporting documentation. The direct letter of commitment method permits AID to review documents before making payments and avoids bank charges incurred through use of bank letters of commitment.

**Bank letters of commitment:** The bank letter of commitment method utilizes established commercial banking channels to process payments to suppliers and contractors. The bank L/COMM method of financing can be used for all dollar procurement of equipment, materials and services under project assistance and is the usual method under commodity import programs, except in the case of large volume purchases from a single supplier.

**Direct payments:** Contracts, purchase orders and grant agreements may include language which provides for direct payments by AID without additional commitment documents.

Careful consideration should be given to the selection of the method of financing covering any given procurement action. The direct letter of commitment method is particularly appropriate and generally preferable to bank letters of commitment for borrower/grantee service type of contracts, high bulk commodity shipments

and for any type of transactions when it is necessary or advisable for AID to review documentation before making payments. AID can frequently assume a limited additional administrative burden through performing the banking function and in return, substantially reduce banking charges otherwise absorbed as project costs. Conversely, bank letters of commitment should be used if project implementation will produce a profusion of invoices for small amounts. In the latter instance it may be assumed that the cost to AID of assuming the added administrative burden would exceed the related banking charges.

#### D. Cash Advances

(i) General -- Treasury regulations state that quote it is the responsibility of agencies to monitor the cash management practices of their recipient organizations to ensure that federal cash is not maintained by them in excess of immediate disbursing needs, unquote. AID policy favors payment to AID-financed recipients on the basis of goods delivered for services performed or to cover costs already incurred by the recipient. An exception to this policy is made for non-profit organizations and host country governmental institutions, which are normally funded on an advance of funds basis. Treasury regulations specify that quote agencies will establish such systems and procedures as may be necessary to assure that balances are maintained commensurate with immediate disbursing needs, excess balances are promptly returned to the treasury, and, except where contrary to law, interest earned on federal funds by recipient organizations is promptly paid over to the treasury unquote. Treasury has agreed that certain quote mobilization advances unquote may be made to Host Country contractors without regard to the quote immediate disbursing needs

unquote concept when certain conditions prevail. AID procedures concerning advances are described below.

(2) Definitions of quote Advances unquote and quote Immediate Disbursing Needs unquote. Advances may be generally defined as payments made before delivery of goods and services. Progress payments made upon completion of work are not advances unless made in anticipation of future costs to be incurred by the recipient. If there is doubt in specific cases whether payments envisaged in IFBs or, in negotiated contracting, in a contractor's proposal are to be viewed as advances or progress payments, the office of financial management in AID/W should be consulted. The term quote immediate disbursing needs unquote when applied to FRLCs has been determined by treasury to be cash requirements for three days. Treasury tests compliance with this limitation by requiring agencies to obtain a report of daily cash balances from recipients of FRLCs for a test month selected by treasury.

AID has been advised that the term quote immediate disbursing needs unquote, when applied to other methods of financing may be assumed to be cash requirements for as much as 30 days from the date the recipient receives the advance until it is expended. When successive advances are made, it may be necessary to provide an initial advance of somewhat more than 30 days to permit timely processing and disbursement of successive monthly payments. The period of the issuance may extend for as long as 90 days in unusual instances when the AID mission or office has established that project implementation will be interrupted or impeded by applying the ten day guideline. AID expects that judgment will

be applied by USAID controllers, contracting officers and others in determining the immediate disbursing needs of specific recipients.

(3) Advances to Non-profit Organizations. Treasury regulations require that when AID has, or expects to have, a continuing relationship with a recipient organization for at least one year, involving annual payments aggregating at least 100,000 dollars, the agency shall use the federal reserve letter of credit (FRLC) method.

The use of FRLC must be covered by a clause in the grant, contract or other financing agreement whereby the recipient organization commits itself to (a) initiating cash drawdowns only when actually needed for its disbursements, (b) timely reporting of cash disbursements and balances as required by AID and (c) the imposition of the same standards of timing and amount upon any secondary recipient organizations. AID typically utilizes the FRLC procedure for payments to grant financed, non-profit organizations, but may also use the procedure for payments to profit-making organizations when all of the advance payment limitation requirements have been met as described in this message. AID does not repeat not use the FRLC procedure under loan agreements.

Treasury has informed AID that the FRLC method of payment should not be used for local cost financing. Therefore, FRLCs will be used only for the U.S. dollar costs of projects and programs, and only the dollar portion of project and program costs should be used in determining whether grantees and contractors qualify for and are issued FRLCs. Local cost financing should be provided by direct, periodic local currency disbursements. Local currency advances should be limited to

the minimum amount needed and timed to meet the immediate cash disbursement requirements of the recipient in carrying out the purposes of the approved project or program.

AID does not favor concurrent use of FRLCs and direct periodic local currency disbursements when individual grants entail mixed (dollar/local currency) financing. When such financing is provided, AID's preference is to make direct disbursements in dollars and local currency.

Advances may be made in accordance with plans submitted to AID by the recipient organization. Such plans should demonstrate to AID's satisfaction that funds transferred to the organization will be promptly disbursed for approved project or program costs. The plans should be subject to periodic review and modification, and the organization should report regularly on the timeliness and propriety of fund utilization. Treasury approval of the direct periodic disbursement method for dollar costs of contracts and grants which include financing of dollar and local costs will be requested when AID's cash management procedures are submitted to treasury for review and comment.

Because of the diversity of AID programs and projects, it is not possible to anticipate all requirements for advance payments to non-profit and international organizations and to describe appropriate variations in providing advances. FM will provide additional guidance for projects and programs which appear to require advance payment procedures substantially different than those described in this message.

Advances to governments, assistance provided through special program grants to recipient governments may occasionally require advances for purposes other than quote immediate

disbursement needs unquote; e.g., programs for budget support. When the purpose of such a program is tied to and met by the advance disbursement of funds, a determination may be made that the program purpose precludes identification of immediate disbursement needs. Program planning documents should clearly establish the justification for providing such advances.

Advances for purposes other than immediate disbursing needs may also be made to governments under the modified fixed amount reimbursement procedure when it has been determined that such advances provide an essential incentive to achieve acceptance of the procedure. Mission controllers, project officers and others should exercise prudent judgment in determining the amount, frequency and duration of far advances.

#### (4) Advances To Profit-making Organizations.

(a) AID direct contracts. AID policy, as set out in Chapter 15, H.B. 1 Supplement B, states that with respect to direct AID contracts, quote advance payments to profit-making organizations should be authorized only if no other means of adequate financing is available to the contractor unquote. AID expects that profit-making organizations will finance direct AID contracts with their own resources, or arrange to obtain appropriate financing through commercial channels. AID recognizes that it is occasionally necessary to provide mobilization and other advances in order to avoid restricting competition especially on contracts with small business concerns. Advances under direct AID contracts to policymaking organizations must be authorized by AA/SER.

