

Supplementary Reference: 301
File Name: 3016s

PROJECT OFFICERS' GUIDEBOOK
HOST COUNTRY CONTRACTING

AGENCY FOR INTERNATIONAL DEVELOPMENT
WASHINGTON, D.C.

OCTOBER 1992

(TM 3S:17)
Certified 10/20/92

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 Officers find their 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 host 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 or 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 issuances take precedence over the text of the Guidebook.

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CHAPTER 1

INTRODUCTION

1A. 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, commercial firms, 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.

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.

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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.

1B. 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 (firms, 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 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

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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 not a party to contracts executed by host countries, AID, as a U.S. Government Agency dispensing public funds, nonetheless 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.

1C. 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/her 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

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project management and implementation oversight.

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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 reflecting the contractual relationship between the host countries and contractors concerned.

1D. 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 or regional or multi-national organization to which AID directly makes funds available by loan or grant.

3. Project

A project is a discrete endeavor to achieve a finite result directly related to a development problem by providing funds, personnel, 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

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organization, a private or mixed corporation, or other organization designated by the host country to undertake project implementation.

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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 activities of all participants and resources involved in a project, whether locally or externally provided.

11. AID Project Officer

Depending upon the locus of assignment, an AID employee may serve as

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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:

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(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.

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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, Appendix D, Section III).

18. Methods of Payment

AID finances host country contracts through one of three methods of payment: 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.

1E. 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.

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."

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**For limitations pertaining to the use of local employees as Project Officers, please see 3 FAM 922.4e of the Foreign Affairs Manual. The pertinent excerpt from this document is attached as Appendix A.

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This flexibility in the assignment of Project Officers, whether at the Mission or AID/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/her 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.

1F. 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, Project Assistance.

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

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Project Officer:

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- o arranges for Assessment of the procurement systems and capabilities of the host country Contracting Agency;
- o briefs the host country Project Manager and Contracting Agency regarding AID procurement policies and requirements as set forth in Handbook 11, Country Contracting;
- o maintains close and continuous liaison with the host country Project Manager and Contracting Agency and monitors adherence to agreed upon contracting procedures;
- o maintains the data base on the project's status for the AID/W Procurement Information Access System and responds to inquiries for project information from prospective contractors and the public;
- o as required and appropriate, assists the host country Contracting Agency in:
 - preparing and publicizing prequalification questionnaires, and in evaluating responses thereto;
 - preparing and publicizing Requests for Technical Proposals (RFTPs), 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.
- o reviews draft and final host country contracting documents used in the contracting process, and arranges Mission approval of steps which require AID approval under Handbook 11 or the Project Implementation Letter (PIL);
- o monitors the substantive and technical performance of the contractor;

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- o meets periodically with the contractor's chief of party, in conjunction with the host country Contracting Agency, to review progress and problems;
- o makes periodic visits to the site of the project, normally in conjunction with the host country Contracting Agency and a representative of the contractor;
- o analyzes and comments upon progress and financial reports required from the contractor under the terms of the contract;
- o prepares contract status reports for internal Mission purposes;
- o assists the host country Contracting Agency and/or the contractor in resolving problems hampering the work of the contractor;
- o administratively approves contractor vouchers submitted for payment, if required;
- o assures that all relevant documents and correspondence are maintained in the Mission contract/project files; and
- o 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 are 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.

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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. (S)He will frequently have to call upon other Mission or AID/W offices to assist on matters beyond his/her 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, contracting 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 overall oversight responsibility, (s)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.

1G. 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/her 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/her monitoring and other responsibilities in proper perspective.

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1H. 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, managements, 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 affects 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.

1I. 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, the Project Officer's 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/her part.

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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, the Project Officer 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, (s)he must conduct this aspect of his/her 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/her relationship 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/her fundamental responsibilities are to

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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.

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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, (s)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 all 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 the monitoring duties, the Project Officer must conduct these with appropriate regard for the contractor's role. 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 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. (S)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/her effectiveness in this respect is where relationships with the contractor and the Contracting Agency are such that the Project Officer's advice and assistance are actively sought by both.

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Knowing when, and from whom, to seek support or action by his/her associates in the AID mission--e.g., legal advisor, contracting 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, the Project Officer is neither required nor expected to perform personally all of the tasks involved in this Guidebook. (S)He is expected, however, to anticipate problems and to enlist the help and guidance of other AID officers functionally concerned. The Project Officer may have no line authority over such officials, but does remain responsible for assuring that the necessary actions required of them are taken in a timely fashion. For further 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/her pivotal role in discharging the Agency's overall stewardship and accountability for the prudent use of public funds. The Project Officer's 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.

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CHAPTER 2

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.

2A. Implementation Planning--General

Planning and 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 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, 9B and 9C of the same Handbook.

2B. 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.

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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 Handbook 3, Chapter 8, Section B.

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 2C below provides guidance for Project Officers in this important phase of project development.

2C. 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.

Mission Directors are responsible for assuring that project design assigns procurement responsibility in a manner which best fits the particular circumstances and will result in the most effective implementation of AID-financed projects. The responsibility for procuring goods or services may be assigned among a wide range of entities. The host country implementing agency itself or other host country agencies (such as central contracting agencies) may be involved. Either AID/W or the Mission may assume procurement responsibility, or AID or the host country may arrange for intermediaries such as other U.S. government agencies, private firms, nonprofit organizations, or educational

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institutions to procure needed goods or services.

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Mission Directors and staff should bear clearly in mind the distinction between AID-direct and host country contracts. AID-direct contracts follow the Federal Acquisition Regulation (and AID Acquisition Regulation) and maximize AID control over the activity in question. When AID decides to use host country contracting procedures, on the other hand, it acts as a financier and not a contracting party, reserving certain rights of approval and project monitoring.

In assigning contracting responsibility, the Mission Director should take the following into account:

1. General Factors

- a. No general AID preference between AID-direct and host country contracts;
- b. Borrower/Grantee (B/G) preference;
- c. Project design and objectives, including the type of goods or services required and any timing constraints;
- d. Procurement capability of the B/G, including contractor selection, contract administration, and audit capability (formal assessment and Mission Director's certification required for new procurement ** anticipated to exceed \$250,000 in value; see discussion on following pages);
- e. Relative costs;
- f. Systems and procedures for effective contract support, including payment and other administrative and logistic support availability;
- g. Availability and experience of AID procurement, legal, and program staff to advise and assist the host government or to undertake AID direct contracting;
- h. Effects on establishment of desired institutional or professional relationships.

**New procurement means new contracts and amendments to contracts which expand

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the scope of work, but not incremental funding of existing work nor administrative amendments.

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2. Special Circumstances

a. U.S. university as a contracting party. Use of a direct AID contract may often prove to be more appropriate and effective for carrying out a project when a U.S. university will be involved.

b. Collaborative assistance selection procedure. Either an AID direct or a host country contract, or a combination thereof, may be used depending on the circumstances that pertain to the respective roles of the parties and the nature of the long-term collaborative relationships that are desired.

c. Potential for disadvantaged enterprise contract. When a proposed procurement can be performed by a socially or economically disadvantaged enterprise, AID may either (1) contract directly with the U.S. Small Business Administration (SBA) which subcontracts the award to such a business concern under Section 8(a) of the Small Business Act or (2) restrict competition to disadvantaged enterprises in accordance with specific provisions of foreign assistance legislation.

d. U.S. Government Agency involvement. The host country may designate a U.S. Government agency to provide, or contract for, services or commodities when specialized expertise is required.

e. Construction services. Use of a host country contract is usually more appropriate for the procurement of construction services.

Before a host country contract may be used to undertake a new procurement in excess of \$25,000 in value, the Mission Director must make a certification in writing that the intended Contracting Agency has or will obtain the capability to undertake the procurement. This determination must be based upon a careful assessment of the Contracting Agency's procurement system. Assessments of host country contracting capabilities should be performed at the project design stage to determine if host country contracting is the preferable method of project implementation and the result is summarized in the administrative analysis section of the project paper.

Assessments may be performed by Mission direct-hire personnel, but a more common approach is the use of local management consultants or public accounting firms under contract. In either case, the assessment team must have

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knowledge and expertise in procurement procedures and in AID requirements for contract provisions and approvals. The team should also be qualified to examine the Contracting Agency's organization, accounting systems, and payment procedures. If contractors are used, the Mission should determine that the selected contractor will be given access to the Contracting Agency and its records before a contract is awarded. Contracting Agencies may object to assessment by certain contractors for valid reasons, but a refusal to permit any assessment will preclude their participation in AID's host country contracting process.

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In preparing for an examination of the Contracting Agency's procurement capacities, the Project Officer should consult with the Mission (or regionally based) contracting officer, legal advisor, controller, and other technical specialists as appropriate, such as the engineer and commodity management officer, to develop a checklist of relevant questions and areas warranting review. Guidance for this task will be found in Appendix B of this Guidebook, Assessment of Host Country Procurement Capabilities. 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 deemed appropriate to other situations.

In general, what is required is a reasonably detailed examination of the Contracting Agency's system and policies, with emphasis upon the adequacy of the major contracting processes characteristic of sound, businesslike procurement. The steps to be reviewed include the solicitation, negotiation, and award of contracts plus administrative functions, such as: performance monitoring, voucher examination and processing, auditing records, and contract closeout. For example, the fairness and defensibility of the Contracting Agency's procedures relating to advertising, competition, evaluation, contractor selection, handling contract disputes 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.

Assessment reports should include a description of the organization, staffing, decision-making authority, and procurement procedures and policies. Typically, organizational diagrams and flowcharts are included to illustrate decision-making processes, flow of documents, and the sequence of procedures to be followed. The assessment team should test the practical application of these policies and procedures by examining a sample selection of completed procurement actions. The above checklist should be completed by the assessment team to determine if the Contracting Agency follows procedures which will reasonably ensure the integrity of the procurement process and the competent performance of the required steps.

The report should also include conclusions and recommendations concerning the compatibility of Contracting Agency and AID standards and procedures. Any policies or procedures that pose barriers to U.S. firms freely competing, such as the application of a trade boycott or a Contracting Agency debarment process,

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should be given particular attention.

Finally, the assessment must contain conclusions and recommendations concerning the Contracting Agency's international, competitive contracting, its overall ability to responsibly perform contracting actions, and the extent to which any known deficiencies may be remedied with AID or other resources.

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The Project Officer has the primary responsibility to see that the required assessment is made. If not included on the assessment team, the Mission (or regionally based) contracting officer, controller, and legal advisor should review the assessment and offer recommendations prior to the Mission Director certifying the acceptability of the Contracting Agency's procurement system. When their areas of expertise are involved, the engineer and commodity management officer should also be consulted on the assessment. The Mission controller has the primary responsibility for ensuring the adequacy of the Contracting Agency accounting system and internal controls under AID's Payment Policy Verification Statement 5. 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 AID-funded procurement.

In lieu of a separate assessment for each procurement action, host country contracting may be authorized on the basis of reference to the earlier assessment--if (a) an assessment has been performed in the prior three years, (b) the Contracting Agency has demonstrated apparently successful experience in comparable procurements under host country contracts that were funded on the basis of the prior assessment, and (c) there have been no significant changes in staffing, organization, law, or procedure.

The Project Officer should be alert to subsequent changes in the Contracting Agency which could alter the conclusions of the original analysis supporting the use of the host country contracting mode. The assessment should be reviewed at any appropriate time that staff, organization, legal or other changes suggest that a current assessment would be appropriate and will in any event be repeated, or updated by limited reviews, within three years from original assessment.

Whenever AID financing is involved and the total amount of a contract action for new procurement is anticipated to exceed \$250,000 in value the Mission Director must make a determination that the Contracting Agency has or will obtain the capability to undertake the specific procurement action and certify as follows:

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Based upon an assessment, carried out by _____ and summarized in a report dated _____, of the capability and integrity of (the name of the Contracting Agency) to carryout the procurement actions financed by AID from solicitation to audit and closeout, in accordance with applicable AID standards and procedures (set forth in Handbook 11), and based upon the recommendations of the Mission Project Officer, Contracting Officer, Legal Advisor, and Controller, I have determined that (the name of the Contracting Agency) is capable of undertaking procurement of (name of commodity or service). This determination should be reviewed at any appropriate time that staff, organization, legal, or other changes suggest that a current assessment would be appropriate and will in any event be repeated, or updated by limited reviews, within three years of the above assessment.

Signed by Mission Director (date)

In cases where the capability assessment discloses significant weaknesses in Contracting Agency capability, which the Mission intends to overcome through the provision of technical assistance, training, or other means, the Mission Director's certification should be modified to identify the particular weaknesses in capability identified, Mission plans to resolve these problems, and in view of the foregoing, the Mission Director's determination that host country contracting is the appropriate contracting method.

