

Lawrence Martin E. Brown

North Potomac, MD 20878-3789

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

AUG 19, 2008 11: 28

Office of General Counsel
Federal Election Commission
999 E Street NW
Washington, D.C. 20463

AOR 2008-11

Re: Request for Advisory Opinion on Applicability of Federal Election Campaign Act to USAID Personal Service Contractors

To Whom It May Concern:

I am writing to request an opinion of the Federal Election Commission on whether U.S. citizens employed as U.S. Agency for International Development (USAID) personal service contractors (PSCs) are to be considered Federal "government contractors" under the Federal Election Campaign Act (FECA) at 2 U.S.C. § 441c, thus prohibiting them from making contributions to Federal political candidates, political parties, or political action committees. I am currently a personal services contractor (Contract Number GPO-S-00-06-00010-00), serving as a Senior HR Advisor for the USAID, Bureau for Global Health, Office of Professional Development and Management Support (GH/PDMS). A redacted copy of my contract is attached for your review.

USAID retains the services of individuals through personal service contract mechanisms to perform a wide variety of Governmental and non-Governmental functions on behalf and/or for the Agency. USAID's authority for awarding personal services contracts overseas is the Foreign Assistance Act of 1961, as amended (22 U.S.C. § 2396). USAID also has other authorities to hire PSCs in the U.S. under specific circumstances. Appendices D & J of USAID's Acquisition Regulation (AIDAR) (48 C.F.R. Chapter 7) provide more specific guidance on the use and implementation of these contracts. A copy of Appendix D is attached for your review. Appendix J pertains solely to Direct USAID Contracts with a Foreign Service National or a Third Country National for personal services abroad and is not relevant to this request.

In accordance with Federal Acquisition Regulation 37.104(a), a personal services contract is "characterized by the employer-employee relationship it creates between the Government and the contractor's personnel." FAR 37.104(c)(1) provides, "An employer-employee relationship under a service contract occurs when, as a result of (i) the contract's terms or (ii) the manner of its administration during performance, contractor personnel are subject to the relatively continuous supervision and control of a Government officer or employee."

While a USAID PSC might appear at first glance to fit under the definition of "Federal contractor" in the FEC's regulation at 11 C.F.R. § 115.1(a)(i) as a person who renders "personal services" to the U.S. Government, I believe that USAID PSCs are sufficiently similar to USAID direct-hire employees so as not to be considered "Federal contractors" under the FECA. USAID contracts directly with individuals rather than institutional contractors to obtain personal services as program officers, contracting officers, controllers, and many other functions. PSCs are supervised by the agency and are authorized to perform inherently governmental functions just

as direct hire employees. For example, PSCs have served as Mission Directors, controllers, contracting officers, executive officers, and attorneys. Federal Acquisition Regulation Subpart 7.5 ensures that inherently governmental functions are not performed by contractors. FAR 7.502 states that this subpart does not apply to “services obtained through personnel appointments, advisory committees, or personal service contracts issued under statutory authority.”

PSCs have the same responsibilities and obligations as other employees. They are considered government employees for most purposes other than those explicitly excluded by statute. USAID and other U.S. Government agencies consider PSCs as government employees. For example, the U.S. Department of Labor consider PSCs as identical to U.S. citizens hired to work abroad and are covered by the Federal Employees’ Compensation Act. (U.S. Department of Labor advisory letter to USAID, 9/28/99). USAID considers PSCs government employees for purposes of the post-employment criminal statute at 18 U.S.C. § 207 and regulations at 5 C.F.R. Part 737. In addition, USAID PSCs must adhere to the Hatch Act regarding their political activities. One of the activities permitted under the Hatch Act includes contributing money to political organizations. 5 CFR 734.208 However, they are restricted in soliciting or receiving political contributions. 5 CFR 734.303

The IRS issued a revenue ruling on who is considered an employee under Section 530(d) of the Revenue Act of 1978. In its opinion, the agency looks to the common law to find twenty indicia of whether there is an employer-employee relationship or if the person is an independent contractor. In general they state that:

“the relationship of employer and employee exists when the person or persons for whom the services are performed have the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. . . . If such a relationship exists, it is of no consequence that the employee is designated as a partner, coadventurer, agent, independent contractor, or the like.” Rev. Rul. 87-41, 1987 C.B. 296, 187 WL 419174 (IRS RRU)

The twenty indicia include; instructions, training, integration, services rendered personally, hiring/supervising/and paying assistants, continuing relationship, set hours of work, full time required, doing work on employer’s premises, order or sequence set, oral or written reports, payment by hour/week/month, payment of business and/or traveling expenses, furnishing of tools and materials, lack of worker’s significant investment, lack of realization of profit or loss, not working for more than one firm at a time, not making service available to general public, right to discharge, and right to terminate. Taking these indicia into account, USAID has sufficient control over PSCs to establish an employer-employee relationship according to the IRS.

The Government Accountability Office (GAO) in its Comptroller General decisions refers to PSCs as employees under contract, as distinguished from institutional contractor employees who have an independent, rather than an employer-employee, relationship with the Government. In a series of GAO decisions involving overtime pay and leave, the GAO held that PSCs have the status of officers and employees of the United States Government. 23 Comp. Gen. 17 (1943); 23 Comp. Gen. 260 (1943); 23 Comp. Gen. 393 (1943); 23 Comp. Gen. 425 (1943).

In 23 Comp. Gen. 398, at 400, the GAO set forth the general principle:

In other words, it may be stated that unless an officer or employee in or under the United States Government be expressly excepted from the terms of the act [the War Overtime Pay Act of 1943] he must be regarded as included within its provisions notwithstanding that he may be employed on a contract basis.