(b) Host country contracts. AID policy has been somewhat less restrictive with

respect to host country (borrower/grantee) contracts. Again, citing H.B. 1, Sup. B, the policy has been that quote advance or progress payments may be agreed upon under Host Country contracts when such payments are necessary for delivery or performance. The necessity for advance or progress payments most often arises under large contracts for custom-made, specially fabricated equipment, and large construction contracts (mobilization costs) where the supplier or contractor is required to make large cash outlays (perhaps exceeding available cash) for equipment, materials, or personnel in advance of performance or delivery unquote. AID currently provides major mobilization advances to U.S. and Code 941 Host Country contractors. Such mobilization advances are based on commercial practice. AID considers that such mobilization advances are advantageous in that they (1) avoid restricting competition and (2) reduce contract costs. AID normally prefers to provide mobilization advances in single, lump sum payments as opposed to incremental payments because (1) contractors need an inducement to compensate for the risks of entering into agreements with the governments of less developed countries, (2) small business competitors are gravely concerned about the risk of payment delays, and (3) incremental payments may constitute a departure from commercial practice. The treasury department has agreed that although incremental advances are desirable for purposes of cash management, lump sum mobilization advances may be provided to so long as (1) there is true competition in the bidding process and (2) the U.S. government (AID) obtains the advantage of reduced contract costs as a consequence of providing the advance. AID officials who approve Host Country IFB's and contracts must consider the reasonableness of proposed mobilization advances and determine that (1) a mobilization advance in the amount proposed is necessary to avoid restricting competition

and (2) it may be reasonably assumed that a compensating financial benefit will accrue to AID and the host government as a consequence of providing the advance.

(5) Contractual Arrangements. In accordance with Section 8030.20, all direct contractual arrangements with advance payment recipient organizations will provide that advance payments will be made only at times and in amounts necessary to meet immediate disbursing needs. In order to qualify for advances, organizations must submit plans for the use and timing of advances. Recipient organizations will be required to report regularly on the use of advances and will demonstrate through such reporting that balances of advances are maintained in amounts commensurate with immediate disbursing needs, that excess balances are promptly returned to AID and that interest earned on advances of AID funds has been remitted to AID.

E. Cash Held Outside Treasury. This section (8050) is self-explanatory. Note that fund balances are to be maintained in limited amounts governed by the quote immediate disbursement needs concept.

F. Foreign Currency. Section 8070 of the IFRM is generally self-explanatory. Note that the same cash management policies applicable to dollar disbursements are also applicable to foreign currency disbursements.

In accordance with Section 8070.80, every effort will be made to include in contracts a requirement that obligations will be made payable in foreign currency of excess and near-excess countries to the extent that the contractor may be expected to require such currency for necessary expenses in the country involved. In applying this requirement, AID will consider requests for omission of certain categories of

local costs from the requirements of this section when contractors justify payment of such costs in excess currencies as administratively impractical, or when AID determines at the time a project is approved that use of excess or near-excess currencies is not consistent with the objectives to be achieved.

G. Contract Amendments. Section 8080.20 of the TFRM requires that quote provisions of existing contracts and other formal agreements not in compliance with the regulations on the date of release, which contracts are subject to renegotiation and amendment, will be amended upon the next renegotiation of such arrangements unquote. Accordingly, contracting officers and others who approve contracts and other agreements will consider and when practical introduce these cash management provisions when existing contracts and agreements are next amended.

H. Reporting. A separate message will identify the specific reporting requirements necessary to monitor these

cash management procedures in compliance with Sections 8080.30 and .40.

I. Audit. The AID Auditor General will test agency systems and procedures as deemed necessary and assess compliance with treasury regulations and these cash management procedures. Audit reports which include findings and recommendations relating to the subject of cash management will be provided to treasury upon request, in accordance with Section 8080.40.

### III. Applicability

Cash management. AID policy guidelines and the procedures described in this message are applicable to U.S. dollars and foreign currencies available to or held by or for the credit of AID to finance programs, operations and activities, regardless of how implemented, except where precluded by law or waived by the Administrator, the Deputy Administrator or the AID Controller.

Guatemala for USAID and ROCAP  
Karachi for AAG and IIS  
Nairobi for USAID and REDSO/EA Vance

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APPENDIX F-(ii)

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ORIGIN AID-35

INFO OCT-03 /035 R

DRAFTED BY FM/BFD: J O'NEIL  
APPROVED BY FM: M D STAFFORD  
FM: T MCMAHON (DRAFT)  
GC: L A GRANT (DRAFT)  
FM: J FINN (DRAFT)  
FM: W MCKEEL (DRAFT)  
SER/MP: F ALLEN (PHONE)

DESIRED DISTRIBUTION

1M ACTION FM INFO CHRON 6 AAF AFSA AFFW AFHN AALA LACA LACE  
LADP AANE NEDP NETC NENA GC GCAP GCAS GOLA GCFL GCNE MP 42P  
-----099485 023623Z /34

P 020207Z NOV 79  
FM SECSTATE WASHDC  
TO AID PRIN POSTSV PRIORITY

UNCLAS STATE 286424

AIDAC OR USAID CONTROLLERS FROM STAFFORD

E. O. 11652: N/A  
GUATEMALA FOR USAID AND ROCAF KARACHI FOR AAG AND IIS  
TAGS:

SUBJECT: DIRECT LETTERS OF COMMITMENT - REDELEGATION OF  
AUTHORITY

NAIPOBI FOR USAID AND REDSO/EA

1. HERETOFORE THE CONTROLLER'S AUTHORITY TO ISSUE AND SIGN  
BANK AND DIRECT LETTERS OF COMMITMENT HAS BEEN REDELEGATED  
TO OFFICERS OF FM/BFD IN AID/W. THE AID CONTROLLER, AS OF  
DECEMBER 1, 1979, HEREBY REDELEGATES AUTHORITY TO ALL USAID  
CONTROLLERS TO ISSUE AND SIGN DIRECT LETTERS OF COMMITMENT  
TO SUPPLIERS AND CONTRACTORS PROVIDED THAT SUCH LETTERS OF  
COMMITMENT SPECIFICALLY DESIGNATE THE ISSUING USAID AS THE  
PAYING OFFICE. THIS REDELEGATION OF AUTHORITY WILL NOT  
ALTER THE EXISTING REDELEGATION TO OFFICERS OF FM/BFD TO  
ISSUE AND SIGN BANK AND DIRECT LETTERS OF COMMITMENT.