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 the host country to improve its 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 for its own purposes considers such assistance advisable; and (c) providing ad hoc assistance in connection with specific projects, e.g., through use of short-term AID personnel, contracts with individuals, etc.

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The assessment of the Contracting Agency's procurement capability and the certification by the Mission Director should be kept as part of the PID or PP documentation or, if made subsequent to the preparation of the PP, they should be retained within the contracting section of the official project files.

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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 should be used. For further guidance, Handbook 3, Chapter 3, Appendix 3H should be consulted.

At their discretion, Missions may apply the foregoing requirements for assessment of the Contracting Agency's procurement capability and for the certification by the Mission Director to procurements of lesser values. They are encouraged to conduct limited scope assessments for contract actions below \$250,000 if they have had no satisfactory prior experience with the Contracting Agency.

2D. [Reserved]

2E. 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 Handbook 3, Chapter 9, Appendix 9C. 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. The cognizant Mission (or regional) contracting officer should be consulted in the development of the plan as to schedule, content, and conformity with contracting regulations; and (s)he should clear off on the plan prior to its approval. 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.

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2F. 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

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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.

2G. 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 section 2C 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 contracting 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 host 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 (s)he deems necessary.

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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 section 2H below.

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2H. 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).

Additionally, if their unavailability will disrupt contractor performance, Project Officers should monitor the availability of the planned in-kind contractor support elements which the Project Agreement designates as host country contributions. In some cases it may be possible to take more definitive actions than are specified in the Project Paper to reserve or marshal some of these elements of contractor support, such as earmarking and scheduling specific vehicles, facilities, and personnel for the contractor's support.

Chapter 10 of Handbook 3 identifies the specific pre-implementation actions which 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 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

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during the course of developing the detailed procurement plan referred to in paragraph E above. Where circumstances permit, (s)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.

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The Project Officer should ascertain that the Contracting Agency understands 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 agreement upon signature. 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.

2I. Procurement Information Access System

Another aspect of pre-implementation planning is making prospective contractors aware of the planned procurement and keeping them advised of its status so that they may better plan their responses to business opportunities and begin to marshal their resources before the solicitation is advertised. AID has an automated Procurement Information Access System (PIAS) to advise the contractor community of the status of prospective procurement opportunities: contractors may subscribe to a Department of Commerce-sponsored electronic bulletin board to stay abreast of planned AID-funded procurements in the interim between their identification in the Congressional Presentation and their advertisement in the Commerce Business Daily. Consequently, contractors will be able to respond more effectively to solicitations, and the field of competition for the procurements will be enlarged. The Project Officer has a key role in regularly providing information on the status of the procurement to PIAS and in advising the prospective contractors who request additional detail on the nature of the procurement and its schedule. See Appendix I for additional details on PIAS and the Project Officer's role in it.

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CHAPTER 3

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.

3A. 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.

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When the cost of commodities, equipment, or materials is included in a fixed price contract for services, the guidance provided herein in Chapter 4, "Professional and Technical 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 6, "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 3, Section 1.1c(3)).

3. Procurement by Intermediate Credit Institutions

Finally, this Guidebook covers procurement effected by host country development banks or other intermediate credit institutions 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).

3B. Rules and Guidance in Handbook 11

1. General

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 govern the eligibility of suppliers and of the commodities and services they supply, requirements for AID's approval of several steps in the contracting process, and adherence to the principle of competition in awarding contracts. 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.

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Certain 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.

Most of Chapters 1, 2 and 3 of Handbook 11 consist of a large body of advisory guidance on contracting principles and procedures that AID considers worthwhile for the contracts it is to finance. However, the guidance may be adapted as appropriate, without waiver or justification.

Use of the Contracting Agency's own procedures is to be encouraged, provided they do not conflict with the rules included in Handbook 11, but embody the same spirit and seek the same objectives. The analysis of the Contracting Agency's procedures is described in Chapter 2, section 2C of the Guidebook.

The Project Officer, assisted by such other Mission members as are appropriate (e.g., contracting officer, 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, nationality of suppliers and sources of goods eligible for procurement, and the method of payment to be used. Agreement with the Contracting Agency on such matters is reflected in a Project Implementation Letter (PIL), which is AID's formal and standardized means of communicating with the host country on the details of project implementation. If possible, such agreement is set forth in the basic PIL issued by the Mission simultaneously with the signing of the Project Agreement, or shortly thereafter. (Refer to Chapter 8 and to Handbook 3, Appendix 8A for further guidance on the PIL).

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2. 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 U.S. and the less developed countries of the free world (Code 941). There are provisions, however, for waiving certain of the restrictions to permit, subject to proper justification, procurement in the host country or the developed countries of the free world (Codes 899 or 935) in addition to those included in Code 941. 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.

As per the discussion above, the authorized Geographic Code is subject to waiver. A change authorized in the source code for procurement of goods 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 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/her counterparts in the Contracting Agency of the host government. The rules in question will be found set forth in Chapter I, Sections 2.6; and 5.22; Chapter 2, Section 2.5; and

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Clause 74 of Attachment 2S; and Chapter 3, Sections 2.5; 2.6; 2.7; and Clause 10 of Attachment 3N.

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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 a list of suspended, debarred or ineligible bidders. (Chapter 1, Section 2.7; Chapter 2, Section 2.6; and Chapter 3, Section 2.8).

3. Approval of Host Country Contracting Steps

Maintaining proper stewardship of AID funds requires that the steps in the contracting process be systematically monitored and reviewed for conformance to AID standards. Consequently, when a contract is anticipated to exceed \$250,000 in value, including any local currency, Handbook 11 requires formal AID approval of:

- a. Notices to prospective offerors, e.g. Commerce Business Daily notices;
- b. Lists of prequalified offerors, if any, prior to issuance of the solicitation document;
- c. Complete solicitation document, prior to issuance;
- d. The contractor selection method;
- e. The selected contractor;
- f. A host country action to terminate negotiations with the highest ranked offeror or to reject all bids;
- g. The contract, prior to execution;
- h. Signed contract documents, before financing; and
- i. Contract administrative actions such as subcontracts, amendments, and change orders, as determined by the Mission and as specified by a Project Implementation Letter (PIL).

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Whether the Mission should require the approval of awards or other steps in the contracting process for contracts under \$250,000 will depend upon the degree of competence and experience of the host country Contracting Agency, including the Contracting Agency's compliance with agreed upon procedures. The Mission may wish to establish in the basic PIL some lower threshold (e.g., \$50,000) of approvals or require approval of only particular steps in the contracting

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process for which experience has indicated that closer surveillance is required. The Project Officer will prepare the necessary documents to effect the AID approvals and provide liaison with the Contracting Agency in securing the approvals.

In other cases, where the Contracting Agency's procedures have been reviewed and found to be adequate and/or a history of satisfactory experience has been accumulated, the Mission may feel comfortable in foregoing approvals for all contracts up to \$250,000, but, in any case, the Project Officer should be obtaining copies of documents, monitoring the procurement to the extent that (s)he is confident that it is progressing satisfactorily, and informally advising the Contracting Agency, as necessary. When questions arise concerning the contracting process that go beyond his/her expertise, (s)he should consult with the contracting officer, legal adviser, and other appropriate Mission personnel, and they should jointly formulate a strategy for intervention when the circumstances justify it.

Handbook 11 authorizes Mission Directors to approve host country contract awards, the intermediate steps in the contracting process, and the post award administrative actions. When approvals are required for contracts that are not anticipated to exceed \$250,000, this authority may be delegated to a senior Mission officer.

Agreement with the Contracting Agency on such matters is reflected in a Project Implementation Letter (PIL), which is AID's formal and standardized means of communicating with the host country on the details of project implementation. If possible, such agreement is set forth in the basic PIL issued by the Mission simultaneously with the signing of the Project Agreement, or shortly thereafter. (Refer to Chapter 8 and to Handbook 3, Appendix 8A for further guidance on the PIL).

3C. Award Notification

1. General

While the making and timing of host country contract awards are basically prerogatives of the host country and AID cannot insist upon advance notification of the award, members of Congress take an interest in host country contract awards to their constituents, as they do with such AID-direct awards. Whenever it serves the mutual interests of the host country, AID, and members of Congress,

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as it will in a substantial number of cases, the Project Officer should, if possible, arrange the liaison with the host country to provide AID/W with a 48-hour advance notification of the award of contracts to U.S. organizations that are in excess of \$250,000.

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2. Notification Procedure

Whenever possible, the Project Officer should provide the above notice to the Mission's LEG liaison for transmission to AID/W at least 48-hours prior to the public announcement of the award. The following information should be in the notice:

- a. Identification of the award as a host country contract and the name of the host country agency;
- b. The contract number;
- c. Date and time of intended public announcement of the award;
- d. The total estimated cost or price, identifying separately U.S. dollars and local currency;
- e. The period of the contract;
- f. Project number and title;
- g. Brief description of the services or commodities to be provided and the general purpose of the contract;
- h. Contractor's name, street address, city, state, and ZIP code. In the case of a commodity contract also indicate the place(s) of U.S. production, if known;
- i. The name and telephone number for the contractor's contact person in the United States;
- j. Potential complications that are foreseen in the contract award.

If a problem arises after the notice is transmitted to LEG, it should be advised immediately by cable or telephone.

References: State 209214, dated July 28, 1982, and Contract Information Bulletin 90-18, dated September 12, 1990.

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CHART A

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CHAPTER 4

PROFESSIONAL AND TECHNICAL SERVICES CONTRACTS

[NOTE: Unless otherwise noted, all chapter references cited herein pertain to Handbook 11.]

4A. Principle of Competition (Chapter I, Sections 2.2; 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 its 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 host country Contracting Agency 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 with the clearance of FA/PPE and GC/CCM.

4B. Competition Without Advertising and Written Requests for Technical Proposals (Chapter I, Section 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:

- o Contracts with individuals with the understanding that consideration should be given to a reasonable number of candidates. Annex A to Chapter I provides guidance in contracting with individuals for services.

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- o 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, Section 2.4.2.

4C. Follow-on Work (Chapter 1, Section 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.

4D. Waiver of Competition--Negotiation With a Single Source
(Chapter 1, Section 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.

4E. Advertising (Chapter 1, Sections 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

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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.

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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 Procurement (FA/OP/PS/SUP), AID/Washington, Department of State, Washington, D.C. 20523-1418. The form and contents of either notice are explained in Attachment M to Chapter I. 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, (s)he should review the notice before publication and provide liaison submitting it.** (S)He should also assure the prompt availability to requesting contractors of all pertinent documents, such as RFTPs or questionnaires.

Additionally, when the fee for services in procurement services contracts is anticipated to exceed \$25,000, notice of the availability of prequalification questionnaires or the RFTP is published in the AID Procurement Information Bulletin.

The notice 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, or 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.

** Formal AID approval may be required; its mandatory if the cost of the contract is anticipated to exceed \$250,000. See Chapter 3, section 3B3 of the Guidebook.

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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 pre-qualification 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.

The Mission Director may waive the above advertising requirement to avoid serious delay in project implementation if other efforts are made to obtain proposals from a reasonable number of sources.

4F. Pre-qualification (Chapter 1, Sections 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 margin-ally 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 (s)he is dealing with a less experienced Contracting Agency, should review the sample questionnaire with his/her 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 estimated contract amount and the degree of experience and expertise in the Contracting Agency. Evaluation procedures along the lines of those described in Chapter 1, Section 3.4.4 should be considered when there are complex projects involving a significant number of completed questionnaires, even though the estimated cost does not reach the threshold established in Chapter 3, section 3B3.

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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 evaluations, the reason for the differences should be analyzed. 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 Contracting Agency should prepare a memorandum (Chapter 1, Section 3.3.5) 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.

The Project Officer should review the procedures used to establish the shortlist, and determine that a number of qualified firms have been selected so that there is a reasonable expectation of a qualified contractor being selected competitively.**

Firms that are not included on the shortlist are not considered further. However, these firms are not necessarily judged unqualified for want of inclusion.

Firms not selected for the shortlist should be so notified by the Contracting Agency.

**Formal AID approval may be required; it's mandatory if the cost of the contract is anticipated to exceed \$250,000. See Chapter 3, Section B3 of the Guidebook.

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4G. Request for Technical Proposals (RFTP) (Chapter 1, Section 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 proposals 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, Section 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 prior review by the Project Officer, as well as 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 and the estimated cost of the procurement.**

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,

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the resources to be provided, payment procedures, and such other relevant information needed to facilitate the submission of responsive, contractible 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 its 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 clarification 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 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.