The principle was stated again in 23 Comp. Gen. 425, at 429:

Persons authorized to be and who are employed under an instrument designated as a "contract" and who perform their work under the supervision and control of Government employees, are not exempted from Federal laws relating to Federal officers and employees, except such as are inconsistent with the plain provisions of the law granting such authority.

In Matter of: Agency for International Development - Request for Advance Decision, B-243283.2, September 27, 1991, the GAO held that USAID could not deviate from the U.S. State Department's Standardized Regulations for quarters allowance of a PSC because, as Government employees, PSCs were restricted to the same entitlements as other Government employees.

In short, USAID PSCs are considered to be full and valued members of the USAID family. For the FECA applying to cover USAID PSCs would not appear to further the intended purpose of the legislation and regulations. Because of the employer-employee relationship that USAID creates with its PSCs, USAID PSCs are considered employees in functionally the same manner as the Agency's direct-hire employees. Direct-hire employees are not covered by the political contribution ban under 2 U.S.C. § 441c (a) (1). No legitimate reason is seen why the ban should also cover USAID PSCs since these individuals operate on a day-to-day basis in the same manner as direct-hire employees. There are potential First Amendment challenges if implementing FEC regulations prohibiting contributions by government contractors are to be interpreted literally to apply to USAID PSCs. Therefore, I seek to obtain a written advisory opinion from the FEC as to whether the FECA's prohibition on political contributions applies to USAID PSCs.

If you have any questions or desire additional information on this matter, please do not hesitate to contact me. I may be contacted at _____ by email at _____.

Thank you in advance for your consideration of this matter.

Sincerely,



Lawrence Martin E. Brown

Attachments:

- (1) Contract for Personal Services; GPO-S-00-00010-00 with Lawrence Martin E. Brown
- (2) USAID Acquisition Regulation (AIDAR) Appendix D

**U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT
WASHINGTON, D.C. 20523
CONTRACT FOR PERSONAL SERVICES**

Negotiated Pursuant to Section 636(a)(3) of the Foreign Assistance Act of 1961, as amended, and Executive Order 11223		Ethics Code (X' Appropriate Box) <input type="checkbox"/> N <input type="checkbox"/> C <input type="checkbox"/> P
Country of Performance 000 United States of America		Contract Number GPO-S-00-06-00010-00
Contract for Technical Services Senior HR Advisor		Amount Obligated This Action Total Estimated Contract Cost
For Office of Global Health "Professional Development & Mgmt. Support" (PDMS)		Request Document Number
Contracting Office (Name and Address) US Agency for International Development Office of Acquisition and Assistance M/OA/AGH/OHA 7.09-044A, RRB 1300 Pennsylvania Ave, NW Washington, DC 20523		Contractor (Name, Street, City, State, Postal Code) Lawrence Martin E. Brown North Potomac, MD 20878-3789
Administered By (If other than Contracting Office)		Effective Date Estimated Completion Date 10/01/2006 09/30/2008
Cognizant Scientific/Technical Office (Name, Office Symbol, Address) Sharon Carney GH/PDMS 5.08.104		Accounting and Appropriation Data Amount: See Section A.3 and A.8
Supervising Officer Sharon Carney		Citizenship: United states of America Employee Identification Number:
Payment Will Be Made By US Agency for International Development Office of Financial Management, M/CFO/CMP 1300 Pennsylvania Ave, NW Washington, DC 20523		Green Card Holder <input type="checkbox"/> Yes <input type="checkbox"/> No Type of Advance (X' Appropriate Box) <input type="checkbox"/> INITIAL <input type="checkbox"/> NONE AUTHORIZED

The United States of America, hereinafter called the Government, represented by the Contracting Office executing this contract, and the Contractor agree that the Contractor shall perform all the services set forth in the attached Schedule, for the consideration stated therein. The rights and obligations of the parties to this contract shall be subject to and governed by the schedule and the General Provisions. To the extent of any inconsistency between the Schedule or the General Provisions and any specifications or other provisions which are made a part of this contract, by reference or otherwise, the Schedule and the General Provisions shall control. To the extent of any inconsistency between the Schedule and the General Provisions, the Schedule shall control.

SPECIAL NOTE: For U.S. Citizens, as an employee for purposes of Section 636(a)(3) of the Foreign Assistance act of 1961, as amended, (22 USC 2396(a)(3)), the Contractor is generally an employee of the United States for purposes of laws other than those administered by the Office of Personnel Management (i.e., Title 5, United States Code). This includes being an employee of the United States for purposes of Title 26, United States Code, which subjects the Contractor to withholding for both FICA and Federal Income Tax, and precludes the Contractor from receiving the federal earned income tax exclusion of 26 USC Section 911.

This Contract consists of this Cover Page, the Schedule, including the Table of Contents, the General Provisions, and FAR Clauses by reference.

UNITED STATES OF AMERICA AGENCY FOR INTERNATIONAL DEVELOPMENT	
Signature of Contractor <i>Lawrence Martin E Brown</i>	By (Signature of Contracting Officer) <i>Eduardo Eila</i>
Typed or Printed Name LAWRENCE MARTIN E BROWN	Typed or Printed Name Eduardo Eila
Date 9/29/2006	Date 9/29/06

PRIVACY ACT STATEMENT

This information is provided pursuant to Public Law 93-579 (Privacy Act of 1974), December 31, 1974, for individuals who complete this form.

