



Acquisition & Assistance Policy Directive (AAPD)

From the Chief Acquisition Officer

Issued: September 10, 2002

AAPD 02-12

Standardizing USAID Indefinite Quantity Contracts (IQCs)

Subject Category: Acquisition Management
Type: New Policy and Procedures

AAPDs provide information of significance to all agency personnel and partners involved in the Acquisition and Assistance process. Information includes (but is not limited to): advance notification of changes in acquisition or assistance regulations; reminders; procedures; and general information. Also, AAPDs may be used to implement new requirements on short-notice, pending formal amendment of acquisition or assistance regulations.

AAPDs are **EFFECTIVE AS OF THE ISSUED DATE** unless otherwise noted in the guidance below; the directives remain in effect until this office issues a notice of cancellation.

This AAPD: Is New Replaces/ Amends
CIB/AAPD No: _____

Precedes change to: AIDAR Part(s) _____ Appendix _____
 USAID Automated Directives System (ADS) Chapter 302
 Code of Federal Regulations _____
 Other _____
 No change to regulations

Applicable to: Existing awards; Modification required:
 Effective immediately
 No later than _____
 As noted in guidance below
 RFPs issued on or after the effective date of this AAPD; all other Pending Awards, i.e., 8(a), sole source...
 Other or N/A _____

New Provision/Clause Provided Herein: Yes; Scheduled update to Prodoc: ASAP
 No

(signed copy on file)
TIMOTHY T. BEANS

AAPD 02-12 Standardizing USAID Indefinite Quantity Contracts (IQCs)

PURPOSE: The purpose of this AAPD is to:

- 1) Establish official, standardized format choices for USAID's Indefinite Quantity Contracts (IQCs), specifically the authorized pricing structure and "fair opportunity" ordering procedures; and
- 2) Provide guidance for using these standardized formats and ordering procedures as well as other guidance pertaining to using USAID's IQCs in an even-handed, consistent manner.

BACKGROUND: Over the past ten years, USAID's use of indefinite quantity contracts (IQCs) has evolved dramatically, reflecting the needs of our own internal circumstances (e.g., reduced staffing, stable or even increased program funds) as well as statutory changes affecting the entire U.S. Government—namely, the Federal Acquisition Streamlining Act of 1994 (FASA). More and more USAID dollars are being spent in task orders issued under these contracts, and in the absence of coordinated guidance and control, the types of IQCs and the procedures for using them have proliferated, causing confusion and frustration on the part of contracting officers, technical staff, contractors, and subcontractors.

In 2001, the Office of Procurement in the Bureau for Management (M/OP) requested an evaluation of USAID's use of IQCs. Mr. David Rhoad, a retired USAID Senior Foreign Service officer, conducted this evaluation, which was issued in January 2002. The evaluation identified the following major problems areas in USAID's use of IQCs:

- Complexity and inconsistency in the design of IQCs;
- Limited or negative incentives for small business participation;
- Lack of transparency and information pertaining to the management of IQCs;
- Convoluted pricing regimen that give rise to inefficiencies and confusion for USAID as well as contractors; and
- Uncertainty with respect to fair opportunity procedures intended to ensure that prime contractors are afforded consideration in the award of task orders.

In response to the findings in this report, M/OP immediately established the IQC Standardization Committee to address these problem areas. The Committee presented preliminary findings and recommendations, including one to reduce the number of IQC formats to two, at the Worldwide Contracting Officers Conference in March, 2002, and requested feedback from the attendees. The Committee continued to fine-tune its conclusions--that the Agency should use only two basic pricing arrangements in its IQCs, how those two pricing alternatives are to be structured, and how the Fair Opportunity procedures must be handled. It shared the resulting formats with the Agency and partners in June/July 2002 and finalized the formats, which are attached.

As M/OP took these actions through its IQC Standardization Committee, the USAID Administrator established the Business Transformation Executive Committee (BTEC) early in CY 2002 and

tasked it with providing agency-wide leadership for initiatives and investments to transform USAID business systems and organizational performance—including procurement. In March, the BTEC established a list of “Quick Hits”, one of which is “Instituting uniform standards for Indefinite Quantity Contracts”—the goal of the M/OP IQC Standardization Committee.

This AAPD is the result of the Committee's efforts to respond to the problem areas identified in the “Rhoad Report” and further emphasized by the BTEC “Quick Hit” list. Guidance on additional issues or sections may be added as necessary.

POLICY: Effective on issuance of this AAPD,

USAID Indefinite Quantity Contracts **must** be in one of two formats: Cost-Plus-Fixed-Fee (CPFF) or Fixed Daily Rates (FDR). Within the CPFF format, Contracting Officers (COs) may issue task orders on a Firm-Fixed-Price (FFP) basis.

Costs that are included in fixed daily rates (FDRs) will now be uniform and no other costs may be included.

The “Fair Opportunity to be Considered” procedures for both pricing formats must require that all IQC awardees submit proposals that include cost, as more fully described in the GUIDANCE section below.

GUIDANCE:

A. FORMATS

This AAPD contains three attachments, all of which are mandatory for use as applicable in any Request for Proposals (RFPs) for multiple-award Indefinite Quantity Contracts issued after the effective date of this AAPD. Two of the attachments are formats providing the actual text for **Section B--Supplies or Services and Prices/Costs and parts of Sections F (Period of Performance, see B.II. below, and Key Personnel) and H (Security Clearance, see B.III. below)** of the RFP and resulting contract for each of the two contract types. The third attachment is the format for the **Fair Opportunity** procedures that are also part of **Section F** of the uniform contract format (UCF). Certain places in the text contain [Guidance (in gray shading)] to the contracting officers and negotiators--but these [Guidance] sections are NOT to be included in the RFP or resulting contract. ProDoc will not include these gray Guidance sections when it is updated to include these formats.

I. Fixed Daily Rate (FDR) (Attachment 1). This format is better suited for shorter term or smaller dollar activities or activities where labor costs are the primary cost (i.e., very few other direct costs). FDRs are easier to use and provide more flexibility for these and certain other kinds of activities, and are closer to commercial practices. USAID has been using this IQC pricing format for many years, but its use has been confusing for most of this time because users (USAID technical and contracting staff as well as contractors) have not consistently interpreted what costs these rates included. RFPs have required that a wide range of costs be included in the FDRs, even when accurately predicting these costs three, four, or even more years into the future is practically

impossible. Because of these pricing ambiguities, the FDR contracts have often been perceived as expensive and not always “the best deal” for the Government.

For these reasons, this AAPD standardizes the costs that are included in the fixed daily rates; these limited costs should now be more compliant with the contractors' accounting procedures and the Federal Acquisition Regulation (FAR) cost accounting standards. Contracting officers (COs) issuing RFPs for multiple-award IQCs may not make any changes to the composition of FDRs without first obtaining an approved deviation in accordance with AIDAR 701.4 and FAR 1.4.

The only costs that may now be included in Fixed Daily Rates are

- Salary cost or consulting fee of the individual providing the services;
- Payroll costs (fringe benefits, FICA, etc.);
- Indirect costs applicable to labor; and
- Profit or fee, if any.
- *(**Technical Central Management** - to be added if the base award Contracting Officer and Technical Officer elect option #3 in the Guidance section in Attachment 1, Section B.5(a))*

This pricing format also includes using a **multiplier** for pricing all locally hired national personnel and other non-U.S. expatriates.

II. Cost-Plus-Fixed-Fee (CPFF) (Attachment 2): This format is the other pricing format to use because it is more likely to ensure that costs will be reasonable, particularly for the very large, long-term task orders that have been awarded under some of the larger, more complex IQC series. The pricing uncertainties in these contracts and their orders make it difficult, if not impossible, for offerors to estimate fixed rates or multipliers with any degree of confidence or realism. This is the most reasonable format for those large, difficult-to-price Statements of Work in many large-dollar IQC task orders. Under CPFF IQCs, however, COs may also place a task order on a **Firm-Fixed-Price** (FFP) basis if the conditions for a FFP task order exist (see FAR 16.2).