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a. Cost-Reimbursement Contract

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 predetermine 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 I, Sections 3.1.2; 4.3.16c(1)). An example of a cost reimbursable contract is provided in Section 5 of Chapter I.

b. Time Rate Contract

(1) Time-rate contracts are useful when services are tied to schedules whose duration and timing are uncertain, but the type of skill(s) is known. They usually combine aspects of both fixed price and cost-reimbursement contracts. Only salary, overhead, and profit are combined into a fixed rate per time unit (day, week, or month). Other direct costs, such as travel and allowances are paid on a cost-reimbursement basis. The contractor is paid the fixed rate for the days actually worked, plus the related cost-reimbursement items, up to the maximum contract amount. The time-rate amount should be negotiated based on the following considerations:

(a) If the contractor has an established pay scale, the salary levels for each type of contractor employee who might perform work under the contract should be stated in the contract. The ranges for each level should be as narrow as possible and based on the pay scale. The contractor cannot substitute a person making a lower salary than the rank of people it is required to provide by the terms of the contract.

(b) If the contractor does not have an established pay scale, or if salary ranges are broad, the host country should be encouraged to negotiate a "multiplier" formula. The multiplier is a negotiated factor which includes salary, overhead and profit. It is multiplied against the actual salary paid to the employee. An example would be calculated as follows:

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Direct Salary = 100 percent	= 1.00
Overhead at 100 percent	= <u>1.00</u>
SUBTOTAL	= 2.00
Profit at 10 percent = <u>.20</u>	
Multiplier	= 2.20

Fixed daily rate = multiplier x actual salary. If the employee's actual salary is \$52,000 per year or \$200 per day, the fixed daily rate would be 2.2 x \$200 or \$440.

(2) Advantages

The major advantage in using time rate contracts is the flexibility when the duration of the required services is more or less than the time estimated (but still within the stated maximum contract amount) and the relative ease of processing payments compared to the detail involved in cost-reimbursement contracts.

(3) Disadvantages

Particular care should be exercised in the use of this type of contract since its terms of payment do not encourage effective management control and, in fact, encourage the contractor expend more time in performing the services, thereby increasing its monetary return. Thus it is essential that this type of contract be used only where provision is made for adequate control, including appropriate surveillance by host country and AID personnel during performance, to give reasonable assurance that inefficient or wasteful methods are not being used. The more time the contractor expends in performance of the contract, the greater its profit (which is included in the fixed rate).

Also, unless the contract is carefully drafted the contractor can substitute lower paid personnel than those proposed during negotiations. Since the time-rate amount is fixed, the contractor could increase its profits by retaining the excess salary for itself. In addition, the determination that contract costs are reasonable is more difficult for time rate contracts than for any other form. An analysis is not difficult in short-term time-rate contracts under known conditions. However, when the contract is for a longer term, and the problems facing the contractor are less

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foreseeable, a cost-reimbursement contract is usually less costly, and therefore preferable. (Chapter 1, Section 3.1.3).

c. Fixed-Price Contract

If the services to be provided by the contractor can be defined in advance with sufficient precision to permit a realistic predetermination of the costs involved, a fixed price or lump sum contract may be used. The contractor is paid the amount specified in the

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contract, irrespective of actual costs of such items as salaries, travel, and overhead. Contract 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 I, Section 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 I, Section 2.9).

4H. Receipt and Analysis of Technical Proposals (Chapter 1, Section 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 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. Though not required, AID recommends the use of a selection panel for the evaluation and ranking of proposals. 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.

When evaluation panels are utilized and the total amount of a contract action for new procurement is anticipated to exceed \$250,000 in value (and for lesser amounts at the mission's discretion) a representative of AID, normally from the contracting office, will observe the Contracting Agency evaluation panel to ensure that the evaluation is done fairly and in accordance with the criteria of the RFTP. Ideally the observer will be present at panel deliberations from the point at which proposals and instructions are delivered to the panel until the panel completes its scoring and delivers its report to the Contracting Agency approving authority.

In practice, this may not be possible because of the location and duration of the

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meetings. The practical alternative may be agreement between the Mission and the Contracting Agency that an observer will be present at the initial meeting when instructions and score sheets are delivered to the panel and the evaluation criteria are discussed. At this meeting, the observer should be able to determine that the evaluation criteria match the instructions concerning duties, responsibilities, independence, use of the point system and other

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information necessary for a competent and impartial evaluation and rank ordering. The observer might then return to a later meeting where panel members discuss their individual assessments and scores. The observer should be able to establish at such a meeting that panel members have based their evaluations on the pre-established criteria. A final observation might then take place at a panel meeting called to finalize scores and rank order the proposals.

Here again the observer should simply confirm, insofar as possible, that procedures established at the initial meeting have been followed, that the evaluation appears to have followed the selection criteria, and that the panel scoring and recommendations are properly documented. Although the observer is not a guarantor of the integrity of the procurement process, his/her presence is expected to strengthen and support the Contracting Agency's resolve and capability to conduct a fair procurement.

Ideally the Mission contracting officer will perform the observer function for service procurements. Staff limitations, language requirements or other concerns may lead to the selection of the Project Officer or another U.S. or FSN direct-hire or a PSC. It is imperative that the selected observer have a thorough understanding of the evaluation process and the specific requirements for submission of proposals, as set forth in the RFTP.

The observer should not offer suggestions, answer questions or otherwise actively participate in the evaluation process other than to explain the nature of AID procedures and provide liaison in obtaining references of claimed U.S. business experience, as specified below. The observer should promptly confer with the Mission contracting officer if it appears that the evaluation is improper. In consultation with the legal advisor, the contracting officer should then determine if the selection process is deficient and, if so recommend an appropriate action to remedy the deficiency and document any actions taken. However, the observer function is not intended to substitute AID judgments for those of the host country on the relative technical merits of the proposals being evaluated.

The selection panel should contact a sufficient number of the business references listed by each offeror considered technically acceptable in order to make an assessment of the experience claimed. The AID observer, or the Project Officer if no observer is assigned, will provide liaison to check the performance record that an offeror may claim with AID.

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When considering U.S. offerors for which AID and the Contracting Agency do not have sufficient first-hand information on previous performance or qualifications, the AID observer or Project Officer may obtain additional business data for the selection panel's consideration by cabling PPC/CDIE/DI, in AID/W. This office has access to approximately a dozen computerized business-data bases, such as Dun and Bradstreet, Standard and Poor's, Moody's, etc.

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4I. Selection of Contractor (Chapter 1, Section 3.4)

Upon the conclusion of its evaluation of the proposals, the Contracting Agency prepares a memorandum to support its selection of a contractor with whom it will seek to negotiate a contract or its determination to reject all offers. The Project Officer should assure that a copy of the memorandum is incorporated in the project's contract file.**

When the contract is anticipated to exceed \$250,000, formal AID approval is required of the selected contractor or of a Contracting Agency determination to reject all offers. The AID Project Officer, assisted by appropriate other AID personnel (e.g., engineer, contracting officer, technical officer, legal advisor or controller), should review the submitted proposals, the Contracting Agency's selection memorandum, and the observer's reports; but the Mission should not conduct a parallel or shadow evaluation, i.e., technically rank the proposals. In the absence of significant questions raised by this review, the Contracting Agency's evaluation should be accepted. Any significant question concerning the offeror's responsiveness to the terms of the RFTP or its capability to perform the work that is raised by the review of the Contracting Agency's evaluation should be explained. It is not necessary that AID agree with the Contracting Agency's ranking of the proposals, but the criteria for AID approval are findings (A) that the agreed upon selection procedures have been followed and (B) that the proposal which is selected by the Contracting Agency (i) is responsive to the terms of the RFTP and (ii) demonstrates that the contractor can carry out the statement of work.**

4J. Negotiations (Chapter 1, Section 3.5.3)

Upon receipt of the AID approval, when required above, the Contracting Agency then invites the selected 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.**

The Contracting Agency should not invite the contractor to visit the host country for the purpose of negotiating the contract until all the required approvals are received and preparations 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.

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**Formal AID approval may be required; its mandatory if the cost of the contract is anticipated to exceed \$250,000. See Chapter 3 3B3 of the Guidebook.

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Inasmuch as AID is not a party to a host country contract, negotiations leading to agreement should be conducted by the host country Contracting Agency and the contractor without direct AID involvement. 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 follows procedures that are known to be compatible 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.

Although direct participation of the Project Officer in face-to-face negotiations between the Contracting Agency and the contractor is not generally desirable, his/her informal participation in such negotiations 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/herself available for separate discussions with both parties prior to and during the negotiations. The Project Officer could then clarify for both parties AID regulations or policies which have come into question, and use his/her 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 to serve as an informal intermediary during the negotiations. The

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Project Officer should keep in mind, however, that where negotiations are at a difficult juncture, efforts to mediate could be resented by one or both parties or may even be counterproductive.

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 it should be made clear to both parties that the Project Officer is present solely to interpret AID regulations and

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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 (s)he deems warranted. The Project Officer should never, in any event, become entangled in the bargaining between the contracting parties, and should insist that the negotiations take place directly between the parties. The Project Officer should not attempt to accommodate either side.

When the contract is anticipated to exceed \$250,000, formal AID approval is required to terminate negotiations with the highest ranked competitor and to commence negotiation with a lower ranked offeror.

The Project Officer should seek the counsel of the regional or Mission contracting officer and legal adviser on the issues raised during the conduct of negotiations.

The following are some significant issues 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

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and the proposal of the contractor and to focus negotiations on those items.

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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 7 section 7L of the Guidebook.) (S)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. (Refer to Handbook 11, Chapter 4, "Cost Principles.")

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 direct salaries. Up-to-date information on overhead rates of United States contracting firms may be available from the Overhead and Special Costs & Contract Close-Out Branch, Office of Procurement, AID/Washington. The Mission controller or contracting officer may also be a source of additional information on overhead.

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

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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 I, Section 4.3.16c(3)).

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Clause 5.16B 3 appended to Chapter 1 in the sample host country contract, requires the contractor to submit a proposed final overhead rate for the period together with supporting cost data as soon as possible, but no later than six months after the close of each fiscal year during the term of the contract. 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, especially 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

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Approval of key personnel nominated by the contractor is left to the Contracting Agency. AID should not nominate personnel for the Contracting Agencies or contractor's consideration. This is a function of the contractor.

The contractor will have been selected largely on the basis of the personnel specified in the technical proposal. Therefore, care must be

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taken to ascertain that the personnel so specified, or others of equal qualifications, are actually employed under the contract. The Project Officer, if requested, may assist in reviewing qualifications.

Key personnel are normally identified by name in the contract schedule. It is appropriate to identify specific positions in host country contracts with individuals, and in research contracts where the association of specific individuals is often critical to the success of the work. However, for technical service contracts, it is often more appropriate to establish key personnel requirements in the contract by describing the required functional categories and the minimum acceptable qualifications for each category, instead of naming individuals. For example, for the functional category "Agronomist," the minimum acceptable qualifications might be: a doctorate in agronomy, ten years experience in tropical agriculture, and a tested S-2/R-2 Spanish language capability. Under such conditions, it is the contractor's responsibility to provide a suitable person with these qualifications. If the contractor fails to do so, for whatever reason, it is a breach of contract and appropriate remedies are available.

The contract may contain a clause providing for the prior review and approval by the Contracting Agency of the removal or replacement of the contractor's key personnel. (Chapter 1, Sections 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/her 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

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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.

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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, Sections 4.3.21; 5.21)

Logistical contract support is one of the most troublesome areas of contracting. Notwithstanding the technical competence of the contractor's staff, when the employees are forced to spend a great deal of time in resolving day-to-day household problems, the work suffers. Consequently, it is critical to the attainment of project objectives to clarify for the contractor and its staff exactly what kind of personal and office facilities will be provided and by whom to avoid disappointments when the staff arrives.

Each mission should establish which facilities and logistical support items are available for host country contractors. Often, these facilities will not be the same as are afforded to direct contractor employees for the reason that the U.S. government is not a party to host country contracts. For example, employees under AID direct contracts may be permitted to use the Mission's commissary facilities, but the privilege is not extended to employees of host country contractors. Such limitations must be considered when the host country contract is negotiated, and responsibility for various logistic support items is assumed by one party or another.

It is preferable for the contractor to assume responsibility for providing its own logistical support. A statement that the contractor is assuming all such responsibility should, in such cases, be included in the contract. This arrangement relieves the Contracting Agency (as well as AID) of a number of burdensome details, and can result in more timely and adequate provision of support for the contractor.

If it is not feasible for the contractor to assume full responsibility for its logistical support, the responsibility should, to the maximum extent possible, be assumed by the Contracting Agency. In this instance, the contract should specify exactly what is to be provided for the contractor and its employees in the nature of such facilities as housing, office space, secretarial help, transportation, etc. The contract should include a provision which defines the rights of the contractor in the

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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 in such cases and to be reimbursed from contract funds.