2. WE ARE IN THE PROCESS OF PREPARING A PACKAGE CONSISTING  
OF CLARIFICATIONS, GUIDELINES, ALTERNATIVE PAYMENT PROCES-  
DURES, ETC., WHICH WILL BE DISTRIBUTED AND DISCUSSED IN  
DETAIL AT THE FORTHCOMING REGIONAL CONTROLLER SEMINARS.

3. HANDBOOK 5 WILL BE REVISED TO REFLECT THIS REDELEGATION.  
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ORIGIN 212-13

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STATE 135425

INFO OCT-27 1978

DRAFTED BY: EM. THOMAS (HE) (LUSTIG) (M)

APPROVED BY: FORD D. STAFFORD

ASIA/D BRENNAN (DRAFT)

LAC/D BROWN (DRAFT)

APP/D LITVIG (DRAFT)

SER/D OWENS (DRAFT)

PRO/D KENEVICK (DRAFT)

AG/D BENNETT (DRAFT)

OC/D B VERET (DRAFT)

DER/MP/FALLEN (PHONE)

DESIRED DISTRIBUTION

IN ACTION FM INFO CHRON AA AF AFSA AFVA AFVV AFDP AFHM AAAS ASPT ASPM

AALA LACA LACE LACO LADP LANE NEOP NYC NNA PP PPOR PPPS AG/GC

SOAF SOAD SOLA SOPL SORE SP AGW EQ DER SPP

-----100582 310122 /34

P 00202Z NOV 78

FM DECFATE WASHDC

TO AID PRIM POSTOV PRIORITY

USMISSION GENEVA

AMEMBASSY LAGOS

AMEMBASSY PARIS

AMEMBASSY ROME

UNCLAS STATE 135425

AIDAC GUATEMALA FOR USAID AND ROCAF KARACHI FOR AAG AND IIS

E.O. 11652: N/A

NAIROBI FOR USAID AND REDCOVEA, PARIS FOR UNESCO AND USOECO

ROME ALSO FOR AID OFFICE FRIULI

SUBJECT: ADMINISTRATIVE APPROVAL OF VOUCHERS UNDER HOST  
COUNTRY CONTRACTS

REF: HANDBOOK 13, CHAPTER 3, REVISED MAY 11, 1978

1. PROJECT OFFICER. THE PROJECT OFFICER, AS THAT TITLE IS USED IN THIS MESSAGE, IS THAT MEMBER OF THE MISSION STAFF WHO IS CHARGED WITH THE MONITORING OF A PROJECT. MONITORING OF PROJECTS INCLUDING DIFFERENT ELEMENTS (E.G. ADVISORY SERVICES, TRAINING AND CONSTRUCTION OF PHYSICAL FACILITIES) MAY BE DIVIDED AMONG SEVERAL OFFICERS HAVING DIFFERENT TECHNICAL BACKGROUNDS. ONLY ONE OF THEM, HOWEVER, IS CHARGED WITH THE OVERALL MONITORING OF PROJECT IMPLEMENTATION AND IS DESIGNATED AS PROJECT OFFICER. FOR THE PURPOSE OF APPROVING VOUCHERS THE PROJECT OFFICER MAY RELY ON OTHER OFFICERS HAVING PARTIAL RESPONSIBILITIES FOR PROJECT MONITORING FOR INFORMATION AND ADVICE. NOTE: MISSIONS WHICH USE THE TERM PROJECT MANAGER TO DESIGNATE THE USAID OFFICER RESPONSIBLE FOR PROJECT IMPLEMENTATION SHOULD SUBSTITUTE THAT TERM FOR PROJECT OFFICER IN THIS MESSAGE.)

2. PROJECT MONITORING. IN MONITORING PROJECTS, PROJECT OFFICERS USE PERIODICAL REPORTS PREPARED BY CONTRACTORS,

HOST COUNTRY REPORTS, SITE VISITS AND CONFERENCES WITH THE HOST COUNTRY'S IMPLEMENTING AGENCY OR AGENCIES AND CONTRACTORS AS SOURCES OF INFORMATION ON THE STATUS OF PROJECTS AND ON IMPLEMENTATION PROBLEMS AND AS A BASIS FOR THEIR EFFORTS TO ASSIST IN THE RESOLUTION OF SUCH PROBLEMS. IN CARRYING OUT THOSE MONITORING TASKS, THEY BECOME FAMILIAR WITH AT LEAST THE KEY MEMBERS OF THE STAFF OR, WHERE SMALL CONTRACTOR TEAMS ARE INVOLVED, WITH ALL TEAM MEMBERS, AND WITH THE WORK BEING PERFORMED BY THE CONTRACTOR. THAT WORK MAY INCLUDE ONLY ADVISORY SERVICES, OR IN ADDITION, THE PROVISION OF COMMODITIES NEEDED FOR THE PROJECT, ON-

THE JOB TRAINING OR OTHER SERVICES; IT MAY ALSO CONSIST OF STUDIES, CONSTRUCTION SUPERVISION OR MANAGEMENT, OR OTHER ENGINEERING SERVICES, OR CONSTRUCTION SERVICES USUALLY INCLUDING THE PROVISION OF CONSTRUCTION MATERIALS, OR INSTALLATION SERVICES OR A COMBINATION OF TWO OR MORE OF SUCH SERVICES. THE WORK MAY ALSO CONSIST OF THE SUPPLY OF EQUIPMENT OR MATERIALS NEEDED FOR A PROJECT, EITHER EXCLUSIVELY OR COMBINED WITH INCIDENTAL SERVICES, SUCH AS ERECTION SUPERVISION. DEPENDING ON THE TYPE OF WORK TO BE PERFORMED UNDER A CONTRACT AND ON THE SIZE OF THE PROJECT, A PROJECT OFFICER MAY HAVE A FAIRLY DETAILED KNOWLEDGE OF THE SERVICES BEING RENDERED OR THE GOODS SUPPLIED; IN OTHER CASES, PARTICULARLY WHERE NUMEROUS CONTRACTS ARE NEEDED TO IMPLEMENT A PROJECT, THE PROJECT OFFICER MAY DEVOTE HIS MONITORING TIME PRIMARILY TO PROBLEM AREAS AND PAY LESS ATTENTION TO CONTRACTS THAT ARE BEING CARRIED OUT ROUTINELY AND WITHOUT CAUSING NOTICEABLE PROBLEMS.