III. Fair Opportunity to be Considered (Attachment 3): This format provides standardized procedures for ensuring that all awardees are given a "Fair Opportunity to be Considered" for the award of task orders under multiple-award indefinite quantity contracts. The need to standardize these procedures arose from the reality that although FASA established a preference for multiple-award indefinite quantity contracts and a corresponding requirement that all awardees of such contracts be given a "fair opportunity", each agency had to develop its own "fair opportunity" procedures. Over the past few years, USAID COs developed several "fair opportunity" procedures, including the “Tier” approach that worked very well under the original FAR “Fair Opportunity” requirements. However, because of abuses by other agencies, Congress passed a statute that required the Office of Federal Procurement Policy (OFPP) in the Office of Management and Budget (OMB) to improve the guidance in the FAR on how to conduct the "fair opportunity" process. OFPP's implementation of its mandate includes the requirement that cost must be considered for each order. This new requirement, as well as some Comptroller General decisions on the matter, make it clear that USAID's “Tier 1” and “Tier 2” Fair Opportunity procedures are no longer viable for the types of pricing arrangements USAID uses, even though the FAR continues to state that contacting each contractor is not required in order to “fairly consider” each contractor. To adequately and fairly consider cost, the CO must know how each contractor in the competition would allocate their labor resources (the quality of personnel and the number of days for each) and

propose other costs, and the only way to know this is to obtain contractor-prepared cost proposals for task orders.

The standardized Fair Opportunity procedures in Attachment 3 require each contractor who wants to be considered to submit a proposal that includes cost. This is a notable change from many of the existing Fair Opportunity procedures and will lengthen the task order selection and negotiation process. However, to mitigate the additional time involved in obtaining proposals from each IQC contractor, COs are to keep proposal submission requirements to the minimum. To better ensure that proposal submissions are kept to the minimum, this AAPD also institutes simplified, streamlined Fair Opportunity proposal submission procedures for orders at different dollar thresholds, as more fully described in Attachment 3.

B. ADDITIONAL GUIDANCE

I. Small business or 8(a) set-asides

FAR Part 19.201 provides that "It is the policy of the Government to provide maximum practicable opportunities in its acquisitions to small businesses...." In addition, FAR 19.702 requires large businesses to "submit an acceptable [small business] subcontracting plan." As technical offices prepare their requests for basic IQCs, they should consider whether the scope of services can be subdivided to create a sub-sector that is exclusively reserved for small businesses to propose for prime awards. This would provide an environment where small businesses are only competing with other small businesses within the sub-sector. If services cannot be reasonably subdivided to create a small business niche, technical offices must consider whether small businesses could reasonably propose as primes given the nature and scope of the services. If there are small businesses capable of doing so, then one or more of the multiple awards should be set aside for a small business or 8(a) prime. If not, technical offices should consider targets for small business subcontracting. The above considerations need to be worked out with the contracting officer and the Office of Small and Disadvantaged Business Utilization (OSDBU).

II. Ordering Period and Period of Performance

FAR 16.506(c) limits the ordering period for these types of IQCs to five years. However, the FAR does not place a limit on task order performance. The two pricing formats have different implications for ensuring that the cost or price of a task order is reasonable and realistic for the duration of performance. This AAPD institutes standardized language on Period of Performance in Section F for each pricing format, with separate limits for the length of time that a task order can continue past the expiration of the ordering period. The cost reimbursement model will allow services to continue up to three (3) years beyond the five-year base period for the placement of orders. The fixed daily rate model will allow services to continue up to one (1) year beyond the base period for order. Expecting firms to propose fixed rates spanning an eight-year period, given changes in economic conditions that could occur both in general and specific to the firms, is not reasonable. Further, the government cannot realistically determine that such fixed rates are reasonable for such a lengthy period. As the Guidance section in the formats states, the task order contracting officer (TOCO) must obtain the written approval of the Agency Competition Advocate before extending any task order beyond the limit of these performance periods.

III. Classified Task Orders and the National Industrial Security Program (NISP)

USAID participates in the National Industrial Security Program (NISP) administered by the Defense Security Service (DSS). The requirements for the NISP are covered in ADS Chapter 567 "Classified Contract Security and Contractor Personnel Security Program" and FAR Subpart 4.4 "Safeguarding Classified Information Within Industry". Although most of the offices sponsoring USAID's IQCs are not restricted and do not typically require contractors to have access to classified material or restricted space (as more fully described in ADS 567), classified task orders are occasionally issued.

Therefore, each of the formats includes language to include in Section H of the contract and a blank DD 254 as a Section J. attachment; this language puts the contractor on notice that it must have the "Secret" level facility clearance in order to be considered for a classified task order. A contractor that does not have this level facility clearance may choose to begin the facility clearance process right after the contract is awarded. However, no CO may award a classified task order to a contractor without a facility clearance before the DSS grants an interim or final clearance. If time permits, the TOCO may include a contractor that does not have a facility clearance in the Fair Opportunity "competition" on the condition that the contractor recognizes that continued participation is at its own risk and the TOCO will not award the TO if DSS does not grant the facility clearance before the TO must be awarded. If time does not permit, the TOCO does not have to request a contractor who does not have the level of facility clearance indicated in Block 1a of the DD 254 for the Task Order to submit a proposal for a classified TO.

As part of the proposal preparation instructions, COs issuing RFPs for basic IQCs are to request offerors to indicate whether or not they and their listed proposed subcontractors have a "Secret" level facility clearance. If the successful offeror does have this level facility clearance, the IQC CO edits the sentence in the format to so state. This statement is included for information purposes for TOCOs and task order cognizant technical officer (TO CTOs) only, to indicate to them whether or not they may include the contractor in the Fair Opportunity process for a classified task order. It is not a guarantee that the contractor still has the required level of facility clearance. The TOCO is responsible for incorporating the cleared DD 254 for the specific task order into a classified TO award, so if a contractor loses its clearance after the IQC is awarded, the TO clearance process will alert the TOCO before he or she can award the classified task order.

If the TO is classified, then any individuals requiring personnel clearances will also have to be cleared at the appropriate level before they may work in the restricted space. For this reason, TOCOs are not to approve such personnel to work under the TO until the personnel clearance is obtained, unless there is unclassified work for the employee to perform until the clearance is granted. However, before doing so, TOCOs must consider the implications if the employee is denied a clearance but has already done substantial unclassified work, and whether or not this is likely to increase the time and cost to the task order.

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Attachments: a/s

FIXED DAILY RATE (FDR) IQC MODEL

SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS

B.1 PURPOSE

The purpose of this contract is to provide services that fall within the scope of the work specified in Section C for _____(insert sector). USAID Task Order Contracting Officers (TOCOs) will request the work through the issuance of task orders during the ordering period as specified in Section F of the contract.

B.2 CONTRACT TYPE AND SERVICES

This is an indefinite quantity contract (IQC) using the following:

Task orders to provide discrete services and obligation of funds within an established ceiling price;

Fixed Daily Rates for U.S. Expatriates;

Reimbursement of actual salaries for locally hired national professionals and other non-U.S. expatriates;

Fixed multipliers applied to salaries for locally-hired national professionals and other non-U.S. expatriates; and

Modified time-and-material payment provisions.

B.3 MINIMUM OBLIGATED AMOUNT

The basic contract includes an initial obligation of funds in the amount of \$_____ to cover the minimum order guarantee. USAID is required to order and the contractor is required to furnish the minimum order amount of services. Following this initial obligation, individual task orders will obligate funds to cover the work required under that task order.

[Guidance: USAID has traditionally set minimums in the range of \$10,000-\$25,000 which cannot be incrementally funded. Bureaus are encouraged to establish higher minimums, in the range of \$100,000-\$150,000, especially for sectors with a high likelihood that lead firms proposing will be small businesses. There are two ways to deal with the minimum obligated amount once it has been satisfied by the issuance of a task order: (1) it can be used as part of the funding for a task order; or (2) it can be deobligated by the IQC CO.]

B.4 MAXIMUM CONTRACT CEILING

This is a multiple-award Indefinite Quantity Contract for _____(insert sector) with an overall ceiling price of \$_____. The maximum aggregate dollar value of all task orders awarded to all contractors cannot exceed the contract ceiling. This ceiling is not being subdivided among the number of awardees nor is it being multiplied by the number of awardees.

[Guidance: After selecting the successful offerors, the CO is to add the following sentence, filling in the blanks as appropriate. This sentence is NOT to be included in the solicitation.]

The number of awards under _____ (insert sector) is _____ (insert number).

[Guidance: FAR Part 16.504 provides that "The contracting officer should establish a reasonable maximum quantity based on market research, trends on recent contracts for similar supplies or services, survey of potential users, or any other rational basis." USAID IQCs are almost exclusively for services, and the maximum is stated in terms of a dollar ceiling. The proposed models provide that the ceiling be established as an overall sector ceiling among all awards, and not be subdivided among the number of awardees nor be multiplied by the number of awardees. This will increase the likelihood that the best performers remain available to the Agency throughout the period of the contract. Technical offices should consider any historical data, survey missions, regions and pillar bureaus, and take into account any likely future initiatives or changes in trends when recommending the ceiling amount. Contracting and technical offices should not be overly conservative. The projected amount of services will never be known with certainty, and the ceiling should just be within reason.]