The Executive office of the President, Office of Management and Budget has required that all departments and agencies comply with the reporting requirements of section 6041 of the Internal Revenue Code. Section 6041 states that all departments and agencies making payments totaling \$600.00 or more in one year to a recipient for services provided must be reported to the Internal Revenue Service (IRS). The SSN and all financial numbers will be disclosed to the Agency for International Development (A.I.D.) payroll office personnel and personnel in the Department of Treasury, Division of Disbursements. A.I.D. will use this SSN to complete Form W-2 of the code on employee compensation. Disclosure by the personal services contractor of the SSN is necessary to obtain the services, benefits or processes provided by this contract. Disclosure of the SSN may be made outside A.I.D. (a) pursuant to any applicable routine use listed in A.I.D.'s Notice for implementing the Privacy Act as published in the Federal Register, or (b) when disclosure by virtue of a contract being a public document after signature is authorized under the Freedom of Information Act.

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SCHEDULE

A.1 ARTICLE I--STATEMENT OF DUTIES

Summary

The Bureau for Global Health's Office of Professional Development and Management Support (GH/PDMS) carries out the professional staff development, personnel, administration, and management functions of the Bureau for Global Health. GH/PDMS staff manages the professional development activities (including training) and work assignments in Washington and overseas. GH/PDMS coordinates intra-Bureau teams in the areas of human resources and development programs; personnel planning; oversight of the Operating Expense budget; management of vital records and Continuation of Operations Plan; and management of administrative services, space planning, procurement, and office supplies. It also works with Bureau offices and M/HR on the assignment, promotion, training, career development, and performance evaluation of Bureau employees, as well as those deployed in the PHN sector worldwide.

GH/PDMS is under intense pressure on several fronts, including administration and human resource management demands. Space management and compliance with new budgeting requirements demand immediate and continuing attention. Effective management and oversight of the mechanisms used for employment of critical staff, e.g., the CASU and the FSL programs, require specialized management knowledge and experience. Design and implementation of a GH Bureau-wide management assessment, in coordination and compliance with the Agency's emerging protocol, requires specialized skills and experience.

The demand for human resource management support by GH/PDMS is high and not likely to recede in the near term, i.e., two or three years, with the potential for up to five years. Effective performance of the duties and responsibilities required to address this demand entail *inherently governmental duties*, to include oversight and CTO responsibilities for the CASU mechanism, FSL program oversight, and the direction of the GH management assessment and follow-on implementation of recommendations (and, subject to AA/M approval of exception to supervisory limitations, the supervision and mentoring of the PMF and other personnel within GH/PDMS assigned to the human resources function). To meet this temporary demand, GH/PDMS proposes hiring a US Personal Services Contractor (USPSC). The services to be performed will be predominately in support of activities under HIV/AIDS and Infectious Disease Initiatives.

Position Location and Supervisory Controls

The incumbent of this USPSC position will be located in the Bureau for Global Health, Office of Professional Development and Management Support (GH/PDMS), and report directly to the Office Director. S/he is expected to consult with the Office Director on all policy decisions. S/he is expected to manage relationships and assignments with minimal supervision, but with regular consultation and coordination with the GH/PDMS Office Director.

Major Duties and Responsibilities

The USPSC will provide human resources and management advice and assistance to the Bureau for Global Health. Key responsibilities include:

- Provide advice and guidance to senior GH management on organizational design, position management, human capital alternatives, and administrative support for GH and the positions it supports worldwide.
- Serve as the alter ego for the GH/PDSM Director for all human resource matters.
- Supervise and mentor the Presidential Management Fellow (PMF) assigned to GH/PDMS and supervise all other direct and non-direct hire human resources functional staff members assigned to GH/PDMS (subject to AA/M approval of exception to supervisory limitations).
- Design and implement the GH Management Assessment effort, to include the planning and execution of resultant accepted recommendations.
- Serve as co-CTO of the CASU (or any follow-on mechanism) providing technical personnel for USAID Washington and the field.
- Provide the full range of HR services, including recruitment, hiring and manager/employee support, predominately for non-direct and program-funded direct hire employees of GH.
- Serve as a liaison with M/HR, M/OAA and SEC as it pertains to HR responsibilities and with PPC for certain program-funded personnel worldwide, as well as with any external personnel funding sources, e.g., the Office of the Global AIDS Coordinator.
- Carry out special management studies as directed by senior GH management or the Director GH/PDMS.

A.2 ARTICLE II--PERIOD OF SERVICE

The contract shall be for two years from start date of the contract with the possibility of three (3) additional one-year option periods,

subject to availability of funding and approval of the cognizant contracting officer. The contract is effective on the date noted on the cover page. The contractor's period of service shall be approximately October 1, 2006 - September 30, 2008 in USAID/Washington, DC.

**A.3 ARTICLE III--CONTRACTOR'S COMPENSATION AND REIMBURSEMENT
IN U.S. DOLLARS**

- A. Except to the extent reimbursement is payable in the currency of the Cooperating Country pursuant to Article IV, USAID shall pay the contractor compensation after it has accrued and reimburse him/her in U.S. dollars for necessary and reasonable costs actually incurred by him/her in the performance of this contract within the categories listed in paragraph F., below, and subject to the conditions and limitations applicable thereto as set out herein and in the attached General Provisions (GP).
- B. The amount budgeted and available as personal compensation to the contractor is calculated to cover a calendar period of approximately two years for 260 days per year for five-day workweeks which are to include:
 - 1) Vacation and sick which may be earned during the contractor's tour of duty (GP Leave and Holidays);
 - 2) Days for authorized travel (GP Travel and Transportation Expenses); and

The PSC budget also includes 3 one-year option years which may be exercised in accordance with the FAR clause incorporated in the contract.