3. PRINCIPLES GOVERNING ADMINISTRATIVE APPROVAL OF VOUCHERS. THE ESTABLISHMENT OF A REQUIREMENT FOR THE ADMINISTRATIVE APPROVAL OF VOUCHERS UNDER COUNTRY CONTRACTING PROCEDURES IN 1977 WAS PREDICATED ON THE FACT THAT A PROJECT OFFICER IN THE FIELD IS MORE FAMILIAR WITH THE PROJECTS ASSIGNED TO HIM, AND WITH THE WORK BEING PERFORMED BY CONTRACTORS IN THE IMPLEMENTATION OF SUCH PROJECTS, THAN ANY OTHER PERSON IN AID. IT WAS INTENDED TO MAKE USE OF THAT FAMILIARITY WITH PROJECTS TO PREVENT ERRORS IN MAKING PAYMENTS TO CONTRACTORS WITHOUT, AT THE SAME TIME, IMPOSING ON PROJECT OFFICERS A SUBSTANTIAL ADDITIONAL WORKLOAD OR CREATING A NEW COMPONENT OF A PROJECT OFFICER'S SCOPE OF WORK. THESE CONCEPTS ARE REFLECTED IN THE REFERENCE TO QUOTE MY PERSONAL KNOWLEDGE OF THE PROJECT UNQUOTE IN THE PROJECT OFFICER'S APPROVAL STATEMENT. AN ELABORATION OF THESE PRINCIPLES IS CONTAINED IN THE FOLLOWING PARAGRAPHS.

4. VOUCHERS EXEMPTED FROM REQUIREMENT OF ADMINISTRATIVE APPROVAL. IN ADDITION TO VOUCHERS SUBMITTED FOR PAYMENT

UNDER BANK LETTERS OF COMMITMENT, EXEMPTED FROM THE REQUIREMENT OF ADMINISTRATIVE APPROVAL IN MARCH 1977, CERTAIN VOUCHERS SUBMITTED UNDER DIRECT LETTERS OF COMMITMENT ARE NOW ALSO EXEMPTED, I.E. VOUCHERS RELATING TO THE SUPPLY OF GOODS, I.E. PROJECT COMMODITIES SUPPLIED BY SERVICE CONTRACTORS AND EQUIPMENT AND MATERIALS PURCHASED BY HOST COUNTRY AGENCIES FOR THE IMPLEMENTATION OF PROJECTS, IF THE CONTRACTS UNDER WHICH SUCH GOODS ARE SUPPLIED PROVIDE FOR PAYMENT AGAINST INVOICES AND SHIPPING DOCUMENTS THAT EXEMPTION IS MADE BECAUSE THE FIELD PROJECT OFFICER HAS NO INDEPENDENT KNOWLEDGE OF THE CONTRACTOR'S PERFORMANCE IN SHIPPING THE INVOICED COMMODITIES AND THEREFORE COULD NOT BASE HIS ADMINISTRATIVE APPROVAL OF THE VOUCHER ON QUOTE PERSONAL KNOWLEDGE OF THE PROJECT UNQUOTE; MOREOVER, THE SHIPPING DOCUMENTS, TOGETHER WITH THE CONTRACTOR'S CERTIFICATION, DOCUMENT THE FACT THAT THE CONTRACTOR HAS PERFORMED IN ACCORDANCE WITH THE CONTRACT. (SHORTAGES, BREAKAGE, NON-COMPLIANCE WITH SPECIFICATIONS AND ANY OTHER SHORTCOMINGS IN CARRYING OUT THE TERMS OF THE CONTRACT ARE HANDLED IN THE USUAL MANNER BY CLAIMS AGAINST THE CONTRACTOR OR INSURER; SUCH SHORTCOMINGS COULD NOT BE DISCOVERED BY A PROJECT OFFICER AT THE TIME PAYMENT IS DUE BUT ONLY AFTER ARRIVAL OF THE GOODS AT THE SITE AND INSPECTION).

5. BASIS FOR PROJECT OFFICER'S ADMINISTRATIVE APPROVAL; (A) THE PRINCIPLES UNDERLYING THE REQUIREMENT FOR ADMINISTRATIVE APPROVAL ARE SET FORTH IN PARAGRAPH 3, ABOVE; FOR THE PURPOSE OF CLARIFYING THOSE PRINCIPLES, A NUMBER OF SPECIFIC TYPES OF CONTRACTS ARE DISCUSSED BELOW.

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(B) SERVICES UNDER COST REIMBURSABLE CONTRACTS.  
(1) COSTS OF FIELD SERVICES. THE MAJOR COSTS UNDER THIS HEADING ARE SALARIES AND OTHER COMPENSATION PAID TO THE CONTRACTOR'S EMPLOYEES IN THE FIELD; THE PROJECT OFFICER IS EXPECTED TO VERIFY ONLY THE NUMBER AND CLASSIFICATION OF THE EMPLOYEES FOR WHOM SALARIES ARE BILLED AND TO CONFIRM THAT THE BILLING IS CONSISTENT WITH THE FACTS AS HE KNOWS THEM FROM PERSONAL OBSERVATION OR FROM REPORTS. NO SPECIAL EFFORT NEED BE MADE TO VERIFY THE ACCURACY OF THE BILLING BY INSPECTING THE CONTRACTOR'S TIME RECORDS OR MAKING OTHER INQUIRIES. NOR IS IT EXPECTED THAT THE PROJECT OFFICER CHECK THE BILLING FOR CONSISTENCY WITH THE CONTRACT OR FOR ARITHMETICAL ACCURACY. A REVIEW OF OTHER ITEMS OF FIELD COSTS BILLED, SUCH AS TRAVEL, COMMUNICATIONS, OFFICE EXPENSES AND SIMILAR MISCELLANEOUS COSTS, DO NOT REQUIRE A DETAILED REVIEW BY THE PROJECT OFFICER SINCE, IN MOST INSTANCES, HE WILL NOT HAVE ANY PERSONAL KNOWLEDGE OF THE JUSTIFICATION OF SUCH CHARGES. ANY

OBVIOUS DISCREPANCIES BETWEEN THE BILLING AND FACTS KNOWN TO THE PROJECT OFFICER SHOULD, HOWEVER, BE NOTED. (SEE PARAGRAPH 3, BELOW ON DISALLOWANCES.)

(II) HOME OFFICE COSTS. THE PROJECT OFFICER WILL, IN MOST CASES, BE UNABLE TO JUDGE THE JUSTIFICATION OF CHARGES FOR HOME OFFICE COSTS SINCE HIS MONITORING COVERS PRINCIPALLY FIELD ACTIVITIES. HE IS THEREFORE NOT EXPECTED TO ATTEMPT A DETAILED VERIFICATION OF SUCH CHARGES; HE IS EXPECTED TO NOTE ONLY SUCH DISCREPANCIES AS HE IS ABLE TO DISCOVER BASED ON KNOWLEDGE ACQUIRED IN THE COURSE OF NORMAL PROJECT MONITORING, E.G. COSTS OF PRINTING A REPORT HE KNOWS HAS NOT YET BEEN COMPLETED OR A FIELD TRIP BY A HOME OFFICE EXECUTIVE WHICH HE KNOWS HAS NOT TAKEN PLACE.