B.5 LABOR

B.5(a) U.S. Expatriate Professionals - Fixed Daily Rates

The task order will cite the applicable fixed daily rates selected from the Table of Fixed Daily Rates in section B.5(a)(1). The fixed daily rates in effect when the task order is executed will remain in effect for the entire task order period.

Each fixed daily rate listed below is "loaded" and must only include the following:

- Salary cost or consulting fee of the individual providing the services;
- Payroll costs (fringe benefits, FICA, etc.);
- Indirect costs applicable to labor; and
- Profit or fee, if any.
- *(Technical Central Management--to be added if the base award Contracting Officer and Technical Officer select option #3 in the Guidance section below in developing the solicitation for the base award)*

[Guidance: Fixed daily rates will typically be applied to task orders as incorporated in the contract. While they are fixed daily rates, their inclusion in the contract does not prohibit contractors from offering the Government lower labor rates in task order proposals. Though the rates are negotiated as fixed "daily" rates, the contractor may only charge actual hours worked in accordance with their policies by using the fixed daily rate and percentage of time applicable to the task order. USAID has historically included a variety of other costs within the fixed daily rates, but is now limiting costs to the above categories. The above costs are more likely within a firm's ability to project on a multi-year basis, and should result in rates in greater proximity to actual costs. Thus, the variety of historical costs such as report preparation, Administrative Support, and computer rentals would be allowable as direct costs if proposed by the contractor. Please note that secretarial/administrative support is a mandatory category in the fixed daily rates table.]

There are various methods to approach contractor management responsibility under an IQC. The aspect of contractor management being addressed herein relates to central management functions under the base IQC (e.g., responding to task order proposal requests, central reporting, and central meetings with the base award CTO). Management backstopping as it relates to task order implementation is a cost that would be negotiated on a task order by task order basis. Regardless of the pricing method selected below, the contractors should provide a central point of contact for management. The individual and alternate contact information would be noted in the IQC. A firm's desire to obtain a large number of task orders should be sufficient incentive for them to propose competent individuals for central management. Central management costs for the base IQC functions are typically approached in one of the following methods:

(1) The Contracting Officer/Technical Offer for the base award could determine that naming a central manager as opposed to a key technical manager/leader is the desired approach. A firm could likely include the costs for this central management as part of their indirect costs, or a firm could charge percentages of the individual's effort under task orders to the extent the functions are allocable to the particular task orders;

(2) The Contracting Officer/Technical Officer for the base award could establish a core task order for technical management/leadership with each firm, and have that management team as key for the order and priced under the order; or

(3) The Contractor Officer/Technical Officer for the base award could determine that all or a portion of an individual's technical management/leadership time is key to the award. This approach may be necessary when it is critical for technical leadership under the base IQC to be a key position and the base award Technical Officer lacks funding for a core task order. A firm would likely need to include a factor for this cost as part of their fixed daily rates as this cost would usually be a cost in excess of their traditional indirect costs or be difficult for them to realistically allocate among different task orders. **This is the least favorable approach for a variety of reasons.** Historically, requiring all of an individual's time to a management position within the rate does not provide growth potential for the individual as he or she is not available for technical assignments under task orders. Also, the volume of work under the contract may not warrant full time dedication. While partial management time can be set and firms are able to appropriately account for such time, the amount of time needed is still problematic and does not assure the most reasonable cost when including it in the fixed daily rate.

Regardless of which of the above approaches is used, the IQC CO must add language into the base IQC awards that describe for TOCOs how central management costs are to be covered in task orders.]

When task order assignments are to posts where danger pay allowance, post differential, and other allowances (i.e., housing, education, etc.) are granted, these allowances may be budgeted as direct costs, but are not and must not be included in the fixed daily rate. Fixed daily rates must include consideration of the contractor's established personnel policies and procedures, except what is covered as Other Direct Costs in B.6.

Fixed Daily Rates must not include or be applied to costs covered as other direct costs in Section B.6 such as travel and transportation, local office, etc. USAID anticipates that, for the most part, bilateral agreements with countries receiving technical assistance under any task order will exempt the contractor from paying non-U.S. taxes, duties, and bonding. To the extent that these costs are not exempted, the question of their allowability would be determined on a case-by-case basis as a direct cost. These costs are not to be considered part of the fixed daily rates.

The fixed daily rates set forth below must be fixed for the contract period, and include subcontractors set forth in Section J. If a new subcontractor is proposed for a specific task order on other than a fixed-price basis, the fixed daily rates set forth below normally apply, and the new subcontract is subject to consent by the TOCO.

[Guidance: Generally we expect that the relevant costs for all new subcontractors proposed after contract award will be in accordance with the established FDRs set forth in the contract. However, if a situation arises in which the new subcontractor's cost is less expensive than the established FDRs, the CO may elect to negotiate cost based upon the new subcontractor's proposed rates.]

Note: If a task order is written in Year 1 with a period of performance that extends into Year 2, the applicable fixed daily rate for work days performed in Year 1 and 2 must be used in the task order. The same is applicable if occurring in future years. Non-funded extensions that will cause existing task orders to extend into a subsequent rate period would not typically involve a change in the allowable fixed daily rate under that task order; funded extensions that add new work to a task order normally would allow the subsequent year's fixed daily rate to apply. Under these circumstances, all changes in the allowable rates are subject to the cognizant TOCO's discretion.

(continued on next page)

B.5(a)(1) Labor Categories

Contract Years 1-5

(Offerors may bid separate rates for each year or groups of years, and rates will be included accordingly)

FIXED DAILY RATES TABLE

<u>Labor (US Expatriate)</u>	<u>Fixed Daily Rates</u>		
	Level 1	Level 2	Level 3
0001 (Categories of specialists) (Similar specialists may be grouped together)	\$	\$	\$
0002	\$	\$	\$
0003	\$	\$	\$
0004	\$	\$	\$
0005	\$	\$	\$
0006 Administrative Support (Mandatory)	\$	\$	\$

[Guidance: Some labor categories may not require all three levels. Also, the CO should limit the number of labor categories as much as possible by combining similar categories. Doing so will reduce the opportunities for disagreement about which labor category an individual may "fit" under and help to keep down proposal preparation costs. For Category 0006, Administrative Support, the qualification should be limited to work experience and need not have a minimum education requirement. To the extent that central management costs are included as part of a contractor's indirect costs and are therefore covered in the FDRs, these labor costs are not billable as Administrative Support or as other labor categories. Offerors will need to stipulate in their proposal responses to the base IQC solicitation as to whether or not central management is part of their indirect cost recovery. COs awarding the base IQCs are to then include this explanation at this location in the resulting contract award.]

B.5(a)(2) Labor Categories - Levels of Qualifications

LEVEL I: (PRINCIPAL MANAGER)

The following qualifications are required:

- Degree _____ (specify) in a relevant field
- ___ years of relevant work experience

_____ additional years of work experience may substitute for the degree specified. Work experience in a developing country environment is not limited to actual work in a developing country, but may include work experience on international development problems regardless of location.

[Guidance: The extent to which an acquisition team desires to require each of the bulleted elements, such as supervisory or developing country experience, may vary somewhat, but the structure should largely be followed. Other qualifications that may apply include the following:]

- ___ years must have been supervisory within the relevant experience, and
- ___ years must have been spent in a developing country environment

Level II: (SENIOR ANALYST/SUB ACTIVITY MANAGER)

The following qualifications are required:

- Degree _____ (specify) in a relevant field
- ___ years of relevant work experience

_____ additional years of work experience may substitute for the degree specified. Work experience in a developing country environment is not limited to actual work in a developing country, but may include work experience on international development problems regardless of location.

[Guidance: See guidance provided in Level I above for additional qualification factors.]

Level III: (RESEARCH ASSOCIATE)

The following qualifications are required:

- Degree _____ (specify) in a relevant field
- ___ years of relevant work experience

_____ additional years of work experience may substitute for the degree specified. Work experience in a developing country environment is not limited to actual work in a developing country, but may include work experience on international development problems regardless of location.

[Guidance: See guidance provided in Level I above for additional qualification factors.]

In order to perform the scope of work set forth in Section C., the Contractor must provide the appropriate personnel meeting or exceeding the education and experience levels of the Functional Labor Categories indicated above. The qualifications in the categories must correspond to the applicable fixed daily rates provided in Section B.5.(a)(1).

B.5(b) Locally-Hired National Personnel or Other Non-U.S. Expatriates

All locally hired national personnel and other non-U.S. expatriates must be paid in accordance with AIDAR 722.170(a): Third Country Nationals (TCNs) and Cooperating Country Nationals (CCNs) who are working in the United States or are legal residents of the United States at the time they are hired for a task order, must be extended benefits and subject to restrictions on the same basis as U.S. citizens who work in the United States. The U.S. fixed daily rates will be applied to TCNs and CCNs conforming to this regulatory provision.