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There may also be situations where neither the contractor nor the Contracting Agency is able to assume full responsibility for providing logistic support for the contractor. If it is necessary for project implementation, the Mission will have to fill in the gap. The costs of such logistical support are, however, charged to Project funds. The Mission may either enter into a contract to provide logistical support to one or more contractors at the post, or as a last resort, provide the logistical support directly.

Pursuant to State telegrams 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 certain medical services if authorized by the Ambassador. Copies of these cables are provided as Appendix C to this Guidebook.

American host country contractors, and their employees who are U.S. citizens are also allowed limited use of pouch facilities. The maximum weight of official correspondence is two pounds. The maximum weight of personal letters is one pound. Use of the pouch for packages, newspapers, and magazines is not allowed. See State Airgram A-1854 of May 12, 1978.

4K. Mandatory Contract and Payment Provisions (Chapter 1, Sections 2.12; 4.3)

Since 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/her 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/her discussions of these matters with the Contracting Agency, the Project Officer

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should be accompanied by such Mission experts as is deemed appropriate.

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4L. Sample Provisions (Chapter 1, Section 4.3)

The clauses discussed in Chapter 1, Section 4.3 and the sample contract format in Chapter 1, Section 5, 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 are not to be copied verbatim, but should be adapted to local law and usage as well as to the particular requirements of the transaction under consideration.

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 contracting officer and legal advisor as well as assistance from the Mission controller.

The use of approved sample clauses or provisions will facilitate the Project Officer's review of host country contracts, since his/her 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.

4M. Contract Approval (Chapter 1, Section 3.5.5)

When the contract exceeds \$250,000 in value, including any local currency, formal AID approval is required of the draft contract before execution and of the signed contract documents (ref Chap III B3. above). These approvals may be required for contracts of lesser value at the Mission's discretion.

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The Mission is also required to review and approve the various actions of the Contract Agency in soliciting and evaluating offers and in negotiating and awarding the contract which exceeds \$250,000. It should therefore be in a position to readily 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

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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.

In addition to the selection memorandum which was previously submitted to the Mission (Section 4I above), the Contracting Agency should now supply the Mission with an analysis of the cost or price of the proposed contract and biographical data of key personnel to supplement the contract review. (Chapter 1, Section 3.5.5.1; Mission approval criteria are contained in Chapter 1, Section 3.5.5.2).

The Project Officer should include the regional or Mission legal advisor, contracting officer, controller, and other appropriate Mission personnel in this review.

(S)He should prepare a contract approval memorandum for the record, which among other things, demonstrates that the contact 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. The memorandum should be cleared by the above reviewers and signed by the Mission Director (or his/her designee), as permitted by redelegations of authority.

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

Following execution of the contract, the Project Officer maintains a copy of the signed contact and distributes copies to all concerned Mission offices. 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.

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The Project Officer also reports contract data concerning the award to AID's Contract Information Management System (CIMS) in AID/W. The data sheet is available from and the reporting is made through the Mission or regional contracting officer.

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CHAPTER 5

CONSTRUCTION SERVICES CONTRACTS

[NOTE: Unless otherwise noted, all Chapter references cited herein pertain to Handbook 11.]

5A. Use of Formal Competitive Bids (Chapter 2, Section 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 is timely and does not alter in any material the conditions set forth in the IFB. Any bidder who has met the test of prequalification should be responsible; however, prior to award, 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. All AID-financed construction contracts, irrespective of amount, must be awarded by formal competitive bids, except as provided below.

5B. Exceptions

1. Competitive Negotiation (Chapter 2, Section 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. Use of this procedure must be authorized by the Mission Director.

If this procedure is approved, the Contracting Agency determines those firms (at least two) with which to commence negotiations, supplying all 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, Section 3.9.

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2. Negotiation with a Single Source (Chapter 2, Section 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 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.

A single source, negotiated procurement estimated to exceed \$10 million in value may be authorized only by the Associate Administrator for Operations. If the estimated cost is less than \$10 million, the procurement may also be authorized by the cognizant Regional Assistant Administrator. In either case, prior clearance by the Agency Competition Advocate (FA/PPE) is required for procurements in excess of \$5 million.

A single source, negotiated procurement estimated to cost \$5 million or less may be approved by the Mission Director. The Mission Director may delegate this approval authority to the Deputy Mission Director only for procurements that are estimated not to exceed \$250,000. For procurements estimated to be in excess of \$250,000, such approval must be based upon the recommendation of the Mission Noncompetitive Review Board, which is composed of at least three senior officers other than the approving officer, e.g., the Deputy Mission Director, the Mission or Regional Legal Advisor, a Contracting Officer, and a senior Project Officer not otherwise involved with the procurement under consideration.

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 contracting officer and such other officers as are appropriate. (S)He then forwards it to the Mission or AID/W office having authority for such approvals.

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5C. Role of the Consulting Engineer (Chapter 2, Section 3.I)

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 the engineering staff be well qualified and that its personnel be selected with care.

The consulting engineer provides additional valuable services of interest to the Project Officer, such as, for example, supervising the 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 its own contract with the Contracting Agency. The consulting engineer should, moreover, be clearly informed as to AID's requirements. For his/her 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.

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5D. Types of Contracts (Chapter 2, Section 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 predetermined, 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 its profit and all of its 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 its 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 legal advisor, contract officer, 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, Section 3.1.2.

5E. Bonds and Guaranties (Chapter 2, Section 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 withdrawal of bids and against failure of the contractor to perform. A bid bond ensures that the contractor will execute a written contract. A performance bond assures performance if default under the contract were to occur. On the other

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hand, under a guaranty, default triggers a cash payment to the Contracting Agency.

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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.

5F. Contracting Procedures

1. Prequalification (Chapter 2, Section 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 predetermined, 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, Sections 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 submission procedures for 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 should be sent 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 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

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Business Daily is not a requirement, but is optional. In any event, if the notice is not published in the Commerce Business Daily, the

**Formal AID approval may be required of the short list of qualified contractors; its mandatory if the cost of the contract is anticipated to exceed \$250,000. See Chapter 3, section 3B3 of the Guidebook.

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Contracting Agency must place suitable advertising in appropriate local, regional, or international publications in accordance with local practice.

Advertisement in the Commerce Business Daily may be waived by the Mission Director to avoid a serious delay in project implementation, provided that efforts are made to secure bids from a reasonable number of potential contractors (Chapter 2, Section 2.4.4). 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.

c. Distribution of Prequalification Questionnaires and Evaluation of Responses (Chapter 2, Sections 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. From the responses received, the consulting engineer 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 IFB which will be sent to the firms on the shortlist. The Contracting Agency should prepare a memorandum (Chapter 2, Section 3.5.5) explaining the basis for memorandum to the Project Officer for Mission approval and for retention in the Mission contract monitoring file. The Project Officer should review the procedures used to establish the shortlist and determine that a number of qualified firms have been selected so that there is a reasonable expectation of a qualified contractor being

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selected competitively.**

**Formal AID approval may be required; its mandatory if the cost of the contract is anticipated to exceed \$250,000. See Chapter 3, section 3B3 of the Guidebook.

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Firms that are not included on the shortlist are not considered further. However, these firms are not necessarily judged unqualified for want of inclusion.

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.

2. Where Pre-qualification Is Not Used (Chapter 2, Section 3.6.5)

If prequalification is not used, the IFB is advertised in accordance with the procedures described under Section F1a. above. However, prequalification 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, Section 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 its 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. Chapter 2, Attachments 2J through to 2S constitute a sample of an IFB considered acceptable to AID.

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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. The Mission or area Contracting Officer reviews the entire package for consistency and contractibility.

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, Section 4.7.1)

AID has used the general conditions as published in the Federation Internationale des Ingenieurs-Conseils (FIDIC) for illustrative purposes on civil works contracts. 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. A settlement of disputes provision is mandatory, but the FIDIC provision may be modified within the Settlement of Disputes clause of Section 4.7.2.2.h.

b. Conditions of Particular Application (Chapter 2, Section 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

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payment authorized by AID, as well as the documentation required by AID in order to effect payment.

The use of mobilization payments is explained in Chapter 2, Section 3.6.4.1.e. The Project Officer should be able to explain the various mandatory and payment provisions to his/her 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

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country and the contract that is to be financed. In his/her 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, Section 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, Section 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 AID official who will approve the contract.

7. Contract Award (Chapter 2, Section 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 updated cost analysis against which to measure the bids. The award is made to the lowest responsive and

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responsible bidder. Factors other than price which may be considered in the evaluation are discussed in Chapter 2, Section 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 engineers, the Contracting Agency may elect to reject all bids subject to AID approval.

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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.

5G. AID Approval of Proposed Award (Chapter 2, 3.8.5)

When the contract exceeds \$250,000 in value, including any local currency, formal AID approval is required of the draft contract before execution and of the signed contract documents (ref Chap 3, section 3B3 above). These approvals may be required for contracts of lesser value at the Mission's discretion.

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. Additional reviewing officials should always include the regional or Mission contracting officer, and 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/her 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.

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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.

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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 (Chapter 2, Attachment 2Q).

A copy of the signed contract is then sent to AID for its approval. (Chapter 2, Section 2.2). Following approval of the contract, the Project Officer should assure that copies are made available to all Mission offices concerned. (S)He also retains a copy of the signed contract, as well as any amendments, in the contract monitoring file that (s)he maintains.

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.

The Project Officer also reports contract data concerning the award to AID's Contract Information Management System (CIMS) in AID/W. The data sheet is available from and reporting is made through the Mission or regional contracting officer.

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CHAPTER 6

PROCUREMENT OF EQUIPMENT AND MATERIALS

[NOTE: Unless otherwise noted, all Chapter references cited herein pertain to Handbook 11.]

6A. Formal Competitive Bidding (Chapter 3, Sections 2.2.1; 3.6)

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, Section 3.4. 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 payment 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-percentage-of-cost contract is not eligible for AID financing.

3. Advertising (Chapter 3, Sections 2.3; 3.6.1)

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

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**Formal AID approval may be required; its mandatory if the cost of the contract is anticipated to exceed \$250,000. See Chapter 3, section 3B3 of the Guidebook.

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The Project Officer should inform the Contracting Agency of the requirement that the advertisement should be sent in time to reach 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. 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, Sections 2.3 and 3.6.I. Waiver provisions for the advertising requirement may be found in Chapter 3, Section 2.3.2.

Attachment 3C to Chapter 3 contains a sample of the format and content of the notices for both the Commerce Business Daily and the AID Procurement Information Bulletin. The Project Officer should provide copies of these advertisements.

4. Prequalification (Chapter 3, Section 3.6.2)

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.

Depending on the estimated cost of the procurement and the experience and the record of the Contracting Agency, [or of its procurement agent, if used (Chapter 3, Section 3.3)], the Project Officer, assisted by appropriate Mission legal, contracting, and engineering advisors, may

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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, Sections 3.6.3 through 3.6.7)

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 and contracting officer 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 respond to the IFB advertisement, and to such other firms as the Contracting Agency may care to solicit.

**Formal AID approval may be required; its mandatory if the cost of the contract is anticipated to exceed \$250,000. See Chapter 3 section 3B3 of the Guidebook.

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6. Prebid Conference (Chapter 3, Section 3.6.4.2)

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 Section 3, 3.7)

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 (Chapter 3, Section 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

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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, Section 3.11.2, are met. 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.

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The Project Officer should be able to explain the various mandatory and payment provisions to his/her 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 contracting 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, Section 3.10)

Bid and performance bonds or guaranties are occasionally used in contracts for equipment and materials to protect the Contracting Agency against the 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, Sections 3.6.5; 3.6.6 and 3.6.7)

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, Section 3.6.9)

When the contract exceeds \$250,000 in value, including any local currency, formal AID approval is required of the draft contract before execution and of the signed contract documents (ref Chap III B3 above). These approvals may be required for contracts of lesser value at the Mission's discretion.

The documentation supporting the proposed award to be provided by the

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Contracting Agency to the Mission is outlined in the cited Chapter 3 reference.

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

If the Project Officer concurs with the proposed award, (s)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/her 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.

If, on the other hand, the Project officer does not concur with the proposed award, (s)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.

The expiration dates of bids and bonds or guaranties should be considered in scheduling Mission contract approvals. 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. (See 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.

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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.

The Project Officer also reports contract data concerning the award to AID's Contract Information Management System (CIMS) in AID/W. The data sheet is available from and reporting is made through the Mission or regional contracting officer.