(C) GOODS SUPPLIED UNDER COST REIMBURSABLE CONTRACTS. GOODS FOR WHICH PAYMENT IS DUE UPON SHIPMENT FROM A POINT DEFINED IN THE CONTRACT (FOR FACTORY, FOR PORT OF EXPORT OR O. A. R. WITH PAYMENT UPON SHIPMENT), ARE NOT SUBJECT TO THE PROJECT OFFICER'S ADMINISTRATIVE APPROVAL AS EXPLAINED UNDER PARAGRAPH 4, ABOVE. WHEN CHARGES FOR SUCH GOODS ARE BILLED ON THE SAME INVOICE AS SERVICES, WHICH ARE SUBJECT TO SUCH APPROVAL, THE PROJECT OFFICER'S CERTIFICATION SHALL BE DEEMED TO COVER ONLY THE SERVICE ITEMS REVIEWED BY HIM PURSUANT TO SUBPARAGRAPH (B), ABOVE. IN THE RARE CASES WHERE PAYMENT FOR GOODS IS DUE ONLY AFTER RECEIPT AT THE SITE, THE PROJECT OFFICER IS NOT EXPECTED TO VERIFY THE QUANTITIES OF THE ITEMS SHIPPED, OR THEIR CONFORMANCE TO SPECIFICATIONS; HE IS TO NOTE, HOWEVER, IF HE KNOWS THAT THE GOODS HAD NOT BEEN RECEIVED DURING THE PERIOD COVERED BY THE BILLING, EITHER FROM PERSONAL OBSERVATIONS OR FROM REPORTS. (SEE PARAGRAPH 3, BELOW.)

(D) GOODS AND SERVICES SUPPLIED UNDER FIXED PRICE CONTRACTS.

(I) LUMP-SUM CONTRACTS. A MAJOR CATEGORY OF CONTRACTS OF THIS TYPE ARE CONTRACTS COVERING THE SUPPLY OF MATERIALS AND EQUIPMENT FOR WHICH PAYMENT IS TO BE MADE UPON SHIPMENT. VOUCHERS SUBMITTED UNDER SUCH CONTRACTS ARE NOT SUBJECT TO THE ADMINISTRATIVE APPROVAL OF THE PROJECT OFFICER BECAUSE, AS EXPLAINED UNDER PARAGRAPH 4 ABOVE, THE PROJECT OFFICER HAS NO INDEPENDENT KNOWLEDGE OF THE SHIPMENT AND PAYMENT MUST BE MADE BY HIM ON THE BASIS OF THE CONTRACTOR'S CERTIFICATION AND SHIPPING DOCUMENTS. PAYMENT FOR SERVICES PROVIDED UNDER A FIXED LUMP-SUM CONTRACT ARE NORMALLY MADE UPON COMPLETION OF THE CONTRACT. CONTRACTS OF SHORT DURATION AND OF RELATIVELY SMALL VALUE, SUCH AS CONTRACTS FOR STUDIES OF LIMITED SCOPE OR SHORT-TERM, WELL-DEFINED SERVICES (E.G. REVIEW OF A REPORT), ARE

EXAMPLES OF SUCH CONTRACTS. IN SUCH CASES, THE PROJECT OFFICER'S APPROVAL OF A VOUCHER IS BASED ON HIS KNOWLEDGE THAT THE SERVICES HAVE BEEN RENDERED OR A REQUIRED REPORT HAS BEEN SUBMITTED.

IN THE EXCEPTIONAL CASES WHERE LUMP-SUM FIXED-PRICE CONTRACTS PROVIDE FOR PROGRESS PAYMENTS, SUCH PAYMENTS ARE CONTRACTUALLY STIPULATED EITHER AT CERTAIN FIXED TIMES OR UPON THE OCCURRENCE OF SPECIFIED EVENTS. WHEN PAYMENT IS TO BE MADE AT FIXED TIMES, THE PROJECT OFFICER'S APPROVAL OF PROGRESS PAYMENTS MAY BE ROUTINELY PROVIDED UNLESS THE PROJECT OFFICER HAS PERSONAL KNOWLEDGE THAT THE CONTRACTOR HAS FAILED TO COMPLY WITH PERFORMANCE PROVISIONS OF THE CONTRACT ON WHICH THE FIXED PAYMENTS ARE PREDICATED. WHEN APPROVING THE VOUCHER FOR THE FINAL PAYMENT, THE PROJECT OFFICER IS EXPECTED TO KNOW WHETHER THE WORK HAS BEEN COMPLETED. IF PROGRESS PAYMENTS ARE DUE UPON THE OCCURRENCE OF A SPECIFIED EVENT (E.G. THE COMPLETION OF THE FOUNDATION OF A BUILDING OR THE SUBMISSION BY THE CONTRACTOR OF AN INTERIM REPORT), THE PROJECT OFFICER MAY APPROVE A VOUCHER UNLESS HE HAS PERSONAL KNOWLEDGE, FROM REPORTS OR OTHER SOURCES THAT THE SPECIFIED EVENT HAS NOT OCCURRED.

(II) UNIT PRICE CONTRACTS. UNIT PRICE CONTRACTS ARE NORMALLY USED ONLY FOR MAJOR CONSTRUCTION PROJECTS. SUCH CONTRACTS NORMALLY PROVIDE FOR PROGRESS PAYMENTS, USUALLY MONTHLY, BASED ON ACTUAL WORK PERFORMED. BILLINGS SHOW THE QUANTITIES OF VARIOUS CATEGORIES OF WORK PERFORMED AND THE CONTRACTUALLY FIXED UNIT PRICES, TOGETHER WITH THE AMOUNT CALCULATED BY MULTIPLYING THE QUANTITIES BY THE UNIT PRICES. THE QUANTITIES BILLED ARE, IN THE FIRST INSTANCE, ASCERTAINED BY THE CONTRACTOR; THEY ARE THEN CERTIFIED BY THE CONTRACTING AGENCY OF HIS CONSULTING ENGINEERS BEFORE BEING SUBMITTED TO THE PROJECT OFFICER FOR REVIEW. THE PROJECT OFFICER IS NOT EXPECTED TO VERIFY BY AN INDEPENDENT INVESTIGATION, SUCH AS THE EXAMINATION OF CONSTRUCTION RECORDS, WHETHER THE QUANTITIES BILLED ARE CORRECT; HE MAY RELY ON THE CERTIFICATION OF THE CONTRACTING AGENCY OR THE CONSULTING ENGINEER ACTING ON ITS BEHALF. NEITHER IS HE EXPECTED TO COMPARE UNIT PRICES USED IN THE BILLING WITH CONTRACT PRICES OR TO CHECK THE BILLING FOR ARITHMETIC ACCURACY. HIS APPROVAL OF THE VOUCHER SHALL MEAN ONLY THAT HE HAS NO KNOWLEDGE OF ANY FACTS WHICH WOULD MAKE AN INQUIRY INTO THE ACCURACY OF THE BILLING ADVISABLE EITHER BEFORE OR AFTER HE PAYS TO THE CONTRACTOR THE AMOUNT CLAIMED.