Salaries for individual locally-hired personnel and other non-U.S. expatriates under this contract or any resulting subcontract must be in accordance with AIDAR 752.7007, Personnel Compensation (July 1996) and should be based upon a combination of factors including prevailing in-country salaries for the professional category being negotiated and consideration of the individual's education, work experience and recent relevant salary history.

B.5(b)(1) Multiplier

The multiplier listed below should be applied to the negotiated unburdened daily salary of locally hired national personnel or other non-US expatriates only.

The multiplier must include indirect costs applicable to labor, and profit or fee, if any.

Note: The Locally-Hired National Personnel or Other Non-U.S. Expatriate multiplier must not include or be applied to costs covered as other direct costs in B.6 such as travel and transportation, costs of a local office, etc. USAID anticipates that, for the most part, bilateral agreements with countries receiving technical assistance under any task order will exempt the contractor from paying non-U.S. taxes, duties, and bonding. To the extent that these costs are not exempted, the question of their allowability would be determined on a case-by-case basis as a direct cost. These costs are not to be considered part of the multiplier. Fringe benefits and social welfare costs for locally-hired or non-U.S. expatriates will be reimbursed as direct costs if allowable/authorized under task orders. They are not to be considered part of the multiplier.

The fixed multiplier for locally hired national personnel and other non-U.S. expatriates under this contract is:

(Offerors may bid separate multipliers for each year or groups of years, and rates will be included accordingly)

Contract Years 1-5: _____

[Guidance: Fixed multiplier rates will typically be applied to task orders as incorporated in the contract. While they are fixed multiplier rates, their inclusion in the contract does not prohibit contractors from offering the Government lower rates in task order proposals.]

The multiplier(s) set forth above are fixed for the contract periods and are applied to locally hired personnel and other non-US employees or consultants of the prime contractor or subcontractors set forth in Section J. If a new subcontractor as opposed to an individual is being proposed for a specific task order, the Task Order Contracting Officer may elect to negotiate costs/price of the subcontract as Other Direct Costs.

Note: If a task order is written in Year 1 with a period of performance that extends into Year 2, the applicable multiplier for work days performed in Year 1 and 2 must be used (if the contractor has proposed different multipliers for each year) in the task order. The same is applicable for future years. Non-funded extensions that will cause existing task orders to extend into a subsequent multiplier period would not typically involve a change in the allowable multiplier under that task order; funded extensions that add new work to the task order would normally allow the subsequent year's multiplier to apply. Under these circumstances, all changes in the allowable multiplier are subject to the TOCO's discretion.

B.6 OTHER DIRECT COSTS

B.6.(a) Other direct costs necessary for the performance of the work under task orders, such as travel and transportation, lodging and subsistence expenses may be authorized in the task order. Any cost elements included in the fixed daily rates or multipliers must not be charged as an other direct cost.

B.6.(b) The TOCO determines which other direct costs are allowable, allocable, and fair and reasonable in accordance with the applicable federal cost principles (i.e., FAR 31.2 and AIDAR 731.2 for commercial (for profit) organizations or FAR 31.3 and AIDAR 731.3 for educational institutions, or FAR 31.7 and AIDAR 731.7 for other not-for-profit organizations). For those other direct costs the TOCO authorizes, contractors are allowed to recover applicable indirect costs on these costs, if doing so is part of the contractor's usual accounting procedures, consistent with the applicable cost principles, and are included in the contractor's Negotiated Indirect Cost Rate Agreement.

B.6.(c) No profit or fee will be applied to other direct costs, in accordance with FAR 16.601. [Guidance: Profit or fee is included in the fixed daily rates.]

B.7 INDIRECT COST RATE

[Guidance: Use ProDoc clause for Provisional or Predetermined Rates.]

Note 1: Contractors are allowed to recover applicable indirect costs (i.e., overhead, G&A, etc.) on other direct costs (ODCs), if it is part of the contractor's usual accounting procedures, consistent with FAR Part 31, and Negotiated Indirect Cost Rate Agreement (NICRA).

Note 2: While Subcontractor indirect cost rates are not incorporated above, subcontractor indirect cost rates as indicated in Note 1 above may be included in task order proposals, and are subject to approval of the cognizant TOCO in accordance with FAR 52.244-2, Subcontracts.

B.8 TASK ORDER LIMITATIONS

B.8(a) Minimum Order. When USAID requires services or reports and other deliverables covered by this contract in a Task Order in the amount of less than \$_____, the Contractor is not obligated to accept an order to furnish those services or reports and other deliverables under this contract. However, if the Contractor agrees to furnish services or reports and other deliverables required by USAID in an amount of less than \$_____ and is awarded a Task Order to do so, the Contractor is required to provide said services and reports/deliverables in accordance with the Contract's terms and conditions.

B.8(b) Maximum Order. When USAID requires services or reports and other deliverables covered by this contract in a Task Order amount of more than \$_____, the Contractor is not obligated to accept an order to furnish those services or reports and other deliverables under this contract. However, if the Contractor agrees to furnish services or reports and other deliverables required by USAID in excess of \$_____ and is awarded a Task Order to do so, the Contractor is required to provide said services and reports/deliverables in accordance with the Contract's terms and conditions.

B.8(c) Notwithstanding the above, if issuance of a task order to, and acceptance of a task order by, the Contractor would: (1) result in the Contractor (or its personnel or its subcontractors or their personnel) having an organizational conflict of interest for which restrictions would be placed on the Contractor's (or its personnel's or its subcontractors' or their personnel's) future activities ; or (2) violate the provisions of the Procurement Integrity legislation, i.e., Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), as amended by Section 814 of Pub. L. 101-189, the Contractor, after written notification to the TOCO, is not obligated to furnish those services or reports and other deliverables under this contract, and USAID may acquire the supplies or services from another source.

[Guidance: It is not uncommon for concerns about Organizational Conflict of Interest (OCI) to arise under IQCs especially in the areas of design and evaluation. OCI concerns must be addressed in order to prevent bias and prevent an unfair competitive advantage. OCI regulatory provisions and policy guidance can be found at FAR 9.5, CIB 99-17, ADS 202 and ADS reference entitled "Legal and Policy considerations when Involving Partners." Contracting Officers (COs) are to identify and evaluate OCI concerns as early as possible in procurement planning in order to avoid, neutralize, or mitigate them. COs rely on CTOs to involve them early in the planning process in order to identify and try to mitigate OCI concerns. The ADS legal and policy reference as well as the other references noted above provide useful insight and guidance relating to means of mitigating OCI concerns. As noted in the ADS reference, "Bias can be avoided if USAID staff participate actively to reach an informed decision regarding the best design in the Agency's interest... [and] Unfair competitive advantage can be mitigated by providing competitively useful information held by one organization to all other competitors." In some cases, it may not be possible to avoid or mitigate OCI concerns, but CTO engagement of COs at the earliest stages of the process will facilitate matters and provide a constructive approach.]

END OF SECTION B

SECTION F - DELIVERIES OR PERFORMANCE

PERIOD OF PERFORMANCE

The ordering period for this contract is five (5) years from the date of award of the contract.

Although task orders may be issued at any time during this ordering period, two constraints apply to the period of performance for task orders. First, the period of performance for a task order may not go beyond one (1) year after the end of the ordering period. Second, a TOCO may not award a task order for a period of performance that goes more than five (5) years into the future at the time the order is either awarded or extended by modification.

[Guidance: The period of performance of a single TO issued could be as long as almost six (6) years, if it was awarded in the first year of the ordering period and then added onto during the ordering period. New work can be added on at any time during the ordering period, provided the fair opportunity requirements are met, and within-scope time extensions at no additional cost may be made at any time during the effective performance period of the task order. However, before extending a TO beyond the one-year TO performance limit in the above paragraph, the TOCO must obtain the written approval of the Agency Competition Advocate.]

KEY PERSONNEL

Key Personnel [Guidance: ADS 302 established a requirement that only those personnel directly responsible for management of the contract, or whose professional/technical skills are certified by the project office as being essential for successful implementation of the project/program may be designated as key personnel. In any event, the number of key personnel designated for any IQC or task order must not be more than five individuals or five percent of contractor employees working under the contract/task order, whichever is greater.]

SECTION H - SPECIAL CONTRACT REQUIREMENTS

SECURITY CLEARANCE

(a) Task orders under this contract may involve classified performance in accordance with ADS Chapter 567 "Classified Contract Security and Contractor Personnel Security Program" and FAR Subpart 4.4 "Safeguarding Classified Information Within Industry". Consequently, this contract incorporates the minimum provisions needed to comply with the National Industrial Security Program (NISP) and ADS 567, as summarized in paragraphs (b) through (g) below. Before initiating the Fair Opportunity procedures in Section F of this contract for any classified task order, the requiring office for the task order must complete a DD 254, have it cleared by the Office of Security (SEC), and include it with the Statement of Work for the classified task order. A blank copy of the DD 254 is attached in Section J. Questions pertaining to the DD 254 are to be directed to the Office of Security.