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6B. Informal Competitive Procedures (Chapter 3, Sections 2.2.3 and 3.8)

1. Request for Quotations (RFQ)

The Mission Director is authorized to approve informal competitive procedures in lieu of formal procurement procedures when it is not feasible to develop adequate specifications for an IFB, when proprietary procurement is justified, 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, Section 3.8.3 provides guidance as to the procedure to be followed in such situations.

A Request for Quotation (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, Sections 3.8 and 4.2 discuss the informal competitive procedures and the RFQ in greater detail.

2. Advertising (Chapter 3, Section 2.3)

The RFQ, as well as the prequalification questionnaire if used, are advertised in the Commerce Business Daily of the U.S. Department of Commerce, and in the AID Procurement Information Bulletin. Chapter 3, Section 3.8.2.1 and Attachment 3C provide additional details concerning this advertising, including the form of notices and transmittal procedures. 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, Section 2.3.2 explains the provision for waivers of the advertising requirement.

Where an RFQ is used following failure of the formal competitive bidding

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procedure as mentioned above, re-advertising the procurement in question is not required. (See Chapter 3, Section 3.8.3).

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

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financing. The Project Officer, assisted by such Mission legal, engineer, controller, contracting, and supply officer expertise as (s)he deems warranted, should review the RFQ before distribution 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 Contracting Agency and AID should establish a list in accordance with the discussion in Chapter 3, Sections 3.8.

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 receipt in the RFQ. The Contracting Agency, or its procurement agent if one is used, is responsible for the evaluation of the quotations which are ranked in order. (Chapter 3, Sections 3.8.4 and 3.8.5).

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 quotations have been judged accurately and ranked fairly.

4. Negotiations (Chapter 3, Section 3.8.6)

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.

The guidance provided for the Project Officer in negotiating host country contracts for professional and technical services contracts (Section 4J of this Guidebook)

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is also applicable in dealing with negotiations involving the suppliers of equipment and materials.

5. Contract Award (Chapter 3, Section 3.8.7)

It is normally 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.

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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, Section 3.8.7, 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 A11 of this chapter are then followed.

6C. Small Value Procurement (Chapter 3, Sections 2.2.4; 3.9)

Host Country Contracts for equipment and materials not exceeding \$100,000 may be informally solicited, 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 and approval of noncompetitive procurement requirements as modified below, other basic AID rules set forth in Handbook 11, Chapter 3, Section 2, 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, contracting officer, and Mission controller.

Procurement of equipment and materials estimated to cost over \$25,000 must be advertised in the AID Procurement Information Bulletin. The format for the notice of the advertisement and transmittal procedures are included in Chapter 3, Attachment 3C. 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 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 a reasonable number of sources should be solicited with a view toward obtaining the most advantageous offer that is commensurate with a reasonable level of effort: the potential for benefit from additional competition should be weighed against the additional administrative costs of the procurement.

Because the administrative costs of obtaining competitive quotations may more

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than offset the potential savings from competition in low-value procurements, they may be made without competitive quotations so long as 1. the procurement does not exceed \$2,500, 2. the Contracting Agency/Procurement Services Agent considers the price reasonable, 3. such purchases are distributed equitably between qualified suppliers, and 4. the awarding official documents these conclusions in the Contracting Agency/Procurement Services Agent's records of the procurement. The

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waiver procedure in Chapter 3, Section 2.2.6, is not applicable in this circumstance.

Equipment, materials, and incidental services which would normally be grouped together should not be broken down into smaller procurements merely for the purpose of avoiding the requirements of formal, informal, or small value competitive procedures.

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 the 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, Section 2C of the Guidebook also provides alternative options which should be considered by the Project Officer.

6D. Exceptions from Standard Procurement Procedures

1. Proprietary Procurement (Chapter 3, Section 2.2.5)

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.

In some cases, however, there may be a need for purchasing by brand or trade name or by a restrictive specification without allowing for offers of "equal" items. Such propriety procurement may be justified when substantial benefits can be achieved through standardizing on a particular brand (e.g., economies in maintenance of spare parts inventories, better repair facilities, or greater familiarity by operating personnel), when compatibility with equipment on hand is required, or when special design or operational characteristics are required.

If proprietary procurement is justified, the requirement may serve as the basis for authorizing the use of informal competitive procedures or negotiation

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with a single source.

2. Single Source Procurement (Chapter 3, Section 2.2.6)

Negotiations with a single source may be permitted in the event of an emergency situation, because of a need for a proprietary item which is available from only one source taking into account any special

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requirements such as the need for in-country service capability, or because competitive procedures would result in the impairment of the AID program or would not be in the best interest 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 only under most exceptional circumstances should a breakdown in the host country's planning procedures that precludes use of the competitive process constitute an adequate justification for a claim of an emergency situation, or for support for a claimed impairment of the AID program.

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CHAPTER 7

CONTRACT IMPLEMENTATION AND MONITORING

[NOTE: Unless otherwise noted, all Chapter references cited herein pertain to Handbook 11.]

7A. 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/her activities are intended primarily to serve AID purposes. The Project Officer's relationships with the host country and the contractor, as well as his/her "style" of monitoring, should reflect appropriate recognition of these important considerations, as stressed in Chapter 1 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

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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:

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- o analysis of the host country's procurement capabilities
- o project procurement plan
- o monitoring plan
- o related Project Agreement (and Project Implementation Letters (PILs) relating to contracting or procurement)
- o 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 Project Officers oversee the procurement-related undertakings of both the host country and the contractor. Of special importance to these 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 a personal 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/she 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 project 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/she is responsible. Although designed for monitoring all aspects of project implementation, Appendix A of Chapter 11,

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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.

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

- o maintaining personal liaison with senior officials of both the Contracting Agency and the contractor;
- o meeting periodically with the Contracting Agency and the contractor to review work progress and problems;
- o 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;
- o 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, required under terms of the contract);
- o identifying and resolving problems impeding the work of the contractor (e.g., adequacy of logistical support; availability of local currency; customs clearances, etc.);
- o assuring that required financing arrangements are made, analyzing disbursements against planned expenditures, and approving contractor payment vouchers;
- o submitting periodic or special contract status reports to meet internal AID management or information needs;
- o 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;
- o assuring that required contract audits are made, and that corrective actions are taken where necessary; and
- o 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

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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/her judgment in applying and adapting these techniques to the nature of the contract being monitored and the circumstances prevailing at the country level.

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7B. 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/her association with these officials will have begun sometime prior to the actual initiation of the contracting process due to his/her 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/her actions and attitude, that (s)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, (s)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, (s)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), (s)he should review the situation with the Contracting Agency, expressing appropriate concern and urging prompt attention to the problem. In these and similar circumstances, the Project Officer 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, when the Project Officer wishes to visit or meet with the contractor, the Contracting Agency should be advised in advance, and urged to participate. This approach not only minimizes the possibility of misunderstandings about the role of AID in the monitoring process, but serves to

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underscore the fact that host country administration and oversight are in the first instance basic Contracting Agency responsibilities.

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7C. 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. (S)He should make clear AID's substantive interest in the successful completion of the contract, as well as his/her general role in the monitoring process as AID's representative. The Project Officer should particularly stress his or her 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, 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/her 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/her relationships with a particular contractor. The real test of his/her effectiveness may be the extent to which the contractor seeks his/her informal advice and assistance as the work progresses.

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7D. 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/her key staff and to ease the transition 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:

- o review with the contractor the importance of the related project and its development objectives;
- o verify that the contractor clearly understands the scope of work, major provisions of the contract, and the central nature of his/her relationships with the Contracting Agency and the AID Mission;
- o outline plans for periodic reviews of the contractor's progress; and
- o generally to assist the contractor during the mobilization state 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.

7E. Periodic Meetings/Discussions with the Contractor

Meeting periodically with the contractor and his/her 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/her 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

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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.

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Memoranda of this kind can serve a number of purposes, by alerting and enlisting the assistance of other 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.

7F. 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.). Services contracts which are on a fixed price basis and which include a commodity procurement component include any applicable requirements in accordance with Chapters 1 and 2 of Handbook 11. Chapter 3 of Handbook 11 provides guidance relating to services contracts which are a cost reimbursable basis and also include a commodity procurement component.

When a host country contracts 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, the commodity procurement is subject to the rules and procedures set forth in Chapter 3 of Handbook 11.

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 11E (Specific Monitoring Responsibilities) of Chapter 11, Handbook 3.

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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.

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

7G. 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/her 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.

7H. 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

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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

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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 4, Section 4J4 of the Guidebook for a further discussion on logistical support of contractors.

7I. Financial Arrangements and Methods of Payment

As noted in Chapter 3 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/her 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.

7J. 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. (S)He is thus the logical U.S.

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official to acknowledge that the services and/or commodities covered by a contractor's voucher have in fact been satisfactorily delivered. His/her approval of such vouchers have in fact been satisfactorily delivered. His/her 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.

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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/her 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 Section 3.6.5.4 et. seq. in Handbook 11, Chapter 1, 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, this should be done 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.

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 Handbook 19, Chapter 3, Financial Management.

7K. 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

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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 underway, 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

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waiver provisions of Handbook 11 which apply to specific contracting circumstances (such as waiving competition in the procurement of services pursuant to Chapter I, Section 2.4.2 of the same Handbook).

Experience indicates that most waiver requests arise from AID's nationality, 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.

As in other aspects of his/her monitoring functions, the Project Officer should of course seek the assistance of other Mission officers (e.g., legal advisor, contracting officer, engineer, commodity specialist, controllers) 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.

7L. 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 (s)he is monitoring, by virtue of his/her familiarity with the circumstances and the status of the work. (S)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.

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

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When a Project Officer is considering proposed extensions of a host country contract, (s)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, Section 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 Handbook 11, Chapters 2 and 3.

7M. 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 general 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/her general oversight of the contractor and his/her 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

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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.

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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 to the Project Officer.

Where the significance of a problem warrants, the Project Officer should record his/her 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 significant importance, and expects that appropriate corrective action will be taken promptly.

7N. 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

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knowing that such site visits are contemplated serves to keep the contractor "on his/her toes" and provides additional incentive to meet projected targets and deadlines.

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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/her 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 (s)he should prepare a summary report highlighting his/her 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.

7O. 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 records, prior site visits if any, and his/her 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.

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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

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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.

7P. 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.

When the rule to use metric specifications (Chap 1, 2.8; Chap 2, 2.7; Chap 3, 2.9) is waived (See App E), the Project Officer will maintain a log of the waivers. This log shall list the requirement for which the waiver is authorized, total dollar value of procured item(s), waiver date, authorizing official, basis for waiver, and A.I.D. actions that can promote metrication and ameliorate the need for future waivers. The waiver log for the contract or project shall be combined with other such logs and submitted as a consolidated Mission report for the fiscal year that is sent to the A.I.D. Metric Executive (FA/AS) within 30 days of the end of the year.

7Q. Contract Monitoring File

To facilitate his/her work, the Project Officer should establish and maintain a file for each host country contract (s)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/her successor in event of the former's reassignment; and

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(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, (s)he should see to it that his/her 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

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problems. Where the Project Officer leaves the post prior to the arrival of his/her replacement, (s)he should assure that the file is current and contains all documents necessary to permit his/her replacement to assume prompt monitoring of the contract upon his/her arrival.

The Project Officer can also assist the process of strengthening the Agency's "memory" by submitting a copy of and document in the contract file which (s)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.

7R. 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. (S)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.

7S. Briefings and Presentations

Because of his/her 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 briefing 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.

7T. Disputes and Appeals

Host country contracts are required to contain a provision (e.g., Handbook 11,

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Chapter 1, Section 4.3.27) 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/her 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 exactly a dispute over

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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/her counsel and assistance. If it is agreed that his/her involvement in the dispute would be appropriate or necessary, (s)he should then use his/her 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.

7U. 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 (s)he may counsel and assist the Contracting Agency as it reviews the performance of the contractor and considers its options, (s)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.

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The guidance in Section 7T above relating to disputes would appear to be equally appropriate to situations of this nature.

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7V. 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 Handbook 19, Financial Management, Chapter 8, Section A5g.

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 (s)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, the Defense Contract Audit Agency, or a private accounting firm.

Where an audit report discloses the need for corrective acting, 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.

7W. 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

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Accounting Officer, Congressional Committees or other U.S. Government Agencies. Where such audits or investigations involve a host country contract which the Project Officer is monitoring, (s)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/she should promptly refer the matter and all pertinent information, to the Mission Director and for such further action as may be necessary.

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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, (s)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., contracting officer, engineer, controller), the Project Officer should review the protest with the Contracting Agency to ascertain the facts 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.

7X. Contract Closeout and Termination

Host country contracts for services provide for their termination under varying circumstances. For example, Chapter 1 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

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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) has been executed.

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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.

7Y. Project Evaluation Summary (PES)

As a corollary of his/her 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. Handbook 3, Chapter 12, Appendix 12A, 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.