(E) OTHER FORMS OF CONTRACT. IN THE RARE INSTANCES WHERE

OTHER FORMS OF CONTRACT ARE USED (E.G. TIME-RATE CONTRACTS) THE FOREGOING GUIDANCE SHOULD BE USED, CONSISTENT WITH THE PRINCIPLES OUTLINED IN PARAGRAPH 1 AND THE DETAILED DISCUSSION IN THE FOREGOING SUBPARAGRAPHS, AS APPLICABLE.

5. UNUSUAL CIRCUMSTANCES.

(A) IF CONTRARY TO NORMAL PRACTICE, THE PROJECT FOR WHICH A VOUCHER IS SUBMITTED HAS NOT BEEN ASSIGNED TO A PROJECT OFFICER AND NO OTHER MEMBER OF THE MISSION STAFF HAS PERSONAL KNOWLEDGE OF THE PROJECT, OR IF THE PROJECT HAD BEEN ASSIGNED TO A PROJECT OFFICER ONLY JUST BEFORE THE VOUCHER IS SUBMITTED, THE PROJECT OFFICER OR ANOTHER MISSION OFFICER SHOULD APPROVE THE VOUCHER WITH THE FOLLOWING STATEMENT: QUOTE I HAVE REVIEWED THE VOUCHER, THE RELATED INVOICE (S) AND SUPPORTING DOCUMENTATION ATTACHED THERETO. I DO NOT HAVE AND AM UNABLE TO OBTAIN PROMPTLY PERSONAL KNOWLEDGE OF THE PROJECT. E.G. QUOTE I ARRIVED AT POST SIX DAYS AGO AND HAVE NOT YET VISITED THE PROJECT SITE

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LOCATED 500 MILES FROM THE CAPITAL. ALSO, A USAIN TECH  
DIAN WHO RECENTLY VISITED THE PROJECT HAS BEEN MEDICALLY  
EVACUATED UNQUOTE. WE HAVE NO REASON TO BELIEVE THAT PA  
MENT OF THE AMOUNTS CLAIMED IN THIS VOUCHER SHOULD BE W  
HELD. THEREFORE, THE VOUCHER IS ADMINISTRATIVELY APPROV  
FOR PAYMENT SUBJECT TO THE FINANCIAL REVIEW AND CERTIFI  
TION BY THE PAYING OFFICE. UNQUOTE

(B) QUALIFIED APPROVAL AS SET FORTH ABOVE SHOULD OBVI  
LY BE USED ONLY IN RARE OCCASIONS SINCE THE CIRCUMSTAN  
NECESSITATING THESE SHOULD NOT CONTINUE FOR ANY EXTENDE  
PERIOD. SHOULD THE ACO NOTE REPEATED INSTANCES OF QUAL  
IFIED APPROVALS OF VOUCHERS RELATING TO THE SAME PROJ  
ECT, SHOULD INFORM THE MISSION DIRECTOR AND THE REGIONAL BURE  
IN WASHINGTON.

(C) THE APPROVAL STATEMENT SHOWN IN HANDBOOK 13, CHAPTE  
SECTION 1.5.5.1 (B) (1) IS NOT TO BE USED IN THE CIRCUM  
STANCES DESCRIBED IN SUBPARAGRAPH (A), ABOVE; IT IS REPE  
IS TO BE USED ONLY WHEN SUMMARY DATA, BUT NOT THE ACTUAL  
DOCUMENTATION, HAVE BEEN MADE AVAILABLE TO THE PROJECT  
OFFICER BY AN ACO LOCATED AT A DIFFERENT POST. HB 11 WILL  
BE CORRECTED ACCORDINGLY.

7. CERTIFICATION BY AUTHORIZED CERTIFYING OFFICER (ACO).  
THE ACO IS RESPONSIBLE FOR CHECKING VOUCHERS FOR CONSIST  
ENCY WITH THE CONTRACT, INCLUDING THE CONTRACT BUDGET,  
AND ARITHMETIC ACCURACY, AS HE CONSIDERS NECESSARY, BEFOR  
MAKING PAYMENT. INCLUDED IN SUCH REVIEW WILL BE ALL BILL  
ING ITEMS NOT ENCOMPASSED IN THE REVIEW OF THE PROJECT  
OFFICER, SUCH AS HOME OFFICE COSTS, TRAVEL AND TRANSPORTA

TION CHARGES, COMMUNICATION COSTS AND MISCELLANEOUS PER  
SONNEL COSTS, SUCH AS HOUSING AND EDUCATION ALLOWANCES.

8. DISALLOWANCES.

(A) DEFICIENCIES IN FORM. IF THE PROJECT OFFICER DIS  
COVERS DURING THE REVIEW OF A VOUCHER FORMAL DEFICIENCIES  
(E.G. LACK OF A SIGNATURE, LACK OF OR INCONSISTENCY BETW  
SUPPORTING DOCUMENTS), HE SHOULD NOTE SUCH DEFICIENCIES I  
HIS APPROVAL STATEMENT. IT IS THE RESPONSIBILITY OF THE  
ACO TO DECIDE WHAT ACTION TO TAKE.

(B) SUBSTANTIVE DISCREPANCIES. IF THE PROJECT OFFICER  
DISCOVERS DURING THE REVIEW OF A VOUCHER THAT CHARGES FOR  
ONE OR MORE ITEMS INCLUDED IN THE VOUCHER ARE INCONSIST  
WITH THE FACTS AS HE KNOWS THEM AND IN HIS OPINION, SHOUL  
NOT HAVE BEEN BILLED, HE SHOULD INFORM THE MISSION DIRECT  
OF THE FACTS IN THE CASE. A DECISION ON THE ACTION TO BE  
TAKEN SHALL BE MADE ONLY BY THE MISSION DIRECTOR, OR A  
PERSON DESIGNATED BY HIM FOR THIS PURPOSE; THE FOLLOWING  
COURSES OF ACTION SHOULD BE CONSIDERED:

(I) TO INFORM THE APPROPRIATE HOST GOVERNMENT AGENCY THAT  
AID CANNOT MAKE ANY, OR ONLY PARTIAL, PAYMENT TO THE CON  
TRACTOR, STATING THE BASIS FOR THAT FINDING; OR  
(II) TO INCLUDE IN, OR ATTACH TO, THE APPROVAL STATEMENT,  
A REPORT ON THE FACTS WHICH PREVENT THE PROJECT OFFICER  
FROM SIGNING AN UNQUALIFIED APPROVAL STATEMENT; A DECISION  
ON THE ACTION TO TAKE WILL THEN BE MADE BY THE ACO.