(b) In order to be considered for a classified task order, the contractor must obtain and maintain a "Facility Clearance" at the "Secret" level. **In accepting the award of this contract, the contractor acknowledges that it waives any right to be considered or to participate in the "fair opportunity to be considered" procedures in Section F of this contract for any classified task order if the contractor fails to obtain and maintain a Secret level facility clearance.** Even though the basic contract is not classified, the contractor may request a Secret level facility clearance at any time after the contract is awarded in order to be eligible for consideration for a classified task order. The CTO from the office sponsoring the IQC is responsible for coordinating with SEC in taking any actions ADS 567 requires to request the facility clearance from the Defense Security Service (DSS). The TO CTO is responsible for managing the clearance requirements for any classified task orders.

At the time of award, the contractor does [] does not [] have a Secret level facility clearance.

[Guidance: COs awarding IQCs are to leave these blanks empty in the RFP. Include language in Section L asking offerors to provide information on their clearance status. Before making an award, verify the offeror's clearance status with the Office of Security and edit this statement accordingly.]

The TOCO is responsible for incorporating the completed and cleared DD 254 into a classified task order.

(c) If DSS grants an interim clearance but then subsequently revokes the interim clearance after contract award and denies a final clearance, the contract may be terminated, depending on the reasons DSS denied the clearance. If the contract is not terminated, the contractor is prohibited from being considered for or being issued any future classified task orders, in accordance with the acknowledgement in (b) above.

(d) Employees of the Contractor working under this contract or under a task order issued against this contract and requiring access to classified national security information and/or to areas under the control of USAID deemed "Restricted" by USAID's Office of Security must have been subject to an appropriate level background investigation by the Defense Security Service (DSS). DSS must issue either an "Interim" or "Final" security clearance for each such employee before USAID will grant him or her unescorted access to USAID's restricted spaces(s) or permit him or her access to classified national security information. If DSS issues an interim clearance but subsequently denies a final clearance for an employee of a cleared contractor, the contractor must immediately remove the employee from USAID-restricted space and prevent him or her from having access to or handling classified or administratively controlled materials. The contractor is responsible for providing properly cleared personnel to work on the contract and for ensuring that performance is not jeopardized.

(e) The contractor's Facility Security Officer (FSO) must forward a valid "Visit Request" identifying their representatives/employees and the required security clearance information to the USAID Office of Security, 1300 Pennsylvania Ave., N.W., Washington, D.C. 20523-8800.

(f) In the event the contractor subcontracts any work to be performed under a classified task order, the contractor is responsible for issuing the security guidance provided by USAID to any subcontractor and ensuring that subcontractors comply with security requirements of the prime contract/task order.

(g) The USAID Office of Security will issue RRB facility passes to individual contractor representatives/employees upon receipt of the "Visit Request". The contractor must ensure that any passes issued are returned upon termination of employment or completion of the contract, whichever occurs first."

SECTION J - LIST OF ATTACHMENTS

The attached blank DD 254 "Department of Defense Contract Security Classification Specification", including the attached supplemental Security Guidance for Item 13, is incorporated into this contract.

COST PLUS FIXED FEE IQC MODEL

SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS

B.1 PURPOSE

The purpose of this contract is to provide services that fall within the scope of the work specified in Section C for _____ (insert sector). USAID Task Order Contracting Officers (TOCOs) will request the work through the issuance of task orders during the ordering period as specified in Section F of the contract.

B.2 CONTRACT TYPE AND SERVICES

This is an Indefinite Quantity Contract (IQC). The Government will issue task orders that are either Cost-Plus-Fixed Fee (CPFF) or Firm Fixed Priced. The Contractor must perform the services set forth in task orders at prices consistent with section B of this contract.

B.3 MINIMUM OBLIGATED AMOUNT

The basic contract includes an initial obligation of funds in the amount of \$ _____ to cover the minimum order guarantee. USAID is required to order and the Contractor is required to furnish the minimum order amount of services. Following this initial obligation, individual task orders will obligate funds to cover the work required under that task order.

[Guidance: USAID has traditionally set minimums in the range of \$10,000-\$25,000 which cannot be incrementally funded. Bureaus are encouraged to establish higher minimums, in the range of \$100,000-\$150,000, especially for sectors with a high likelihood that lead firms proposing will be small businesses.]

There are two ways to deal with the minimum obligated amount once it has been satisfied by the issuance of a task order: 1) it can be used as part of the funding for a task order; or 2) it can be deobligated by the IQC CO.]

B.4 MAXIMUM CONTRACT CEILING

This is a multiple-award Indefinite Quantity Contract for _____ (insert sector) with an overall ceiling price of \$ _____. The maximum aggregate dollar value of all task orders awarded to all contractors cannot exceed the contract ceiling. This ceiling is not being subdivided among the number of awardees nor is it being multiplied by the number of awardees.

[Guidance: After selecting the successful offerors, the CO is to add the following sentence, filling in the blanks as appropriate. This sentence is NOT to be included in the solicitation.]

The number of awards under _____ (insert sector) is _____ (insert number).

[Guidance: FAR Part 16.504 provides that "The contracting officer should establish a reasonable maximum quantity based on market research, trends on recent contracts for similar supplies or services, survey of potential users, or any other rational basis." USAID IQCs are almost exclusively for services, and the maximum is stated in terms of a dollar ceiling. The proposed models provide that the ceiling be established as an overall sector ceiling among all awards and not be subdivided among nor multiplied by the number of awardees. This will increase the likelihood that the best performers remain available to the Agency throughout the period of the contract. Technical offices should consider any historical data, survey missions, regions and pillar bureaus, and take into account any likely future initiatives or changes in trends when recommending the ceiling amount. Contracting and technical offices should not be overly conservative. The projected amount of services will never be known with certainty, and the ceiling should just be within reason.]

B.5 OBLIGATED AMOUNT, ESTIMATED COST, FIXED FEE

B.5.1 Obligated Amount. The basic contract includes an initial obligation of funds in the amount of \$ _____ to cover the minimum order guarantee.

B.5.2 The Total Estimated Cost Plus Fixed Fee for each task order must be negotiated in accordance with the terms of the IQC contract. **In no event may the indirect rates or fixed fee for a task order exceed the ceilings set forth in Section B.7 and B.8 of IQC contract.** The U.S. dollar costs must be limited to reasonable, allocable, and allowable costs determined in accordance with FAR 52.216-7, Allowable Cost and Payment, and FAR 52.216-8, Fixed Fee, A-21 (for universities), and A-122 (non-profit).

B.5.3 Fixed Fee Payment For any task order issued under this contract, at the time of each payment of allowable costs to the Contractor, the USAID paying office ordinarily pays the Contractor a percentage of fixed fee that directly corresponds to the percentage of allowable costs being paid. Two exceptions to paying fixed fee in this manner apply:

(a). If the TOCO determines that this method results in paying a disproportionately higher ratio of fixed fee than the percentage of work that the Contractor has completed, then the TOCO may suspend further payment of any fixed fee until the Contractor has made sufficient progress to justify further payment, up to the agreed percentage.

(b). Because the clauses entitled "Allowable Cost and Payment" (FAR 52.216-7) and "Fixed Fee" (FAR 52.216-8) are incorporated into this contract, the terms and conditions of these clauses apply after total payments of fixed fee reach eighty-five percent (85%) of the total fixed fee.

[Guidance: All FFP task orders must be fully funded, unless the deliverables can be separately priced **and** the line items that are not funded are included as options. If the Government elects to fund deliverables separately for FFP task orders, the TOCO should include information in the task order such as: Contract Line Item Number, Description, Accomplishment Expected, Verification Method, Amount, etc. The TOCO may modify paragraph B.5.3 in the situation where payments are to be made based upon milestones achieved.]

When using a Cost Reimbursement contract or any variation thereof (CPAF, CPFF, etc.), the contract amount should only be addressed in terms of three elements - Total Estimated Cost, Fixed Fee, and Total Estimated Cost Plus Fixed Fee. When a detailed budget is listed in Section B, it implies that you want to control the movement of cost from one cost element to another. In other words, it implies that the contractor does not have the discretion to shift funds among various cost areas if circumstances dictate. However, it is the contractor's responsibility to ensure that the contract objectives are met within the Total Estimated Cost and Fixed Fee set forth in the contract. Since a cost reimbursement contract is used in those situations where there are quite a few uncertainties with regard to contract performance, it's very likely that the contractor will need to shift some costs among cost elements in order to stay within the total contract budget. You are paying the contractor to manage the contract. If you intend to micromanage the costs, then you have shifted yet another contract risk onto the Government.]