- C. Compensation is set at the rate of \$[REDACTED] per day. Adjustments in compensation (pay) for periods when the contractor is not in compensable pay status shall be calculated at a rate of \$[REDACTED] per hour.
- D. Pay comparability/local pay shall be paid in accordance with the General Provisions and is calculated on the base compensation. The actual percentage applicable under this contract shall be equal to and be effective on the same date as that received by United States Government employees as determined by Executive Order of Statute.
- E. Salaries for periods beginning 10/01/07, and every anniversary date thereafter shall include a step increase (subject to satisfactory performance) in accordance with AAPD 06-07, until the contractor's compensation reaches the maximum salary for the position at which time the contract will be salary capped.

F. Allowable Costs:

The following illustrative budget details allowable costs under this contract and provides funding in the total amount shown. Additional funds for any option periods will be provided subject to the availability of funds.

EEOC			YEAR 1	YEAR 2	OPT YR 1	OPT YR 2	OPT YR 3	Total
			10-01-2006 09/30/2007	10-01-2007 09-30-2008	10-01-2008 09-30-2009	10-01-2009 09-30-2010	10-01-2010 09-30-2011	
	Compensation							
1130008	Basic Compensation - Pay Scale GS-11, Step 10		\$ [REDACTED]	\$ [REDACTED]				
	Total Compensation							\$ [REDACTED]
	Tax Payments for Benefit of Employee							
1210307	Social	6.20%	\$ [REDACTED]	\$ [REDACTED]				
1210307	Medicare	1.45%	\$ [REDACTED]	\$ [REDACTED]				
	Tax Payments for Benefit of Employee							
	Total Contract Budget		\$ [REDACTED]	\$ [REDACTED]				
Maximum coverage for Medicare \$94,200.00 (All calculations are rounded to the nearest dollar) 1. Compensation: Salaries for periods beginning 1/1/07 and 1/1/08 includes an estimated 3.5% pay comparability increase. 2a. Employer Contribution FICA: Calculated at 6.2% applied to the total wages - not paid to the contractor. 2a. Employer Contribution Medicare: Calculated at 1.45% applied to the total wages up to \$94,200.00 not paid to the contractor.								

1. Compensation

a. Basic Compensation

The contractor's annual salary is at the GS-11/10 rate of \$ [REDACTED]. An estimated 3.5% pay comparability adjustment is incorporated for periods beginning 01/01/2007, and at the beginning of every calendar year thereafter. The actual percentage applicable under this contract shall be equal to and effective upon that received by United States Government employees as determined by Executive Order or Statute. Salaries for periods beginning 09/18/07, In accordance W/AAPD 06-07 the contractor shall not receive a step increase as the contractor's compensation has reached the maximum salary for the position. The yearly salaries have been calculated as follows:

FROM	TO	DAILY RATE		DAYS	=	COMPENSATION	TOTAL	YEAR
10/01/2006	12/31/2006	\$ [REDACTED]	X	65	=	\$ [REDACTED]	[REDACTED]	YR 1
01/01/2007	09/30/2007	\$ [REDACTED]	X	195	=	\$ [REDACTED]	[REDACTED]	
10/01/2007	12/31/2007	\$ [REDACTED]	X	65	=	\$ [REDACTED]	[REDACTED]	YR 2
01/01/2008	9/30/2008	\$ [REDACTED]	X	195	=	\$ [REDACTED]	[REDACTED]	
10/01/2008	12/31/2008	\$ [REDACTED]	X	65	=	\$ [REDACTED]	[REDACTED]	OPT 1
01/01/2009	09/30/2009	\$ [REDACTED]	X	195	=	\$ [REDACTED]	[REDACTED]	
10/01/2009	12/31/2009	\$ [REDACTED]	X	65	=	\$ [REDACTED]	[REDACTED]	OPT 2
01/01/2010	09/30/2010	\$ [REDACTED]	X	195	=	\$ [REDACTED]	[REDACTED]	
10/01/2010	12/31/2010	\$ [REDACTED]	X	65	=	\$ [REDACTED]	[REDACTED]	OPT 3
01/01/2011	09/30/2011	\$ [REDACTED]	X	195	=	\$ [REDACTED]	[REDACTED]	

A.4 ARTICLE IV--COSTS REIMBURSABLE AND LOGISTIC SUPPORT

A. General: The contractor shall be provided with or reimbursed in local currency [dollars] for the following:

None

B. Method of Payment of Local Currency Costs: Those contract costs which are specified as local currency costs in paragraph A above, if not furnished in kind by the cooperating government or the Mission, shall be paid to the contractor in a manner adapted to the local situation, based on vouchers submitted in accordance with General Provision Clause 11. The documentation for such costs shall be on such forms and in such manner as the Mission Director shall prescribe.

A.5 ARTICLE V--PRECONTRACT EXPENSES

No expense incurred before execution of this contract will be reimbursed unless such expense was incurred after receipt and acceptance of a precontract expense letter issued to the contractor by the Contracting Officer, and then only in accordance with the provisions and limitations contained in such letter. The rights and obligations created by such letter shall be considered as merged into this contract.