THE FORMER COURSE SHOULD BE TAKEN IF THE DISCREPANCIES DIS  
COVERED BY THE PROJECT OFFICER ARE OF SUCH MAGNITUDE THAT  
IT APPEARS THAT THE ONLY PROPER REMEDY IS A REQUEST BY THE  
HOST GOVERNMENT AGENCY TO THE CONTRACTOR FOR SUBMISSION OF  
A CORRECTED VOUCHER. THE SECOND COURSE SHOULD BE CHOSEN  
WHEN THE ACO COULD MAKE PAYMENT SUBJECT TO ACTION BY THE  
CONTRACTOR (E.G. AN ADJUSTMENT ON A SUBSEQUENT BILLING),  
SUSPEND PAYMENT UNTIL THE DISCREPANCY IS EXPLAINED SATIS-

FACTORILY OR TAKE ANY OTHER ACTION SHORT OF REFUSING TO  
PAY THE AMOUNTS CLAIMED. IF THE ACO DECIDES TO DISALLOW  
ANY PART OF THE AMOUNT CLAIMED ON A VOUCHER HE SHOULD  
PROMPTLY INFORM THE MISSION DIRECTOR SO THAT HE CAN APPRISE  
THE HOST GOVERNMENT OF THE DISPUTE. IN NO EVENT SHOULD THE  
MISSION DIRECTOR OR ANY OTHER MISSION OFFICER ADVISE A  
CONTRACTOR THAT AID HAS DISALLOWED, OR WILL DISALLOW, ANY  
PART OF THE AMOUNT BILLED BEFORE THE HOST GOVERNMENT AGENCY  
CONCERNED HAS BEEN INFORMED OF THE FACTS AS DETERMINED BY  
THE PROJECT OFFICER AND HAS BEEN ASKED TO REQUEST THE CON  
TRACTOR TO TAKE WHATEVER REMEDIAL ACTION IS REQUIRED. IF  
THE HOST GOVERNMENT AGENCY DOES NOT AGREE WITH AID'S

FINDINGS AND BELIEVED NO REMEDIAL ACTION BY THE CONTRACTOR  
IS REQUIRED, AND IF THE MISSION DIRECTOR IS UNABLE TO REACH  
AGREEMENT WITH SUCH AGENCY, THE MATTER SHOULD BE REFERRED  
TO THE ASSISTANT ADMINISTRATOR OF THE REGIONAL BUREAU TO  
WHOM THE MISSION REPORTS.

9. HANDBOOK REVISIONS. HANDBOOK 13 AND OTHER HANDBOOKS  
WHICH INCLUDE PROVISIONS PERTAINING TO THE ADMINISTRATIVE  
APPROVAL OF HOST COUNTRY CONTRACT VOUCHERS WILL BE AMENDED  
IN ACCORDANCE WITH THIS MESSAGE. A MATRIX WILL ALSO BE  
PROVIDED TO DESCRIBE VOUCHER REVIEW REQUIREMENTS AS APPLIED  
TO THE VARIOUS TYPES OF HOST COUNTRY CONTRACTS. CHRISTOPHER

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APPENDIX G

PERIODIC CONTRACT STATUS AND SITE VISIT REPORTS

## APPENDIX G

PERIODIC CONTRACT STATUS AND SITE VISIT REPORTS

Project Officers are expected to review and report upon the implementation status of host country contracts at appropriate intervals. Normally, such reports are prepared and submitted promptly following each periodic status review or visit to the site of the contractor's operations.

The Guidebook emphasizes the importance of site visits as an essential element of effective contract monitoring. The frequency of such visits, as well as the coverage and depth of the inspection, will vary, of course, depending upon a number of differing factors. These include the scope and complexity of the contract, the quality and competence of the contractor, the stage reached in implementation, the adequacy and reliability of contractor reports, and the results observed on prior site visits, if any.

For efficient management and continuity, it is equally important that the results of each periodic contract review or site visit be recorded in a written report prepared by the responsible Project Officer. These reports serve a number of purposes. They provide a succinct commentary for AID management on the implementation status of the contract, and become an integral part of the official contract files of the Agency. Properly completed, they serve as an invaluable "follow up" monitoring tool by identifying problems and the actions required to resolve them.

In preparing such reports, the Project Officer must candidly and objectively assess the progress of the contractor in relation to the specific implementation benchmarks or deadlines set forth in the contract. To the extent available, the implementation, financial and staffing plans of the contractor would be particularly useful in enabling the Project Officer to determine the degree of progress being made as of the time of the report. In addition to reviewing progress against targets, reports from the contractor should be compared with the actual status of implementation to verify their integrity.

Attached is a sample format designed to assist Project Officers in the preparation of either a periodic Contract Status or a Site Visit Report. It is intended as a guide only, and may be modified by the Project Officer to suit the circumstances and nature of the contract(s) being monitored.

CONTRACT STATUS REPORT

Site Visit Report

Periodic Status Report

(Check box applicable)

Report Number

Related Project Title

Date of Report

Project Number

Contractor

Project Officer

Contract Date & Amount

Host Country Contracting Agency

\*A. Officials Participating in Site Visit:  
(Names and titles, if inspection made by a team)

\*B. Discussions Held With:

1. Key Contractor Staff: (names and titles)
2. Other Officials: (names and titles)  
(Host Country Officials; Officials of other organizations or institutions)

\* \* \* \* \*

C. Summary of Contractor Progress

(This section should discuss briefly actual versus planned progress of the contractor. Major issues or problems identified should be high-lighted. Particular attention should be given to issues or problems which would adversely affect achievement of the contract or project objectives).

\*Data required only on reports of site visits.

D. Conclusions and Recommendations

(This section should be a concise discussion of the overall performance of the contractor, together with the remedial actions needed, by whom, and by when. Recommendations requiring the attention of the Mission Director, Assistant Administrator, or other senior AID officers should be included when warranted by the circumstances).

E. Substantive Elements of the Contract

(This section of the report should discuss briefly the nature and extent of the progress and/or problems noted with respect to each of the following elements, if applicable, under the terms of the related contract. Indicate whether the services or commodities required are being provided satisfactorily, on schedule and in compliance with the specific AID requirements incorporated in the contract (e.g., source/origin, 50/50 shipping, etc.). Where serious delays have occurred or are anticipated, identify the reason(s) therefor and the action proposed, if any, to offset slippage or to re-schedule. Remedial action proposed should identify who is expected to take such action and by when. Note particularly delays or problems which may substantively affect the terms of the contract.)