B.6 INDIRECT COSTS

[Guidance: Use ProDoc for Provisional or Predetermined Rates clause.]

Note 1: Contractors are allowed to recover applicable indirect costs (i.e., overhead, G&A, etc.) on other direct costs (ODCs), if it is part of the contractor's usual accounting procedures, consistent with FAR Part 31, and Negotiated Indirect Cost Rate Agreement (NICRA).

Note 2: While Subcontractor indirect cost rates are not incorporated above, subcontractor indirect cost rates as indicated in Note 1 above may be included in task order proposals, and are subject to approval of the TOCO in accordance with FAR 52.244-2, Subcontracts.

B.7 CEILING ON INDIRECT COSTS

[Guidance: Use ProDoc for Indirect Cost Ceiling clause.]

B.8 CEILING ON FIXED FEE

For each task order issued under this IQC, the TOCO and Contractor agree to negotiate a set dollar amount for fixed fee. In negotiating the fixed dollar amount for fee, the TOCO must consider the policies and factors for establishing fee in FAR 15.404-4 as well as any applicable USAID policy on establishing a fixed fee amount. In no event, however, may the amount of fixed fee in any individual task order exceed ____ percent (offeror proposes ceiling percentage) of the task order's estimated cost, excluding fee.

[Guidance: For RFPs, include the paragraph exactly as written above for task orders and include instructions for the offerors for proposing a fixed fee ceiling in Section L. As part of its proposal, the offeror includes the percentage for the fee ceiling. After evaluation, negotiation, and award selection, the CO then inserts the final negotiated percentage for fee ceiling in the award document and removes the parenthetical phrase.]

COs are reminded that fixed fee is an AMOUNT that is set for the duration of the task order. If the total estimated cost of a CFFF completion task order--or stand-alone contract, for that matter--must be increased to cover higher-than-anticipated costs but there is no change in the original purpose or scope of the TO, then the original fixed fee amount remains unchanged. The only justification for increasing the amount of fixed fee is when adding new work, which in turn is then subject to the fair opportunity requirements of the multiple award IQC for a task order (and FAR Part 6 competition requirements for stand-alone contracts). For the same reason, if the total costs in a TO or contract are reduced for the same TO/contract scope and/or deliverables, the fee remains at the originally fixed amount. The purpose of this reminder--that fee is a fixed amount and is not to be adjusted UNLESS the TO or contract scope changes--is to prevent COs from stating the fee as a percentage and thereby creating a "cost plus percentage of cost" fee arrangement, which is prohibited by statute as stated in FAR 16.102(c).

When adding new work to a TO or stand-alone contract, the determination of a reasonable fixed fee amount for this modification must also be based on the policies and factors in FAR 15.404-4, as they apply to the new work being added; however, FAR 15.404-4(c)(6) does permit the CO to use the basic contract or TO's fee rate IF the additional work calls for essentially the same type and mix of work as the basic TO/contract and is of relatively small dollar value compared to the total TO/contract value.]

B.9 LABOR

Compensation of personnel under this contract or any resulting subcontract must be in accordance with AIDAR 752.7007 Personnel Compensation (July 1996).

[Guidance: There are various methods to approach Contractor management responsibility under an IQC. The aspect of contractor management being addressed herein relates to central management functions under the base IQC (e.g., responding to task order proposal requests, central reporting, and central meetings with the base award CTO). Management backstopping as it relates to task order implementation is a cost that would be negotiated on a task order by task order basis. Regardless of the pricing method selected below, the contractors should provide a central point of contact for management. The individual and alternate contact information would be noted in the IQC. A firm's desire to obtain a large number of task orders should be sufficient incentive for them to propose competent individuals for central management. Central management costs are typically charged using any of the following two methods:

(1) The Contracting Officer/Technical Offer for the base award could determine that naming a central manager as opposed to a key technical manager/leader is the desired approach. A firm could likely include the costs for this central management as part of their indirect costs, or a firm could charge percentages of the individual's effort under task orders to the extent the functions are allocable to the particular task orders; or

(2) The Contracting Officer/Technical Officer for the base award could establish a core task order for technical management/leadership with each firm, and have that management team as key for the order and priced under the order.

Regardless of which of the above options is used, the IQC CO must add language into the contracts that describes for TOCOs how central management costs are to be covered in task orders.]

B.10 TASK ORDER LIMITATIONS

B.10.(a) Cost-Plus-Fixed-Fee (CPFF) Task Orders. When issuing CPFF task orders, the TOCO must state in the task order the total estimated cost plus fixed fee, which is the total amount of the task order and the maximum amount the Contractor may be paid without the advance written approval of the cognizant Contracting Officer. This maximum amount represents the negotiated mix of the prime contractor's and subcontractors' professional labor categories and salaries, an estimated number of workdays, other direct costs, and fixed fee.

B.10.(b) Firm-Fixed-Price (FFP) Task Orders. When issuing FFP task orders, TOCOs must state in the task order the firm-fixed-price, which represents the total amount of the task order and the maximum price the contractor may be paid to perform the services, reports, or other deliverables in the task order.

B.10.(c) Minimum Order. When USAID requires services or reports and other deliverables covered by this contract in a Task Order in the amount of less than \$_____, the Contractor is not obligated to accept an order to furnish those services or reports and other deliverables under this contract. However, if the Contractor agrees to furnish services or reports and other deliverables required by USAID in an amount of less than \$_____ and is awarded a Task Order to do so, the Contractor is required to provide said services and reports/deliverables in accordance with the Contract's terms and conditions.

B.10.(d) Maximum Order. When USAID requires services or reports and other deliverables covered by this contract in a Task Order amount of more than \$_____, the Contractor is not obligated to accept an order to furnish those services or reports and other deliverables under this contract. However, if the Contractor agrees to furnish services or reports and other deliverables required by USAID in excess of \$_____ and is awarded a Task Order to do so, the Contractor is required to provide said services and reports/deliverables in accordance with the Contract's terms and conditions.

B.10.(e) Notwithstanding the above, if issuance of a task order to, and acceptance of a task order by, the Contractor would: (1) result in the Contractor (or its personnel or its subcontractors or their personnel) having an organizational conflict of interest for which restrictions would be placed on the Contractor's (or its personnel's or its subcontractors' or their personnel's) future activities ; or (2) violate the provisions of the Procurement Integrity legislation, i.e., Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), as amended by Section 814 of Pub. L. 101-189 the Contractor, after written notification to the cognizant Contracting Officer, is not obligated to furnish those services or reports and other deliverables under this contract, and USAID may acquire the supplies or services from another source.

[Guidance: It is not uncommon for concerns about Organizational Conflict of Interest (OCI) to arise under IQCs especially in the areas of design and evaluation. OCI concerns must be addressed in order to prevent bias and prevent an unfair competitive advantage. OCI regulatory provisions and policy guidance can be found at FAR 9.5, CIB 99-17, ADS 202 and ADS reference entitled "Legal and Policy considerations when Involving Partners." Contracting Officers (COs) are to identify and evaluate OCI concerns as early as possible in procurement planning in order to avoid, neutralize, or mitigate them. COs rely on CTOs to involve them early in the planning process in order to identify and try to mitigate OCI concerns. The ADS legal and policy reference as well as the other references noted above provides useful insight and guidance relating to means of mitigating OCI concerns. As noted in the ADS reference, "Bias can be avoided if USAID staff participate actively to reach an informed decision regarding the best design in the Agency's interest... . [and] Unfair competitive advantage can be mitigated by providing competitively useful information held by one organization to all other competitors." In some cases, it may not be possible to avoid or mitigate OCI concerns, but CTO engagement of COs at the earliest stages of the process will facilitate matters and provide a constructive approach.]

END OF SECTION B

SECTION F - DELIVERIES OR PERFORMANCE

PERIOD OF PERFORMANCE

The ordering period for this contract is five (5) years from the date of award of the contract.

Although task orders may be issued at any time during this ordering period, two constraints apply to the period of performance for task orders. First, the period of performance for a task order may not go beyond three (3) years after the end of the ordering period. Second, a TOCO may not award a task order for a period of performance that goes more than five (5) years into the future at the time the order is either awarded or extended by modification.

[Guidance: The period of performance of a single TO issued could be as long as almost eight (8) years, if it was awarded in the first year of the ordering period and then added onto during the ordering period. New work can be added on at any time during the ordering period, provided the fair opportunity requirements are met, and within-scope time extensions at no additional cost may be made at any time during the effective performance period of the task order. However, before extending a TO beyond the three-year TO performance limit in the above paragraph, the TOCO must obtain the written approval of the Agency Competition Advocate.]