A.6 ARTICLE VI--ADDITIONAL CLAUSES

LEAVE

The contractor will be earning vacation leave at the following rate in accordance with the LEAVE AND HOLIDAYS (AUG 2006) clause:

**GENERAL PROVISIONS CONTRACT WITH A U.S. CITIZEN
OR A U.S. RESIDENT ALIEN FOR PERSONAL SERVICES ABROAD**

GP.1 DEFINITIONS (JUNE 1990)

- (a) USAID shall mean the U.S. Agency for International Development.
- (b) Administrator shall mean the Administrator or the Deputy Administrator of USAID.
- (c) Contracting Officer shall mean a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.
- (d) Contractor shall mean the individual engaged to serve under this contract.
- (e) Cooperating Country shall mean the foreign country in or for which services are to be rendered hereunder.
- (f) Cooperating Government shall mean the government of the Cooperating Country.
- (g) Government shall mean the United States Government.
- (h) Local currency shall mean the currency of the Cooperating Country.
- (i) Mission shall mean the United States USAID Mission, or principal USAID office, in the Cooperating Country, or USAID/Washington (USAID/W).
- (j) Mission Director shall mean the principal officer in the Mission in the Cooperating Country, or his/her designated representative.
- (k) Technical Officer shall mean the USAID official to whom the contractor reports, and who is responsible for monitoring the contractor's performance.
- (l) Tour of duty shall mean the contractor's period of service under this contract and shall include orientation in the United States (less language training), authorized leave, and international travel.
- (m) Traveler shall mean--
- (1) The contractor in authorized travel status or

(2) Dependents of the contractor who are in authorized travel status.

(n) Dependents means:

(1) Spouse.

(2) Children (including step and adopted children) who are unmarried and under 21 years of age or, regardless of age, are incapable of self-support.

(3) Parents (including step and legally adoptive parents) of the employee or of the spouse, when such parents are at least 51 percent dependent on the contractor for support.

(4) Sisters and brothers (including step or adoptive sisters or brothers) of the contractor, or of the spouse, when such sisters and brothers are at least 51 percent dependent on the contractor for support, unmarried and under 21 years of age, or regardless of age, are incapable of self-support.

(o) U.S. Resident Alien, as used in this contract, shall mean an alien immigrant, legally resident in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States, and having a valid 'Alien Registration and Receipt Card' (Immigration and Naturalization Service forms I-151 or I-551).

(p) U.S. Resident Hire Personal Services Contractor (PSC) means a U.S. citizen who, at the time of hiring as a PSC, resides in the Cooperating Country:

(1) As a spouse or dependent of a U.S. citizen employed by a U.S. Government Agency or under any U.S. Government-financed contract or agreement, or

(2) For reasons other than for employment with a U.S. Government Agency or under any U.S. Government-financed contract or agreement. A U.S. citizen for purposes of this definition also includes a person who at the time of contracting, is a lawfully admitted permanent resident of the United States.

GP.2 COMPLIANCE WITH LAWS AND REGULATIONS APPLICABLE ABROAD (JULY 1993)

(a) Conformity to Laws and Regulations of the Cooperating Country. Contractor agrees that, while in the cooperating country, he/she as well as authorized dependents will abide by all applicable laws and regulations of the cooperating country and political subdivisions thereof.

(b) Purchase or Sale of Personal Property or Automobiles. To the extent permitted by the cooperating country, the purchase, sale, import, or export of personal property or automobiles in the cooperating country by the contractor shall be subject to the same limitations and prohibitions which apply to Mission U.S.-citizen direct-hire employees.

(c) Code of Conduct. The contractor shall, during his/her tour of duty under this contract, be considered an 'employee' (or if his/her tour of duty is for less than 130 days, a 'special Government employee') for the purposes of, and shall be subject to, the provisions of 18 U.S.C. 202(a) and the USAID General Notice entitled 'Employee Review of the New Standards of Conduct' pursuant to 5 CFR part 2635. The contractor acknowledges receipt of a copy of these documents by his/her acceptance of this contract.

**GP.3 PHYSICAL FITNESS AND HEALTH ROOM PRIVILEGES
(APR 1997)**

(a) Physical Fitness.

(1) For all assignments outside of the United States the contractor and any authorized dependents shall be required to be examined by a licensed doctor of medicine, and the contractor shall obtain from the doctor a statement of medical opinion that, in the doctor's opinion, the contractor is physically able to engage in the type of activity for which he/she is to be employed under the contract, and the contractor and any dependents are physically able to reside in the Cooperating Country. A copy of the statement(s) shall be provided to the Contracting Officer prior to the contractor's departure for the Cooperating Country, or for a U.S. resident hire, before he/she starts work under the contract.

(2) For assignments of 60 days or more in the Cooperating Country, the Contracting Officer shall provide the contractor and all authorized dependents copies of the 'USAID Contractor Employee Physical Examination Form'. This form is for collection of information; it has been reviewed and approved by OMB, and assigned Control No. 0412-0536. Information required by the Paperwork Reduction Act (burden estimate, points of contract, and OMB approval expiration date) is printed on the form. The contractor and all authorized dependents shall obtain a physical examination from a licensed physician, who will complete the form for each individual. The contractor will deliver the physical examination form(s) to the Embassy health unit in the Cooperating Country. A copy of the doctor's statement of medical opinion at the end of the form which identifies the contractor or dependent by name may be used to meet the requirement in (a)(1) above.

(3) For end-of-tour the contractor and his/her authorized dependents are authorized physical examinations within 60 days after completion of the contractor's tour-of-duty.

(b) Reimbursement.

(1) As a contribution to the cost of medical examinations required by paragraph (a)(1) of this clause, USAID shall reimburse the contractor not to exceed \$100 for each physical examination, plus reimbursement of charges for immunizations.