1. Advisory Services and Reports
2. Engineering and/or Construction
3. Procurement of Commodities
4. Training Services
5. Logistical Support

(Whether to be provided by the contractor; AID; or the host country.)

6. Other (specify)

F. Financial Status of the Contract

(This section should summarize the status of commitments and disbursements and the extent to which disbursements reflect satisfactory or lagging progress against planned expenditures. Problems relating to the establishment of letters of commitment or credit; advances; progress payments; or other financial arrangements should be identified.)

G. Contractor Organization and Management

(This section should include a brief assessment of the general competence and efficiency of the contractor, with particular emphasis upon staffing problems, if any. Awareness by the contractor of the relationship of its activities to the broader objectives of the related project should also be noted and discussed.)

H. Contractor Relations

(This section should identify briefly the nature and effectiveness of the contractor's relations, as indicated below.)

1. Relations with AID Mission, AID Washington, or Both Where Involved
2. Relations with Host Country

(Country Contracting Agency; other organization/institution)

Note: Distribution of Contract Status or Site Visit Reports should include, as a minimum, the AID Mission official to whom the Project Officer reports, the heads of offices responsible for taking action on the specific issues or problems identified, and the related contract monitoring file. Copies should also be sent to the Mission Director and/or Assistant Administrator where the substance of the report so warrants.

At the discretion of the Project Officer, copies may also be provided to appropriate officials of the host country.

APPENDIX H  
CONTRACT MONITORING TASK LIST

## SUMMARY

CONTRACT MONITORING TASK LIST

<u>Event or Function</u>	<u>Guidebook Reference</u>	<u>AID Project Officer</u>	<u>Host Country Contracting Agency</u>	<u>Contractor</u>
Relations with Contracting Agency and contractor	VII D, C	Maintains personal and continuing liaison with both during the monitoring period		
Initial meeting with contractor	VII D	Participates in meeting	Arranges and convenes meeting	Attends meeting with key staff
Periodic contract status review meetings	VII E	Participates in meetings	Conducts status reviews	Normally participates
Procurement of supplies and equipment	VII F	Verifies compliance with AID procurement rules, as well as arrival and proper use of supplies and equipment	Oversees and supervises procurement, adherence to specifications, delivery dates, inspection and installation requirements, etc.	Procures needed commodities as specified in contract
Participant training services provided by contractors under contracts for technical/professional services	VII G	Reviews adequacy and effectiveness of training (normally during course of site visits)	Oversees provision of training and responsiveness to requirements of the related project	Conducts (or arranges) training as required by contract, and submits monthly reports (if training in U.S. or third countries) to Contracting Agency and AID
Logistical support of contractor	VII H	Verifies availability and adequacy of essential supporting services required by the contractor	Provides such logistical support (e.g., housing; office space; etc.) to contractor as terms of contract require	Provides, or arranges for, its own supporting services to extent prescribed in the contract
Financial arrangements and methods of payment prescribed in contract (direct or bank letters of commitment; progress payments; etc.)	VII I	Assures that appropriate financing is arranged, in collaboration with the Mission controller	Requests action by AID (for issuance of letters of commitment; payment under direct reimbursement; etc.)	Applies to Contracting Agency for payment as provided in contract
Approval of contractor vouchers	VII J	Reviews vouchers and administratively approves for payment (using form of certification prescribed) except if under bank letters of commitment or if for procurement of equipment and materials	Reviews, approves and pays direct reimbursement vouchers; submits other approved vouchers to AID or L/COM bank as appropriate	Submits vouchers and supporting documentation to the Contracting Agency
Waivers from AID procurement rules	VII K	Reviews need for waiver, and if justified, prepares memo requesting approval of the AID official (Mission Director or other) empowered to authorize	Requests assistance of Project Officer in obtaining AID approval of waiver required	Identifies need for waiver, and notifies Contracting Agency
Contract extensions and/or amendments	VII L	Reviews need for extension or amendment, and if justified, arranges AID approval	Requests AID approval if contractor's request for extension or amendment appears justified	Requests Contracting Agency to extend or amend contract

CONTRACT MONITORING TASK LIST

<u>Event or Function</u>	<u>Guidebook Reference</u>	<u>AID Project Officer</u>	<u>Host Country Contracting Agency</u>	<u>Contractor</u>
Contractor reports (progress; technical; financial; etc.)	VII M	Analyzes reports for adequacy and responsiveness	Reviews and acts upon reports as appropriate	Submits reports required by the contract
Site visits	VII N	Participates with Contracting Agency in assessing progress	Schedules and arranges visits to the site of the contractor's work	Reports on contract progress and problems
Project Officer contract status reports (for AID management purposes)	VII O	Prepares reports and submits to Mission Director and other AID officers concerned		
Project Officer special reports	VII P	As required, prepares and submits ad hoc reports		
Contract monitoring file	VII Q	Maintains contract monitoring file on current and complete basis	Submits copies of such reports as AID may require	Submits progress and other reports as required by terms of the contract
Correspondence	VII R	As required, responds to incoming correspondence relating to contract implementation and monitoring		
Briefings and presentations	VII S	As required, briefs AID and other officials regarding status of the contract		
Disputes and appeals	VII T	With advice and assistance of Mission legal advisor, may informally assist the Contracting Agency and the contractor in resolving disputes	May seek assistance from the Project Officer in resolving disputes with the contractor	May seek assistance from the Project Officer in resolving disputes with the Contracting Agency
Enforcement and remedies	VII U	As appropriate, and with advice and assistance of Mission legal advisor, may counsel the Contracting Agency	May exercise its right to suspend the work or terminate the contract in event of contractor non-performance	
Contract audits by host country (or independent audit firms)	VII V	Assures that required audits are made (or arranged) by the Contracting Agency, and that appropriate corrective action is taken in event audit reports disclose deficiencies	Audits, or arranges for independent audit, of contract and takes corrective action where required	Takes corrective action where required
Contract audits (by AID or other U.S. entities)	VII W	Cooperates fully with U.S. officials conducting audits or investigations, and prepares Mission comments on relevant audit or investigative reports		

CONTRACT MONITORING TASK LIST

<u>Event or Function</u>	<u>Guidebook Reference</u>	<u>AID Project Officer</u>	<u>Host Country Contracting Agency</u>	<u>Contractor</u>
Contract closeout or termination	VII X	Assures that contract is terminated properly and that all AID rights have been satisfied (including submission of all reports and certifications required from the contractor and/or the Contracting Agency)	Oversees orderly termination of the contract, including submission of all required reports and certifications	Submits claim for final payment, and such other documentation as may be required to evidence satisfaction of all obligations under the contract
Project Evaluation Summary (PeS)	VII Y	Assesses the quality and effectiveness of the contractor's work for inclusion in the Project Evaluation Summary required by AID		