KEY PERSONNEL

Key Personnel [Guidance: ADS 302 established a requirement that only those personnel directly responsible for management of the contract, or whose professional/technical skills are certified by the project office as being essential for successful implementation of the project/program may be designated as key personnel. In any event, the number of key personnel designated for any IQC or task order must not be more than five individuals or five percent of contractor employees working under the contract/task order, whichever is greater.]

SECTION H - SPECIAL CONTRACT REQUIREMENTS

SECURITY CLEARANCE

(a) Task orders under this contract may involve classified performance in accordance with ADS Chapter 567 "Classified Contract Security and Contractor Personnel Security Program" and FAR Subpart 4.4 "Safeguarding Classified Information Within Industry". Consequently, this contract incorporates the minimum provisions needed to comply with the National Industrial Security Program (NISP) and ADS 567, as summarized in paragraphs (b) through (g) below. Before initiating the Fair Opportunity procedures in Section F of this contract for any classified task order, the requiring office for the task order must complete a DD 254, have it cleared by the Office of Security (SEC), and include it with the Statement of Work for the classified task order. A blank copy of the DD 254 is attached in Section J. Questions pertaining to the DD 254 are to be directed to the Office of Security.

(b) In order to be considered for a classified task order, the contractor must obtain and maintain a "Facility Clearance" at the "Secret" level. **In accepting the award of this contract, the contractor acknowledges that it waives any right to be considered or to participate in the "fair opportunity to be considered" procedures in Section F of this contract for any classified task order if the contractor fails to obtain and maintain a Secret level facility clearance.** Even though the basic contract is not classified, the contractor may request a Secret level facility clearance at any time after the contract is awarded in order to be eligible for consideration for a classified task order. The CTO from the office sponsoring the IQC is responsible for coordinating with SEC in taking any actions ADS 567 requires to request the facility clearance from the Defense Security Service (DSS). The TO CTO is responsible for managing the clearance requirements for any classified task orders.

At the time of award, the contractor does [] does not [] have a Secret level facilities clearance.

[Guidance: COs awarding IQCs are to leave these blanks empty in the RFP. Include language in Section L asking offerors to provide information on their clearance status. Before making an award, verify the offeror's clearance status with the Office of Security and edit this statement accordingly.]

The TOCO is responsible for incorporating the completed and cleared DD 254 into a classified task order.

(c) If DSS grants an interim clearance but then subsequently revokes the interim clearance after contract award and denies a final clearance, the contract may be terminated, depending on the reasons DSS denied the clearance. If the contract is not terminated, the contractor is prohibited from being considered for or being issued any future classified task orders, in accordance with the acknowledgement in (b) above.

(d) Employees of the Contractor working under this contract or under a task order issued against this contract and requiring access to classified national security information and/or to areas under the control of USAID deemed "Restricted" by USAID's Office of Security must have been subject to an appropriate level background investigation by the Defense Security Service (DSS). DSS must issue either an "Interim" or "Final" security clearance for each such employee before USAID will grant him or her unescorted access to USAID's restricted spaces(s) or permit him or her access to classified national security information. If DSS issues an interim clearance but subsequently denies a final clearance for an employee of a cleared contractor, the contractor must immediately remove the employee from USAID-restricted space and prevent him or her from having access to or handling classified or administratively controlled materials. The contractor is responsible for providing properly cleared personnel to work on the contract and for ensuring that performance is not jeopardized.

(e) The contractor's Facility Security Officer (FSO) must forward a valid "Visit Request" identifying their representatives/employees and the required security clearance information to the USAID Office of Security, 1300 Pennsylvania Ave., N.W., Washington, D.C. 20523-8800.

(f) In the event the contractor subcontracts any work to be performed under a classified task order, the contractor is responsible for issuing the security guidance provided by USAID to any subcontractor and ensuring that subcontractors comply with security requirements of the prime contract/task order.

(g) The Office of Security will issue RRB facility passes to individual contractor representatives/employees upon receipt of the "Visit Request". The contractor must ensure that any passes issued are returned upon termination of employment or completion of the contract, whichever occurs first."

SECTION I - CONTRACT CLAUSES

[Guidance: When issuing an incrementally-funded CPFF Task Order, the TOCO must include FAR clause FAR 52.232-22 Limitation of Funds in the task order. ProDoc does not include this clause because the IQC is a Time-and-Materials type contract and the FAR prescribes this clause for cost-reimbursement contracts. All FFP task orders must be fully funded, unless the deliverables can be separately priced and the line items that are not funded are included as options. TOCOs may only modify the TO to exercise the options if the funds are obligated at the same time.]

SECTION J - LIST OF ATTACHMENTS

The attached blank DD 254 "Department of Defense Contract Security Classification Specification", including the attached supplemental Security Guidance for Item 13, is incorporated into this contract.

FAIR OPPORTUNITY

1.0 Fair Opportunity - General

1.1 All USAID Mission/Bureau Contracting Officers (includes Mission Directors and Executive Officers) may issue task orders within their delegated authorities to provide desired services within the scope of Section C. [Guidance: Include the bracketed sentence that follows this Guidance section ONLY if the bureau sponsoring the basic contract elects to have the cognizant CTO in USAID/W review the task order requirements before the fair opportunity process begins. Or, the CO may include alternative language requiring that task orders over a specified threshold (coordinate the threshold with the sponsoring bureau) need to be reviewed by the CTO in USAID/W. If the sponsoring bureau or office chooses not to review TO requirements to ensure consistency and compliance with the basic IQC SOW, then the CO does not include this sentence in either variation in the RFP or resulting contract.] [The USAID/W Cognizant Technical Officer (CTO) must review the prospective task order requirement or statement of work (SOW) (optional: for task orders at or above \$____ (threshold)) and agree that it complies with the SOW for the basic contract before the task order CO may begin the fair opportunity process.] **Task Order Contracting Officers (TOCOs)** must negotiate and administer task orders in accordance with the ordering procedures set forth herein. The TOCO must provide each Contractor a fair opportunity to be considered for each task order (also referred to as “order”) exceeding \$2,500 issued under this contract unless one of the exceptions described in paragraph 1.2, Fair Opportunity Exceptions, applies. All Contractors (or all Contractors designated under a specific sector) must be contacted and provided the opportunity to be considered before award of all task orders. Although Contractors are not required to submit a proposal for every task order request, all Contractors interested in providing services under the task order must submit a proposal, inclusive of price.

1.2 Fair Opportunity Exceptions

All Contractors will be given a fair opportunity to be considered for task orders over \$2,500, unless the TOCO determines that one of the following statutory exceptions applies:

- a. An urgent need exists, and seeking competition would result in unacceptable delays,
- b. Only one Contractor is capable at the level of quality required because the requirement is unique or highly specialized,
- c. The order must be issued on a sole source order basis in the interest of economy and efficiency because it is a logical follow-on to an order already issued under the contract, provided that all awardees were given a fair opportunity to be considered for the original order. For a follow-on task order that implements an activity designed under another order under this contract, this exception may only be used if the TOCO complied with the Organizational Conflicts of Interest limitations in Contract Information Bulletin 99-17 “Organizational Conflicts of Interest”. [Guidance: This exception may be used ONLY if the follow-on order is truly a logical follow-on and is placed under the **same** IQC as the initial order, and the initial order was placed without using any of these exceptions to the fair opportunity requirement. This exception may also be used for modifications to add new work to task orders. TOCOs and/or TO CTOS should make every effort to advise all contractors in the Request for Task Order Proposals (RFTOPs) for the initial task order if a “logical follow-on” order is likely to materialize, especially when the initial order is relatively small and the “follow-on” is likely to be significantly larger.]
- d. To satisfy contract minimum award obligations, or
- e. Small business set aside. (USAID-specific authority in FY 2002 Appropriations, see AAPD-02-05, Exception for Small Businesses under IQCs)

[Guidance: To use any of the exceptions above, the CO must include the Justification in the contract file. Item I of FAC 2001-09, effective on September 30, 2002, expands the FAR's requirement for decision documentation for orders,

including a specific requirement that when using the logical follow-on exception, the rationale "shall describe why the relationship between the initial order and the follow-on is logical (e.g., in terms of scope, period of performance, or value)."]