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APPENDIX A

AID LOCAL NATIONAL EMPLOYEES

Excerpt from Sec. 922.4e of the Uniform Foreign Affairs Regulation

1. FSN employees may not be hired to perform work which involves policy formulation, representation, or supervision of U.S. citizens.
2. Notwithstanding this policy, it is the policy of AID to encourage FSN 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, FSN 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 the FSN employee's area of competence. In such capacity, an FSN employee may conduct site inspections, review project scheduling and other, technical project elements with counterpart officials and conduct administrative review vouchers.

Similar responsibilities may be assumed by FSN employees in other mission divisions including administrative, program office, controller, etc., subject to appropriate supervision by division chiefs of other U.S. direct-hire personnel. In carrying out these functions, FSN 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.

3. 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.

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APPENDIX B

CHECKLIST FOR ASSESSMENT OF HOST COUNTRY PROCUREMENT CAPABILITIES

Chapter 2, Section C of the Guidebook promulgates a requirement and a methodology for a realistic Mission assessment of the procurement capabilities of the proposed host country Contracting Agency. 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?

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- 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 cost country entities? If not, are such external approval requirements likely to delay or complicate the contracting process excessively?
- Does the Agency have the capacity to expeditiously provide the contractor logistic support functions that are planned to be assigned to it?
- Are there local laws, regulations, or practices governing host country procurement which are significantly inconsistent with AID rules or which are likely to hamper the procurement process seriously? 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 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?

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APPENDIX C

MEDICAL FACILITIES FOR HOST COUNTRY CONTRACT EMPLOYEES

THE TEXT OF TELEGRAM STATE 061620 DATED MARCH 19, 1977 IS REPEATED AS FOLLOWS:

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

1. EMBASSY AND AID HAVE AGAIN JOINTLY REVIEWED THE QUESTION OF ACCESS TO EMBASSY HEALTH ROOM FACILITIES AND MEDICAL SERVICES BY U.S. CITIZEN EMPLOYEES UNDER CONTRACTS FINANCED BY AID BUT EXECUTED WITH A HOST GOVERNMENT OR INSTITUTION. OUR REVIEW HAS TAKEN INTO ACCOUNT:

- AID'S NEW POLICY PREFERRING HOST COUNTRY CONTRACTS TO CARRY OUT ASSISTANCE PROGRAMS.
- INCREASED ASSISTANCE TO THE RELATIVELY LEAST DEVELOPED COUNTRIES DELIVERED IN LOCATIONS WHERE PRIVATE MEDICAL SERVICES ARE SOMETIMES VERY INADEQUATE OR TOTALLY LACKING.
- RECENT LEGISLATIVE AND OTHER CHANGES.

2. STATE HAS DETERMINED THAT U.S. CITIZEN EMPLOYEES AND THEIR ELIGIBLE U.S. CITIZEN DEPENDENTS UNDER AID-FINANCED HOST COUNTRY CONTRACTS MAY HAVE ACCESS TO EMBASSY HEALTH ROOMS AND MEDICAL SERVICES UPON APPROVAL OF THE AMBASSADOR OR OTHER PRINCIPAL REPRESENTATIVE OF THE U.S. IN THE AREA ON A POST-BY-POST BASIS. THIS APPROVAL WILL BE EFFECTIVE FOR THE EMPLOYEE INCLUDING ELIGIBLE DEPENDENTS FOR THE TERM OF PERFORMANCE OF THE EMPLOYEE'S CONTRACT AT THE POST WHERE ORIGINALLY APPROVED.

IN MAKING THE DETERMINATION FOR APPROVAL/DISAPPROVAL OF SUCH ACCESS THE AMBASSADOR OR OTHER PRINCIPAL REPRESENTATIVE SHOULD CONSIDER:

- THE AVAILABILITY OF PRIVATE MEDICAL FACILITIES AND SERVICES IN THE AREA.

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-- WHETHER THE EXISTING EMBASSY FACILITIES AND SERVICES CAN MEET THE NEED WITHOUT SERIOUS DILUTION OF CONTINUING HEALTH CARE TO ITS OFFICIAL CLIENTELE.

-- WHETHER IT WOULD BE IN THE BEST INTERESTS OF THE U.S. GOVERNMENT.

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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 E 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.
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THE TEXT OF STATE 055336, DATED MARCH 3, 1978, IS REPEATED AS FOLLOWS:

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

REFERENCE: STATE 06120, DATED MARCH 19, 1977

1. AID'S BASIC AGREEMENT WITH STATE PROVIDES FOR, QUOTE, "THOSE U.S. CITIZENS SERVING ABROAD, AND THEIR DEPENDENTS, WHO ARE ENGAGED UNDER A CONTRACT BETWEEN A CONTRACTOR AND AID OR WHO ARE ENGAGED UNDER A SUBCONTRACT THERETO," 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 HAS 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 OFFICERS DISCRETION IN DEALING WITH EMERGENCY SITUATIONS REFERRED TO IN SUBPARAGRAPH 2[C] IN APPENDIX E.

4. FOR BAMKO. THIS RESPONDS TO YOUR MESSAGE 0523 DATED 2/2/78. CHRISTOPHER

NOTE: POUCHED BY OC/T

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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 Handbook 11, Chapters 1, 2, and 3.

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 of the contract. (Chapter 1, Section 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, Sections 2.5 and 5.22. For construction contracts the rules on nationality, source, and cargo preference are provided in Chapter 2, Section 2.5 and in Clause 74 of Attachment 2S. In view of the complexities involved, any changes in the wording of the clause should be carefully drafted.

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 resident in the United States.

The statutory cargo preference requirements are enforced on a project basis, and not a contracting basis, thus, a host country is required to determine that at least 50 per cent of all tonnage used in a given project (including at least 50 per cent of gross freight revenues in the case of dry cargo liners) is shipped on United

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States bottoms. The tonnage can be divided at the discretion of the host country according to contracts implementing the project.

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Handbook 11, Chapter 3, 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, and 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, Section 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, Section 2.12.4b; Chapter 2, Section 2.5.6b(3); and Chapter 3, Section 2.6.5.4c.

4. Worker's Compensation

Each host country contract must provide for worker's compensation as required by the Defense Base Act, 42 USC 1641, et. seq.

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

AID has entered into a blanket contract to provide Defense Base Act insurance for all host country contractors. In order to obtain coverage, contractors should refer to the appropriate reference in the preceding paragraph.

5. Contractor's or Supplier's Certificate

Each contract must contain a clause providing for the submission by the

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contractor with each request for payment of a certificate prescribed by AID.

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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 (s)he has complied with the terms of the contract, and (s)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. (See Chapter 1, 2.12.3; Chapter 2, 2.11.3; Chapter 3, 2.14.)

6. 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, (s)he may waive the requirement. (See Chapter 2, Attachment 2S, Clause 78; Chapter 3, Attachment 3N, Clause 16.)

7. Host Country Taxes

AID funds and AID-funded commodities and services are exempted from host country taxation. Each host country contract meet contain a provision which is consistent with this exemption. (See Chapter 1, Section 5.20; Chapter 2, Attachment 2S, Clause 79; Chapter 3, Attachment 3N, Clause 9.)

8. Equal Opportunity

Each U.S. firm offering to supply AID-financed services, equipment, or materials must include in its bid or proposal a certification to the effect that it practices non-discrimination in its hiring policies in the United States, and that it complies

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with its equal employment opportunity obligations under Executive Order 11246. Additionally, each AID-financed contract with a U.S. firm must contain a clause requiring it to maintain compliance with its obligations in the performance of the contract. (See Chapter 1, Sections 2.7.3, 2.12.10, and 5.39; Chapter 2, Sections 2.6.4, and 2.11.10, and Attachment 2S Clause 82; and Chapter 3, Sections 2.8.4 and 2.13.8, and Attachment 3N, Clause 29.

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9. Vesting of Title and Diversion Rights

Each contract for equipment or materials must contain this clause which permits AID to take title to undelivered commodities and to direct carriers to deliver them to alternate destinations. (See Chapter 3, Attachment 3N, Clause 30.)

10. Disposition of Personal Property in the Cooperating Country

Each contract for services must contain a clause which restricts the disposition of personal property in the Cooperating Country to the extent that the rules in 22 CFR Part 136 apply to contractors with the U.S. Government. (See Chapter 1, Section 5.28, and Chapter 2, Attachment 2S, Clause 81.)

11. Settlement of Disputes

Each contract must contain a clause which specifies impartial and effective procedures for the settlement of disputes between the contract parties. (See Chapter 1, Sections 2.12.8, 4.3.27, and 5.27; Chapter 2, Sections 2.11.8 and 4.7.2.2.h, and Attachments 2R, Clause 67, and 2S, Clause 67; Chapter 3, Sections 2.13.10 and 4.1.6.15, and Attachments 3N, Clause 15, and 3P, Clause 11.)

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APPENDIX E

WAIVERS IN A NUTSHELL

Of all the operational documents which we prepare in AID, 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 worth of Arabic textbooks 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

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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

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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 FA/OP 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 our 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 summary of waiver authorities.

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SAMPLE

ACTION MEMORANDUM FOR THE ACTING MISSION DIRECTOR

FROM: PDO, R. Lewis

Problem: To obtain waivers of source/origin and competition in the procurement of goods 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 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) 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 FA/COM, revealed a list of U.S. suppliers which manufacture equipment similar, but not identical, to that specified 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 Handbook 1, Supplement B, Section 12C4a, competition in the procurement of goods may be waived and a single-source negotiated contract authorized by you, if the value of the procurement does not exceed \$500,000. A waiver of competition for the Procurement of these items is justified because the circumstances meet the criterion, in Section 12C4a(2)(c)2, that special design or operational requirements require

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a product available from only one source.

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A source waiver in this case is permitted under AID Handbook 1, Supplement B, Section 5B4a(2), because the commodities are not available from countries included in the authorized geographic code. The authority to waive the source and origin requirement for this procurement was delegated to you under AID Delegation of Authority 40. The estimated cost of the procurement, \$100,000, does not exceed your authority of \$5 million.

Recommendations:

- A. That you waive competition in the procurement of the above described goods and authorize single source negotiated contracts therefore.

APPROVED: _____

DISAPPROVED: _____

DATE: _____

- B. 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, and that you waive existing source/origin requirements for this procurement and authorize procurement from Code 899 source and origin.

APPROVED: _____

DISAPPROVED: _____

DATE: _____

CLEARANCES:

RLA: _____ DATE: _____

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Waiver of prior approval (and retroactive approval in appropriate cases) of ocean charter requirements.

Sec. 7E4
Waiver by FA/OP

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AID WAIVER AUTHORITIES
HOST COUNTRY CONTRACTS

WAIVER HANDBOOK 1B HANDBOOK 11
MARINE INSURANCE

Commodity eligibility determined be marine insurance. Waiver of requirement that all commodities be insured in the U.S. when discrimination is found to exist.

Sec. 4E4(a)
Waiver only by President under FAA Section 614(a)

MARKING

Waiver of requirement that projects and commodities be marked to identify them as U.S. foreign assistance.

Sec. 22D1, 2, 3
Regional AA or designee in consultation w/ FA/OP/COM when requirement is impractical Mission Dir. when adverse reaction or for goods titled in Mission.

Ch. 2--2.11.6
Ch. 3--2.13.5

METRIC MEASUREMENTS

Waiver of requirement that the metric system be used for measurements incorporated in or required by AID-funded contracts.

Sec. 4F
Approver of the project, RFTP, or IFB or issuer of the PIL when requirement is impractical. Add'l clearance of OSDBU and Metric Executive (FA/AS) when basis

Ch. 1--2.8
Ch. 2--2.7
Ch. 3--2.9

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is that U.S. firms
will be adversely
impacted.

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APPENDIX F

METHODS OF PAYMENT AND DOCUMENTATION

METHODS OF PAYMENT

A. General

AID has a variety of procedures by which suppliers and contractors are paid. The Project Paper (PP) for each AID project loan or grant should discuss the considerations on which the selection of the financing method (or methods) to be applied has been based. The payment procedure chosen for a particular host country contract should be the one which is:

- best suited to facilitate execution of the program in the most practical and prudent manner, and
- in accordance with AID's Cash Management policies as set forth in this Chapter.

AID's policy is to pay AID-financed contractors, suppliers, and other recipients on the basis of goods delivered, services performed, or to cover costs already incurred. Since many host country programs require contractors participating in the program or project to have large amounts of working capital, Government financing aid is often made available to help meet this need. The contractor or supplier may use its right to payment to obtain private financing when AID issues a direct letter of commitment. Financial assistance may also be provided by progress payments or advance payments when necessary to obtain performance or to avoid restricting competition. Advance payment, however, is the least preferred method of financing since it involves greater risk to the U.S. Government, requires close supervision, and entail additional administrative cost.