(2) As a contribution to the cost of medical examinations required by paragraph (a)(2) of this clause the contractor shall be reimbursed in an amount not to exceed half of the cost of the examination up to a maximum USAID share of \$300 per examination plus reimbursement of charges for immunizations for himself/herself and each authorized dependent 12 years of age or over. The USAID contribution for authorized dependents under 12 years of age shall not exceed half of the cost of the examination up to a maximum share of \$120 per individual plus reimbursement of charges for immunizations. The contractor must obtain the prior written approval of the Contracting Officer to receive any USAID obligations higher than these limits.

(c) Health Room Privileges. Routine health room services may be available, subject to post policy and in accordance with the requirements of paragraph (a) of this clause, to U.S. citizen contractors and their authorized dependents (regardless of citizenship) at the post of duty. These services do not include hospitalization or predeparture examinations. The services normally include such medications as may be available, immunizations and preventive health measures, diagnostic examinations and advice, and home visits as medically indicated. Emergency medical treatment is provided to U.S. citizen contractor employees and dependents, whether or not they may have been granted access to routine health room services, on the same basis as it would be to any U.S. citizen in an emergency medical situation in the country.

**GP.4 WORKWEEK AND COMPENSATION
(PAY COMPARABILITY ADJUSTMENTS) (DEC 1985)**

(a) Workweek. The contractor's workweek shall not be less than 40 hours, unless otherwise provided in the Contract Schedule, and shall coincide with the workweek for those employee of the Mission or the Cooperating Country agency most closely associated with the work of this contract. If the contract is for less than full time (40 hours weekly), the annual and sick leave earned shall be prorated (see the General Provision of this contract entitled Leave and Holidays).

(b) Compensation (Pay Comparability) Adjustments. The contractor's compensation shall be adjusted to reflect the pay comparability adjustments which are granted from time to time to U.S. direct-hire employees by Executive Order for the statutory pay systems. Any adjustments authorized are subject to the availability of funds and shall not exceed that percentage stated in the Executive Order granting the adjustment. Further, the adjusted compensation may not exceed the maximum ES-6 annual compensation (or the equivalent daily rate).

GP.5 LEAVE AND HOLIDAYS (AUGUST 2006)

(a) Vacation Leave

(1) The contractor shall earn vacation leave at the rate of 26 workdays per annum or 8 hours every 2 weeks. However, no vacation shall be earned if the tour of duty is less than 90 days.

(2) Notwithstanding paragraph (a)(1) above, if the contractor has had previous: (1) USAID PSC service (i.e., has served under other personal services contracts (PSCs) covered by Sec. 636(a)(3) of the FAA or other statutory provision applicable to USAID), and/or (2) former U.S. Government (USG) direct hire service - civilian and/or military), the contractor will earn vacation leave based on time in service as follows:

Time in Service	Calculated Vacation Time
Up to 3 years of service	Four hours of vacation leave For each two week period
over 3 years and up to 15 years of service	Six hours of vacation leave for each two week period (including 10 hours vacation leave for the final pay period of a calendar year)
15+ years of service	Eight hours of vacation leave for each two week period

(3) (a) Vacation leave is provided under this contract for the purposes of affording necessary rest and recreation during the period of performance. The contractor in consultation with the USAID Mission or USAID/Washington, as appropriate, shall develop a vacation leave schedule early in the PSC's period of performance taking into consideration project requirements, employee preference and other factors. All vacation leave earned by the contractor must be used during the PSC's period of performance. All vacation leave earned by the contractor, but not taken by the end of the PSC's contract, will be forfeited. However, to prevent forfeiture of vacation leave, the

Contracting Officer may approve the PSC taking vacation leave during the concluding weeks of the PSC's contract.

(b) As an exception to 3(a) above, the PSC may receive lump-sum payment for leave not taken. To approve this exception, the PSC's supervisor must provide the Contracting Officer with a signed, written Determination and Findings. The Determination and Findings must set out the facts and circumstances that prevented the contractor from taking vacation leave and the Contracting Officer must find that these facts and circumstances were not caused by and were beyond the control of the contractor. This leave payment must not exceed the number of days which could be earned by the contractor during a twelve month period.

(4) With the approval of the Mission Director or the cognizant AA, as appropriate, and if the circumstances warrant, a Contracting Officer may grant the contractor advance vacation leave in excess of that earned, but in no case may the Contracting Officer grant advance vacation leave in excess of that earned in one year or over the life of the contract, whichever is less. The contractor agrees to reimburse USAID for any outstanding balance of advance vacation leave provided during the contractor's assignment under the contract.

(5) Applicants for PSC positions will provide evidence of their PSC and/or USG direct hire service - civilian and/or military experience, as applicable, on their signed and dated SF-171 or OF-612. By signing the appropriate form, the applicant attests to the accuracy of the information provided. Any applicant providing incorrect information is subject to the penalty provisions in the form. If required to satisfy due diligence requirements on behalf of the Contracting Officer, PSCs may be required to furnish evidence that verifies length of service, e.g., SF 50, DD Form 214, and/or signed contracts.

(b) Sick Leave. Sick leave is earned at a rate not to exceed 13 work-days per annum or 4 hours every 2 weeks. Unused sick leave may be carried over under an extension/renewal of this contract. Otherwise, sick leave will not be carried over from one post to another or from one contract to another. The contractor will not be compensated for unused sick leave upon completion of this contract.

(c) Home Leave.