1.3 **Classified Task Orders**

In accordance with Section H.XX of this contract, USAID may award a classified task order under this contract. Because USAID participates in the National Industrial Security Program (see FAR 4.4 and ADS 567), the CTO and CO must follow the procedures in ADS 567, particularly the requirement to include security specifications in the Statement of Work for a contract or task order. Any contractor under this multiple-award (insert sector name) IQC that has not been granted either an interim or final Secret level facility clearance by the Defense Security Service (DSS) may be determined to be ineligible to be considered for a classified task order. If time permits, the CO may allow a contractor without the requisite facility clearance to participate in the fair opportunity procedures for a classified task order in anticipation of DSS granting the clearance before the task order must actually be awarded. However, doing so is on the condition that all parties acknowledge and agree that if DSS does not grant an interim or final facility clearance in time, the CO must award the classified task order to the contractor that is selected through the fair opportunity procedures AND has the requisite facility clearance.

2.0 **Request for Task Order Proposal**

2.1 Individual task orders shall clearly describe all services to be performed or supplies to be delivered so the full cost or price for the performance of the work can be established when the order is placed. Orders shall be within the scope, issued within the period of performance, and be within the maximum value of the contract. Only the Contracting Officer for the basic contract may modify the basic contract to change the scope, period, or maximum ceiling.

2.2 Unless one of the Fair Opportunity Exceptions in section 1.2 applies, the terms of this contract require that whenever a task order award is contemplated, all contractors will receive a request for a task order proposal and that all task order proposals must include the contractor's cost or price to perform the anticipated task order. The TO proposal request must be in writing (via mail, e-mail, fax, or other, as set out in the RFTOP) and include a description of the intended services and the evaluation procedure, including the relative weighting of cost/price and non-cost/price criteria. If the selection may be based upon information obtained from other than the contractor's proposals, the RFTOP must identify the other evaluation criteria. The evaluation may be based solely on cost/price, but may also include one or more technical factors such as corporate experience, personnel, or relevant past performance (in other contracts as well as in earlier orders under this contract, including quality, timeliness, cost control, and using small business concerns, per AAPD 02-06). When making the final selection, the TOCO should also consider the potential impact on other orders placed with the contractor and the minimum ordering requirements of the contract. Although contractors may elect not to submit a proposal, when they do, they must comply with the page limitations for proposals described in section 2.2.1 through 2.2.3; USAID will not evaluate any pages that exceed these limits.

[Guidance: The request for a task order proposal must specify in the evaluation procedure the relative importance of cost and other non-price factors. If past performance is an evaluation criterion, then a component of the past performance criterion must be past performance in using small business concerns, in accordance with AAPD 02-06, Source Selection and Evaluating Past Performance in Using Small Business Concerns; ask the Contractor to provide this information in the proposal. The source selection memorandum for each task order must indicate that each proposal was evaluated in strict accordance with the evaluation criteria set forth in the request for task order proposal.]

The following are the thresholds and corresponding procedures for requesting proposals for task orders:

2.2.1 For task orders estimated to be equal to or less than US\$100,000: In accordance with the general procedures in 2.2 above, the **Task Order Cognizant Technical Officer** (TO CTO) will request a task order proposal from each contractor after coordinating the terms of the RFTOP with the TOCO. The TO CTO may not ask for more than a two (2) page cost proposal, and if the TO CTO deems it necessary, may also ask for a technical proposal of no more than three (3) pages (page limit does not include resumes, graphs, or past performance information). The TO CTO is not authorized to undertake discussions or negotiations with the contractors. After applying the evaluation criteria stated in the request, the TO CTO drafts

a brief memorandum to the TOCO recommending that the task order be awarded to the contractor that most successfully addresses the evaluation criteria. The TOCO is responsible for final selection, negotiation, and task order award.

2.2.2. For task orders estimated to be more than US\$100,000 and equal to or less than US\$2,000,000: In accordance with the general procedures in 2.2 above, the TOCO will request a task order proposal from each contractor. The TO CO may not ask for more than a two (2) page cost proposal from each Contractor, and if the TO CO, with the concurrence of the TO CTO, deems it necessary, may also ask for past performance information, or for a technical proposal of no more than ten pages (page limit does not include resumes, graphs, and past performance information). Once the Contractor is selected, the TOCO may ask for a more detailed proposal (technical or cost) if needed.

[Guidance: For both 2.2.1 and 2.2.2, if the Contractor revises its proposal after being selected, the Contracting Officer must reevaluate his/her selection decision, document whether or not the decision stands, and proceed accordingly.]

2.2.3. For task orders estimated to be more than US\$2,000,000: In accordance with the general procedures in 2.2 above, the TOCO will request a task order proposal from each contractor. The TOCO may use the simplified procedure in 2.2.2. above. The TOCO has discretion to decide how much documentation above the minimum set forth above is needed to assess the technical capability and cost of each Contractor.

[Guidance: TOCOs should consider using outreach efforts to promote exchanges of information with the contractors, per the new procedures in the FAR (see the new language added to section 16.505(b)(1) in FAC 2001-09). In the rare instances that none of the Contractors submit a proposal, the CO must reevaluate the task order proposal request.] All Contractors interested in being considered for the task order must submit a proposal in accordance with the TOCO's request for task order proposal instructions. The information that the TOCO requests from each Contractor must be the minimum needed.

[Guidance: For TOs over \$2 million, the TOCO should specify a reasonable page limitation and number of copies of proposals. The TOCO should also consider allowing electronic submissions and not duplicate document submissions already provided under the basic contract, such as corporate capability statements. Only in special circumstances should the TOCO request corporate capability statements that provide information that USAID has not already obtained.]

2.3 To obtain services or other deliverables that are within the scope of this contract, the TOCO may issue orders using any of the pricing types specified in the contract.

2.4 Contractor(s) must respond to the RFP within the number of calendar days stated in the Request for Task Order Proposal. [Guidance: TOCOs must allow Contractors a realistic time period to provide a proposal. Contractors frequently complain that they are given an insufficient amount of time to provide proposals.]

No separate payment will be made to the contractor for the cost to prepare, submit and/or negotiate a task order proposal.

3.0 Task Order Award

The Contractor must not commence work until authorized by the TOCO.

[Guidance: All task orders must have a negotiation memorandum on file, which includes the basis for the selection decision. Again, FAC 2001-09, Item I. expands the FAR's requirements for decision documentation for orders, specifically the rationale for any tradeoffs among cost or price and non-cost considerations in making the award decision.

Upon request, TOCOs are encouraged to provide feedback to all offerors that submitted a proposal for the task order request.]

4.0 Task Order Administration

4.1 Task Order Extensions (Non-funded). The TO CTO has the authority to extend the Contractor's performance under the task order beyond the estimated completion date set forth therein, provided that

- This approval is made in writing before the original estimated completion date set forth in the task order and clearly states that the extension is at no additional cost to the task order;
- Performance must not extend beyond 60 calendar days from the original estimated completion date set forth in the task order; and
- Performance must not extend beyond the end of the period of performance in Section F of the base IQC.

Prior to the original estimated completion date, the Contractor must provide a copy of the Task Order Technical Officer's written approval for any extension to the term of the task order to the TOCO; in addition, the Contractor must attach another copy of the TO CTO's approval for such continued performance under the task order to the completion voucher submitted for payment.

4.2 Task Order Labor (US--FDRs). The TO CTO has the authority to adjust the number of days ordered within existing labor categories in the task order as long as the total dollar value of labor ordered is not exceeded. The TO CTO must provide this approval in writing before the Contractor may make any adjustment. The Contractor must request approval of the TOCO if revision of days ordered includes the addition of a labor category not originally included in the task order, or if total dollar value of labor would be exceeded.

4.3 Task Order Ceiling Prices (FDRs). The total task order ceiling price includes a monetary subceiling for total labor ordered and a separate monetary subceiling for all other costs. The TO CTO has the authority to approve revisions of costs within each respective subceiling, provided such revision(s) are within the terms and conditions of the task order and base IQC. The TO CTO does not have the authority to approve revisions that exceed the respective subceilings, move costs from one subceiling category to the other, or increase the overall total estimated cost of the TO. TO CTO approvals must be in writing and clearly state that the revision is at no additional cost to the task order.

5.0 Right to Procure from Other Sources

The Government, under the terms of this IQC, retains the right to procure similar services from other sources during the period of this contract.

6.0 Ombudsman

If a Contractor believes its organization has not been fairly considered for a particular task order, it may present the matter to the TOCO. If the Contractor disagrees with the TOCO's explanation or decision, they may request a review of the TOCO's decision from USAID's task-order and delivery-order ombudsman. The ombudsman is responsible for reviewing complaints from contractors, collecting facts from the CO relevant to the complaint, and ensuring that all contractors are afforded a fair opportunity to be considered under multiple award contracts. The ombudsman does not have the authority to overturn award decisions or adjudicate formal contract disputes.

The Ombudsman may be reached at the following address: U.S. Agency for International Development, Attn: Jean Horton, M/OP, Room 7.10-75, 1300 Pennsylvania Ave., N.W. Washington, DC 20314. E-mail Ombudsman@usaid.gov.