Advances if required, may be authorized in accordance with Paragraph C(6)(d) below.

B. Financing Methods

Listed below are the various methods used by AID in the implementation of host country contracts.

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1. Direct Reimbursement to Host Country

Under this financing method, AID reimburses the host country upon submission of documentation called for in the underlying project agreement or project implementation letter(s) for eligible payments to contractors or suppliers that the host country has already made from its resources. The direct reimbursement method should be used only when the host country possesses the managerial and financial capability to operate under that procedure. The direct reimbursement method of financing increases the responsibilities of the borrower/grantee to implement its development programs. The use of this method gives AID an opportunity for full review of the transaction before USG funds are disbursed.

2. Direct Letters of Commitment to Supplier/Contractor

The Direct Letter of Commitment is a financial arrangement between AID and a supplier or contractor, under which AID makes payment directly to the supplier or contractor for eligible commodities and services furnished pursuant to a specific contract. The direct Letter of Commitment is assignable under the Assignment of Claims Act, by the supplier or contractor to a banking institution and thus may serve as collateral for credit which may be required to provide working capital.

This financing method may be used under most host country contracts and is generally preferable to bank letters of commitment for host country contracts for services, high value commodity shipments, and for any type of transaction when it is necessary or advisable for AID to verify the documentation before making payments. AID assumes a limited additional administrative burden by performing the documentation verification and payment functions but eliminates banking charges otherwise paid out of program funds.

3. Letter of Commitment to U.S. Bank

The Bank Letter of Commitment is a financial arrangement between AID and a U.S. Bank, under which the bank is authorized to make payments to contractors or suppliers for eligible commodities and services. The bank is reimbursed by AID for payments to suppliers or contractors made in accordance with the conditions set forth in the Letter of Commitment and for bank charges.

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The financing method utilizes established commercial banking channels to make payments to suppliers or contractors. Under this payment arrangement, a party ("approved applicant") designated by the borrower/grantee may request the letter of commitment bank to issue commercial letters of credit to suppliers or contractors, or commercial banks in the cooperating country may issue letters of credit to supplier or contractor and request the letter of commitment bank to advise or confirm such letters of credit. Financing for such letters of credit is provided by the Letter of Commitment. The documentation submitted to the bank is not examined by AID before payment except to ensure that all required documents are presented. However, like all the AID-financed transactions, it is subject to post payment examination.

The Bank Letter of Commitment is the usual method of payment under commodity import programs except in the case of large-volume purchases from a single supplier. Bank Letters of Commitment should be used for commodity procurements which are likely to produce a profusion of invoices.

C. Payment Options

Listed below are the various payment options available for use under AID-financed host country contracts and their appropriate uses. See Attachment 1 for the appropriate financing methods.

1. Payment Upon Completion

Payment upon full completion of the terms and conditions of the contract or procurement is the preferred payment option for AID-financed contracts. However, the payment options set forth in the following paragraphs may also be used under the appropriate circumstances.

2. Partial Payments

a. Definition

Partial payments are payments made under a contract or procurement for goods actually delivered, or for services actually rendered, where such goods or services represent complete performance of an identifiable part of the total contract or procurement requirement.

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b. Condition for Use

Partial payments must be authorized in the contract or agreement. They may be used when delivery of goods or services can be identified as full and complete performance of a part of the total contract requirement.

3. Progress Payment

a. Definition

Progress payments are payments made under a fixed-price contract or procurement on the basis of (1) actual costs incurred, (2) and actual percentage of completion accomplished, or (3) an actual stage of completion reached. This term does not include payments for partial shipments.

b. Condition for Use

Provision for progress payments may be included in the solicitation when the host country requests and AID determines that (a) the period between the beginning of work and the first required delivery will exceed 4 months, (b) there will be substantial pre-delivery costs that may have a material impact on a contractor's working capital and, (c) the contract or procurement will involve \$200,000 or more. The solicitation shall state whether progress payments will be allowed and, if so, that a request for progress payments will not be considered an adverse factor in the award of the contract.

c. Security

The contract must contain a security provision which allows the host country to obtain a lien or title to work in progress or materials allocated to the contract or the contractor may furnish a bank guaranty or performance bond.

d. Amount

Progress payments shall not exceed 95% of total costs. In order to minimize administrative effort and expense, progress payments are not authorized under contracts of less the \$200,000.

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e. Approval

(1) Progress payments based on actual cost incurred in an amount not exceeding 95% of the total cost may be authorized by the Mission Director or his/her designee, with the concurrence of the Mission Controller, if the contractor's accounting system and controls have been found by audit or experience to be sufficient and reliable for segregation and accumulation of contract costs.

(2) Progress payments based on a percentage or stage of completion for construction contracts only may be authorized by the AID official who will approve the contract. An examination of the contractor's accounting system is not required.

(3) Progress payments based on a percentage or stage of completion for other than construction contracts may be authorized by the Mission Director if he/she has determined that progress payments based on cost cannot be practically employed. An examination of the contractor's accounting system is not required.

(4) Progress payments not within the scope of the above paragraphs may be authorized by the Mission Director, with Mission Controller concurrence, for project funded host country contracts or by the Director of M/FA/OP, with AID/W Controller concurrence, for non-project assistance.

4. Interim Payments

a. Definition

Interim payments means payment of cost and fee (if any) under a cost reimbursement contract as the contractor incurs costs. They serve the same purpose as partial and progress payments on fixed price contracts.

b. Condition of Use

Interim payments must be authorized in the contract or agreement. The contractor/supplier must have an acceptable cost accounting system for identifying the cost actually incurred before interim payments may be authorized.

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5. Mobilization Payments

a. Definition

Mobilization payments are payments provided to a construction contractor or a supplier of specially constructed equipment to assist in meeting extraordinary start-up incurred to promptly perform under the contract (e.g., purchase of specialized equipment and shipment to the host country).

For construction contracts, mobilization payments are normally included as a line item in the bid schedule. The instructions to Bidders will state that the amount to be entered for mobilization is not to exceed a certain percentage, usually 10 to 20 percent, of the total bid price. The contractor is permitted to receive limited mobilization payments after expenditures are incurred for purchase of equipment, materials, etc., rather than having to wait for progress payments which are not made until actual work items are completed.

b. Conditions for Use

AID considers mobilization payments to contractor selected in accordance with competitive bidding as advantageous since they enhance competition and reduce contract costs. The Treasury Department has agreed that mobilization advances may be provided without interest so long as there is true competition in the bidding process and AID obtains the advantage of reduced contract costs as a consequence of providing the advances.

c. Approval

The AID official who approves host country contracting solicitations must consider the reasonableness of proposed mobilization payments and determine before publication of the solicitation that (1) a mobilization payment 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 country as a consequence of providing the payment. This written determination will become part of the official project file.

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6. Advance Payments

a. Definition

Advance payments are payments of monies to a prime contractor or supplier prior to or in anticipation of future performance under a contract or procurement arrangement. They differ from partial, progress, and interim payments because they are not based on actual performance or actual costs incurred.

b. Condition of Use

(1) Nonprofit Contractors

or suppliers which are nonprofit organizations (including international research centers and educational institutions) and which do not charge a fee are authorized advance payments. This policy assures that nonprofit organizations will not be forced to utilize their own working capital or earmarked funds to finance work carried out under agreements funded by AID. However, before AID may finance contracts which provide for advance payments, the recipient organization must have a financial management system which has been found by USG audit or other acceptable audit to be adequate for controlling and accounting for USG funds. If the contractor or supplier does not have an acceptable financial management system, payment shall be on a reimbursement, not advance, basis.

For nonprofit organizations that charge a fee, the policy in paragraph (2) below applies.

(2) Profit Making Contractors

Advance payments to profit making contractors or suppliers, or nonprofit organizations which charge a fee may only be authorized when the approving official (paragraph (6) below) has made a positive determination in writing that AID will benefit in terms of increased competition and/or lower prices. This determination must be made prior to the issuance of the solicitation so that all prospective contractors or suppliers are made aware of the availability of advance payments. The contractor or supplier must post adequate security for the advance (e.g., advance payment bond or guaranty).

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c. Amount of the Advance

The amount of the advance payment, whether in dollars or local currency, is to be based on an analysis of the working capital required under the contract, taking into consideration the reimbursement cycle and in the case of profit making firms the availability of their own working capital. The advance shall be limited to the minimum amount needed for immediate disbursing needs (i.e., up to 30 days from date received until expended). The advance period may be extended up to 90 days when the approving official (paragraph (d) below), with the

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concurrence of the Controller servicing that official, has made a written determination that implementation will be interrupted or impeded by applying the 30 day maximum.

d. Approvals

(1) Advances to nonprofit organizations are authorized, subject to the concurrence of the AID Controller serving that Mission, when the organization has an acceptable financial management system.

(2) Advances of \$100,000 or less to profit making firms, regardless of the percentage of the contract value, may be approved by the Mission Director with the concurrence of AID Controller serving that Mission.

(3) Advances to profit making firms of up to 10% of the contract value with a maximum of \$1 million may be approved by the Mission Director with the concurrence of the AID Controller serving that Mission.

(4) Advances to profit making firms in excess of 10% of the contract value of \$1 million, whichever is less, must be approved by the Assistant Administrator of the appropriate bureau with the concurrence of the AID/W Controller (FA/FM).

D. Waivers

Waivers of or modifications to the methods of financing or payment options, not otherwise provided for in this Appendix may be made by the responsible program Assistant Administrator, with the concurrence of the AID/W Controller.

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ATTACHMENT 1

FINANCING METHODS AVAILABLE UNDER
HOST COUNTRY CONTRACTS
BY PAYMENT OPTION

- | | | |
|----|-------------------------|--|
| 1. | Payment Upon Completion | Direct Reimbursement
Direct letter of Commitment to Supplier/Contractor
Letter of Commitment to U.S. Bank |
| 2. | Partial Payment | Direct Reimbursement
Direct letter of Commitment to Supplier/Contractor
Letter of Commitment to U.S. Bank |
| 3. | Progress Payments | Direct Reimbursement
Direct letter of Commitment to Supplier/Contractor
Letter of Commitment to U.S. Bank |
| 4. | Interim Payments | Direct Reimbursement
Direct letter of Commitment to Supplier/Contractor
Letter of Commitment to U.S. Bank |
| 5. | Mobilization Payments | Direct Reimbursement
Direct letter of Commitment to Supplier/Contractor
Letter of Commitment to U.S. Bank
(When payment is a partial payment) |
| 6. | Advance Payment | Direct Reimbursement
Direct letter of Commitment to Supplier/Contractor |

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PAYMENT VERIFICATION POLICY STATEMENTS
NO. 7, APRIL 1983

ADMINISTRATIVE APPROVAL OF VOUCHERS

Basis for AID project officers administrative approval of vouchers and other certifying instruments: In the administrative approval of vouchers, a project officer is currently required to state that he/she knows of no reason why the voucher should not be approved. This statement falls short of the positive statement that would be desirable, were supporting resources fully available throughout AID's operations. On the other hand, since it does not reveal the basis for the approval, the current "negative" sign-off suggests that much less is being done in the way of monitoring than is or should be the case. For informed management of its resources, it is essential that the agency know the basis upon which funds are being approved.

1. Policy Statement No. 7:

In lieu of the current negative statement, the project officer is to provide to the Controller a statement advising of the basis upon which administrative approval is given.

2. Implementing Guidelines:

The purpose of the administrative approval of any voucher is to provide the authorized certifying officer with notice that the officer responsible for charges billed to the government for services, commodities or other costs considers that these charges represent actual performance, delivery or other benefits received. A project officer will rarely have full knowledge of all services performed in a billing period by a contractor. The project officer performs an important function in administratively approving a contractor's invoice if she/he (1) has reasonable knowledge of contractor activities or other project activities which result in costs billed to AID and (2) reviews the voucher for the level of contractor effort charged during the period, types and general quantities of locally procured commodities delivered during the period and other costs which are reasonable familiar to the project officer because of his or her role as a monitor of project implementation. Internal control of the payments made by AID diminishes if project officers are unable to relate observed project implementation to costs billed in related vouchers.