(1) Home leave is leave earned for service abroad for use only in the United States, its commonwealths and territories.

(2) A USPSC who is a U.S. citizen or U.S. resident alien and has served at least two years overseas at the same USAID Mission, under the same contract, as defined in paragraph (c)(4) below, and has not taken more than 30 work days leave (vacation, sick or leave without

pay in the United States) may be granted home leave in accordance with the following:

(i) if the contractor returns to the same overseas post upon completion of home leave for an additional 2 years under the same contract, or for such shorter period of not less than one year, as approved in writing by the Mission Director prior to the USPSC's departure on home leave, the contractor will receive home leave, to be taken at one time, for a period of 30 work days, provided advance approval is obtained from the Mission Director;

(ii) if the contractor is returning to a different USAID Mission under a USAID personal services contract immediately following completion of the USPSC's home leave, for an additional 2 years under contract, or for such shorter period of not less than one year, as approved by the Mission Directors of the "losing" and "gaining" Missions, the contractor will receive home leave, to be taken at one time, for a period of not more than 20 work days. When the PSC is returning to a different USAID Mission, the former Mission will pay for the home leave regardless of what country the PSC will be working in following the home leave;

(iii) if home leave eligibility is based on (c) (2) (ii) above, the contractor must submit written verification to the losing Mission at the time home leave is requested that the contractor has accepted a USAID personal services contract at another USAID Mission following completion of the home leave;

(iv) travel time by the most direct route is authorized in addition to the number of work days authorized for home leave;

(v) home leave must be taken in the United States, the Commonwealth of Puerto Rico or the possessions of the United States, and any days spent elsewhere will be charged to vacation leave. If the PSC does not have accrued vacation leave, the PSC will be placed on leave without pay.

(vi) if the PSC does not complete the additional service required under (c) (2) (i) or (ii) (that the Contracting Officer finds are other than for reasons beyond the PSC's control), the cost of home leave, travel and transportation and any other related costs must be repaid by the PSC to the Government.

(3) Notwithstanding the requirement in paragraph (c) (2) above that the contractor must have served 2 years overseas under personal services contract with the same Mission to be eligible for home leave, the contractor may be granted advance home leave subject to all of the following conditions:

(i) Granting of advanced home leave would in each case serve to advance the attainment of the objectives of this contract; and

(ii) The contractor has served a minimum of 18 months in the Cooperating Country under this contract; and

(iii) The contractor agrees to return to the Cooperating Country to serve out the remainder of the current contract, plus an additional 2 years under the current contract or under a new contract for the same or similar services at the same Mission. If approved in advance by the Mission Director, the contractor may return to serve out the remainder of the current contract, and an additional period of not less than 1 year under the current contract or under a new contract for the same or similar services at the same Mission.

(4) The period of service overseas required under paragraph (c) (2), or paragraph (c) (3) above, will include the actual days in orientation in the United States (less language training). The actual days overseas begin on the date of arrival in the Cooperating Country inclusive of authorized delays enroute. Allowable vacation and sick leave taken while overseas, but not leave without pay, shall be included in the required period of service overseas. An amount equal to the number of days of vacation and sick leave taken in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States will be added to the required period of service overseas.

(5) Salary during the travel to and from the United States for home leave will be limited to the time required for travel by the most expeditious air route. Except for reasons beyond the PSC's control as determined by the Contracting Officer, the PSC must return to duty after home leave and complete the additional required service or be responsible for reimbursing USAID for payments made during home leave. Unused home leave is not reimbursable under this contract, nor can it be taken incrementally in separate time periods.

(6) Home leave must be taken at one time, and to the extent deemed necessary by the Contracting Officer, a contractor in the United States on home leave may be authorized to spend not more than 5 days in work status for consultation at USAID/Washington before returning to post. Consultation at locations other than USAID/Washington as well as any time in excess of 5 days spent for consultation, must be approved by the Mission Director or the Contracting Officer.

(d) HOME LEAVE POLICY FOR QUALIFYING POSTS

On June 15, 2006, the Congress passed and the President signed an amendment to the Foreign Service Act of 1980, as amended, that allows home leave for direct-hire employees following completion of 12-month overseas assignments at qualifying posts. USAID is extending this new home leave policy to its USPSCs who ordinarily qualify for home leave, and is effective as of July 20, 2006. This new home leave policy is in addition to the home leave a USPSC would earn under the contract. USAID USPSCs who complete their

12-month assignment at one of the qualifying posts on or after July 20, 2006, may be eligible for home leave under this new provision. For USAID, qualifying posts at this time include all posts in Iraq, Afghanistan, and Pakistan.

If an eligible USPSC elects to take this new home leave, the USPSC must take ten workdays of home leave. There is no requirement that an eligible USPSC take home leave after serving 12 months at a designated post. It is only an option. If a USPSC is returning to the United States, and not returning overseas to the same or different USAID Mission, this new home leave policy will not apply.

The new home leave policy is also extended to qualifying TCNPSCs whose contracts include General Provision 5 of Appendix except that for TCNPSCs they will be granted "country leave" vice home leave. The application, requirements, and restrictions will be the same as for USPSCs, but the time taken by a TCNPSC will be taken in the TCNPSC's home country or country of recruitment rather than the United States, its commonwealths and territories. This new policy for TCNPSCs also applies to those contracts written under the provisions and procedures of AAPD 03-11.

(e) Holidays. The contractor, while serving abroad, shall be entitled to all holidays granted by the Mission to U.S.-citizen direct-hire employees.