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In order to provide a more complete documentary tracking of project payments, the Project Officer will now, in addition to providing the project officer administrative approval of vouchers, complete and attach the following checklist to the voucher. This will provide the authorized certifying officer with a more thorough knowledge of the relative vulnerability of each payment. The checklist is not intended to be used as a substitute for the current project officer approval statement(s), but merely as a clarifying addendum. The checklist is as follows:

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Project Officer Checklist for Administrative Approval of Vouchers

(Please check as many as are applicable)

- 1. I have made ____ field visits to the project site(s) in the last three months and have personally observed project implementation _____

- 2. I have visited the main office of the implementing agency(ies) _____ times in the last three months and discussed project implementation _____

- 3. I met with my counterpart(s) _____ time in the last three months and discussed contractor level of performance and/or commodities delivered _____

- 4. I have visited the project site(s) as part of my project Officer responsibilities and have sufficient information to enable me to provide an administrative approval _____
-

- 5. None of the above. My administrative approval is based on the following: (Please be concise, i.e., two or three sentences.) _____

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In preparing such reports, the Project Officer must candidly and objectively assess the progress of the contractor in relation to 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 the 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.

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CRITERIA OF PROJECT OFFICER'S ADMINISTRATIVE APPROVAL

1. Principles Governing Administrative Approval of Vouchers

The establishment of a requirement for the administrative approval of vouchers is predicated on the fact that a Project Officer is the one most familiar with the projects assigned to him/her, and with the work being performed by contractors/grantees in the implementation of such projects. It is intended to use their general familiarity with the projects to prevent significant errors in making payments to contractors/grantees 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 "My personal knowledge of the project" in the Project Officer's approval statement. An elaboration of these principles has been excerpted from Handbook 19, Financial Management, Chapter 3 and is contained in the following paragraphs.

As a matter of AID policy, the Project Officer's administrative approval must be returned to the AID paying office within 5 business days, although host country contracts do not include interest penalties.

2. Vouchers Exempted from Requirement of Administrative Approval

In addition to vouchers submitted for payment under bank letters of commitment, which are exempted from the requirement of administrative approval, certain vouchers submitted under direct letters of commitment are also exempted, viz. vouchers relating to the supply of goods, i.e., project commodities supplied by service contractors, if the contracts under which such goods are supplied provide for payment against invoices and shipping documents, and equipment and materials purchased by host country agencies for the implementation of projects. The 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/her administrative approval of the voucher on "personal knowledge of the project"; however, the shipping documents, together with the contract'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

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inspection).

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3. P.O. Administrative Approval Statements are Required as Follows:

A. Reimbursements to B/G for Costs Incurred in the Project for Services Performed and/or Goods Delivered

"I have reviewed the voucher, the request for reimbursement and supporting documentation attached thereto. Based on this documentation and my personal knowledge of the project, I see no reason to withhold payment. Therefore, the voucher is administratively approved for payment subject to the financial review and certification by the paying officer."

B. Borrower/Grantee Contracts Financed Under AID Direct Letter of Commitment Procedures

1. P.O. and Paying Office at the Same Locations

"I have reviewed the voucher, the related invoice(s) and supporting documentation. Based upon (1) my personal knowledge of the project, (2) the representations of the contractor in the Contractor's Certificate (form AID 1440-3), or other documentation, and (3) the representations of the borrower/grantee in the Certificate of Performance, I see no reason to withhold payment. Therefore, the voucher is administratively approved for payment subject to the financial review and certification by the paying office."

2. P.O. and Paying Office at Different Locations and the Paying Office Provides Pertinent Data

"Based on the summary data provided which is applicable to the voucher and supporting documentation, including representations of the contractor and borrower/grantee, and my personal knowledge of the project, I see no reason to withhold payment. Therefore, the voucher is administratively approved for payment subject to the financial review and certification by the payment officer."

4. Basis For Project Officer's Administrative Approval

The principles underlying the requirement for administrative approval are set forth in paragraph 1 above. For purpose of clarifying those principles, a number of specific types of contracts are discussed below.

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A. Services Under Cost Reimbursement 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 review 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 (s)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 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/she 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 7 below on Disallowances.)

2. Home Office Costs

The Project Officer will, in most cases, be unable to judge the justification of charges for home office costs since his/her monitoring covers principally field activities. The P.O. is therefore not expected to attempt a detailed verification of such charges. The P.O. is expected to note only such discrepancies and he/she is above to discover based on knowledge acquired in the course of normal project monitoring, e.g., costs of printing a report which he/she knows has not yet been completed or a field trip by a home office executive which he/she knows has not taken place.

B. Goods Supplied Under Cost Reimbursement Contracts

Goods for which payment is due upon shipment from a point defined in the contract (FOB Factory, FOB Port of Export or C & F, 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 received by him/her pursuant to subparagraph (a) above. In the rare cases where payment

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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. (S)He is to note, however, if (s)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 7 below.)

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C. Goods and Services Supplied Under Fixed Price Contracts

1. 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 AID 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 report), are examples of such contracts. In such cases, the Project Officer's approval of a voucher is based on his/her 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 payment 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 scheduled payments are predicated. When approving the voucher for the scheduled 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/she has personal knowledge, from reports or other sources that the specified event has not occurred.

2. 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. The quantities billed are, in the first instance, ascertained by the contractor, they are then certified by the contracting agency of his/her consulting engineers before

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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/she may rely on the certification of the contracting agency or the consulting engineer acting on its behalf. Neither is he/she expected to compare unit prices used in the billing with contract prices or to check the billing for arithmetic accuracy. The P.O.'s approval of the voucher

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shall mean only that he/she has no knowledge of any facts which would make an inquiry into the accuracy of the billing advisable either before or after AID pays to the contractor the amount claimed.

D. 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 3 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 AID staff has personal knowledge of the project, or if the project has been assigned to a Project Officer only just before the voucher is submitted, the Project Officer or another AID Officer should approve the voucher with the following statement: "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., "I arrived at post six day ago and have not yet visited the project site located 500 miles from the capital. Also, a USAID technician who recently visited the project has been medically evacuated."). I have no reason to believe that payment of the amounts claimed in this voucher should be withheld. Therefore, the voucher is administratively approved for payment subject to the financial review and certification by the paying office."

B. Qualified Approvals as set forth above should obviously be used only on rare occasions since the circumstances necessitating these should not continue for any extended period. Should the ACO note repeated instances of qualified approvals of vouchers relating to the same project, he/she should inform the USAID Director and the Regional Bureau in Washington.

6. Certification by Authorized Certifying Officer (ACO)

The ACO is responsible for checking vouchers for consistency with the contract, including the budget, and arithmetic accuracy, as the ACO considers necessary, before making payment. Included in such review will be all billing items not encompassed in the review of the Project Officer, such as home office costs,

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travel and transportation charges, communication costs and miscellaneous personnel costs, such as housing and education allowances.

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7. Disallowances

A. Deficiencies In Form

If the Project Officer discovers during the review of a voucher formal deficiencies (e.g., lack of signature, lack of or inconsistency between supporting documents), the P.O. should not include such deficiencies in his/her approval statement. It is the responsibility of the ACO to decide what action to take.

B. Substantive Discrepancies

If the Project Officer discover during the review of a host country contract voucher that charges for one or more items included in the voucher are inconsistent with the facts as the P.O. knows them and in his/her opinion, should not have been billed, he/she should inform the USAID Director or AID/W Office Head of the facts in the case. A decision on the action to be taken shall be made only by the USAID Director or AID/W Office Head, or a person designated by him/her for this purpose. The following courses of action should be considered:

1. If the discrepancy is on a host country contract voucher, to inform the appropriate host government agency that AID cannot make any, or only partial, payment to the contractor, stating the basis for that finding; or

2. 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 first course should be taken if the discrepancies discovered by the Project Officer are of such magnitude that it appears that the only proper remedy is to request the host government agency require the contractor submit 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 satisfactorily 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 host country voucher, he/she should promptly inform the USAID Director so that he/she can apprise the host government of the dispute. In no event should the USAID Director or any other USAID officer advise a contractor the 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

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and has been asked to request the contractor to take whatever remedial action is required. If the host government agency does not agree with AID's findings and believes no remedial action by the contractor is required, and if the USAID 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 USAID reports.

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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 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 a 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 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.

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CONTRACT STATUS REPORT
(Check box applicable)

____ [] ____
Report

____ [] ____ Site Visit
Periodic Status Report

Report Number

Related Project Title

Date of Report

Project Number

Contractor
Project Officer

Date & Amt.

Contract
Host Country Contract-

ing 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 highlighted. Particular attention should be given to issues or problems which would adversely affect achievement of the contract or project objectives).

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Data required only on reports of site visits.

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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) therefore 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 particular 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.)

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.)

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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.

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APPENDIX H
CONTRACT MONITORING TASK LIST
SUMMARY

CONTRACT MONITORING TASK LIST

<u>Event or Function</u>	<u>Guidebook Reference</u>	<u>Host Country AID Project Officer</u>	<u>Contracting Agency</u>	<u>Contractor</u>
Relations with Contracting Agency	7B,C	Maintains personal and continuing liaison with both during the monitoring period		
Initial meeting contractor staff	7D	Participates in meetings	Arranges and convenes meeting	Attends meeting with key staff
Periodic contract	7E	Participates in meeting reviews	Conducts status Participates	Normally
Procurement of supplies and equipment	7F	Verifies compliance with AID procurement rules, as well as arrival and proper use of supplies and equipment	Oversees and supervises procurement, specified in contract dates, inspection and installation requirements, etc.	Procures needed commodities as

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Participant training services 7G
provided by contractors under
contracts for technical/pro-
fessional services.

countries) to

Reviews adequacy and Oversees provision of Conducts (or
effectiveness of train- training and respons- arranges) training
ing (normally during iveness to requirements as required by
course of site visits) of the related project project and
submits monthly
reports (if
training in third

Contracting Agency
and AID

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CONTRACT MONITORING TASK LIST

<u>Event or Function</u>	<u>Guidebook Reference</u>	<u>Host Country AID Project Officer</u>	<u>Contracting Agency</u>	<u>Contractor</u>
Logistical support of contractor	7H	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.)	7I	Assures that appropriate financing is arranged, in collaboration with the Mission Controller etc.)	Requests action by AID (for issuance of letters of commitment; payment under direct reimbursement;	Applies to Contracting Agency for payment as provided in contract
Approval of contractor vouchers	7J	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

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CONTRACT MONITORING TASK LIST

<u>Event or Function</u>	<u>Guidebook Reference</u>	<u>Host Country AID Project Officer</u>	<u>Contracting Agency</u>	<u>Contractor</u>
Contract extensions and/or revision or amendment, and if justified, arranges AID approval	7L	Reviews need for exten- sion or amendment, and if justified, arranges AID approval	Requests AID approval Agency to extend or amend contract or amendment appears justified	Requests Contracting amendments
Contractor reports (progress; technical; financial; etc.)	7M	Analyzes reports for adequacy and respon- siveness	Reviews and acts upon as appropriate	Submits reports required
Site visits	7N	Participates with Con- tracting Agency in assessing progress work	Schedules and arranges visits to the site of the contractor's progress and problems	Reports on contract
Project Officer contract status reports (for AID purposes)	7O	Prepares reports and submits to Mission Director and other AID officers concerned		
Project Officer special reports	7P	As required, prepares and submits ad hoc reports		

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Contract monitoring file	7Q	Maintains contract monitoring file on current and complete basis	Submits copies of such reports as AID and other reports may require as required by terms of the contract	Submits progress and other reports as required by terms of the contract
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Correspondence	7R	As required, responds to incoming correspondence relating to contract implementation and monitoring		
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CONTRACT MONITORING TASK LIST

<u>Event or Function</u>	<u>Guidebook Reference</u>	<u>Host Country AID Project Officer</u>	<u>Contracting Agency</u>	<u>Contractor</u>
Briefings and presentations	7S	As required, briefs AID and other officials regarding status of the contract		
Disputes and appeals	7T	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	7U	As appropriate, and with advice and assistance of Mission legal advisor, may counsel the Contracting Agency	right to suspend the work or terminate the contract in event of contractor non-performance	May exercise its
Contract audits by host country (or independent audit firms)	7V	Assures that required audits are made (or arranged) by the Cont-	Audits, or arranges for independent audit, of contract and takes	Takes corrective action where required

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racting Agency, and corrective action where
that appropriate required
corrective action is
taken in event audit
reports disclose
deficiencies

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CONTRACT MONITORING TASK LIST

<u>Event or Function</u>	<u>Guidebook Reference</u>	<u>Host Country AID Project Officer</u>	<u>Contracting Agency</u>	<u>Contractor</u>
Contract audits (by AID or other U.S. entities)	7W	Cooperates fully with U.S. officials conducting audits or investigations, and prepares Mission comments on relevant audit or investigative reports		
Contract closeout or termination	7X	Assures that contact 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 contact, including submission of all required reports and certifications of all obligations under the contract	Submit claim for final payment, and such other documentation as may be required to evidence satisfaction of all obligations under
Project Evaluation Summary (PES)	7Y	Assesses the quality and effectiveness of the contractor's work for inclusion		

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in the Project Evaluation
Summary required by AID