(f) Military Leave. Military leave of not more than 15 calendar days in any calendar year may be granted to a contractor who is a reservist of the Armed Forces. The contractor must provide advance notice of the pending military leave to the Contracting Officer or the Mission Director as soon as known. A copy of any such notice must be part of the contract file.

(g) Leave Without Pay. Leave without pay may be granted only with the written approval of the Contracting Officer or Mission Director.

(h) Compensatory Time. Compensatory leave may be granted only with the written approval of the Contracting Officer or Mission Director in rare instances when it has been determined absolutely essential and used under those guidelines which apply to direct-hire employees.

(i) Leave Records. The contractor shall maintain current leave records for himself/herself and make them available, as requested by the Mission Director or the Contracting Officer.

**GP.6 SOCIAL SECURITY, FEDERAL INCOME TAX AND
FOREIGN EARNED INCOME (JUNE 1990)**

(a) Since the contractor is an employee, F.I.C.A. contributions and U.S. Federal Income Tax withholding shall be deducted in accordance with regulations and rulings of the Social Security Administration and the U.S. Internal Revenue Service, respectively.

(b) As an employee, the contractor is not eligible for the 'foreign earned income' exclusion under the IRS Regulations (see 26 CFR 1.911-3(c)(3)).

GP.7 INSURANCE (APR 1997)

(a) Worker's Compensation Benefits. The contractor shall be provided worker's compensation benefits in accordance with the Federal Employees' Compensation Act.

(b) Health and Life Insurance.

(1) The contractor shall be provided a maximum contribution of up to 50% against the actual costs of the contractor's annual health insurance costs, provided that such costs may not exceed the maximum U.S. Government contribution for direct-hire personnel as announced annually by the Office of Personnel Management.

(2) The contractor shall be provided a contribution of up to 50% against the actual costs of annual life insurance not to exceed \$500.00 per year.

(3) Retired U.S. Government employees shall not be paid additional contributions for health or life insurance under their contracts. The Government will normally have already paid its contribution for the retiree unless the employee can prove to the satisfaction of the Contracting Officer that his/her health and life insurance does not provide or specifically excludes coverage overseas. In such case, the contractor would be eligible for contributions under paragraphs (b)(1) or (2) as appropriate.

(4) Proof of health and life insurance coverage shall be submitted to the Contracting Officer before any contribution is paid. On assignments of less than one year, costs for health and life insurance shall be prorated and paid accordingly.

(5) A contractor who is a spouse of a current or retired Civil Service, Foreign Service, or Military Service member and who is covered by their spouse's Government health or life insurance policy is ineligible for the contribution under paragraphs (b)(1) or (b)(2) of this provision.

**GP.8 TRAVEL AND TRANSPORTATION EXPENSES
(JULY 1993)**

(a) General.

(1) USAID/Washington Office of Administrative Services, or such other office as may be designated by that office, may furnish Transportation Requests (TR's) to the contractor for transportation authorized by this contract originating in the United States, and the executive or administrative officer at the Mission may furnish TR's for such authorized transportation which is payable in local currency or is to originate overseas. When transportation is not provided by the Government-issued TR, the contractor shall procure his/her own transportation, the costs of which will be reimbursed in accordance with the terms of this contract.

(2) The contractor will be reimbursed for reasonable, allocable and allowable travel and transportation expenses incurred under and for the performance of this contract. Determination of reasonableness, allocability and allowability will be made by the Contracting Officer in accordance with USAID's established policies and procedures for USAID direct-hire employees, and the particular needs of the activity being implemented by this contract. The following paragraphs provide specific guidance and limitations on particular items of cost.

(b) U.S. Travel and Transportation. The contractor shall be reimbursed for actual transportation costs and travel allowances in the United States as authorized in the Contract Schedule or approved in advance by the Contracting Officer or the Mission Director. Transportation costs and travel allowances shall not be reimbursed in any amount greater than the cost of, and time required for, economy-class commercially scheduled air travel by the most expeditious route except as otherwise provided in paragraph (g) of this provision unless economy air travel is not available and the contractor certifies to this in his/her voucher or other documents submitted for reimbursement.

(c) International Travel. For travel to and from post of assignment, the contractor shall be reimbursed for travel costs and travel allowances from place of residence in the United States (or other location provided that the cost of such travel does not exceed the cost of the travel from the contractor's residence in the United States) to the post of duty in the Cooperating Country and return to place of residence in the United States (or other location provided that the cost of such travel does not exceed the cost of travel from the post of duty in the Cooperating Country to the contractor's residence) upon completion of services by the individual. Reimbursement for travel will be in accordance with USAID's established policies and procedures for its direct-hire employees and the provisions of this contract, and will be limited to the cost of

travel by the most direct and expeditious route. If the contract is for longer than one year and the contractor does not complete one full year at post of duty (except for reasons beyond his/her control), the costs of going to and from the post of duty for the contractor and his/her dependents are not reimbursable hereunder. If the contractor serves more than one year but less than the required service in the Cooperating Country (except for reasons beyond his/her control) the costs of going to the post of duty are reimbursable hereunder but the costs of going from post of duty to the contractor's permanent, legal place of residence at the time he or she was employed for work under this contract, or other location as approved by the Contracting Officer, are not reimbursable under this contract for the contractor and his/her dependents. When travel is by economy class accommodations, the contractor will be reimbursed for the cost of transporting up to 10 kilograms/22 pounds of accompanied personal baggage per traveler in addition to that regularly allowed with the economy ticket provided that the total number of pounds of baggage does not exceed that regularly allowed for first class travelers. Travel allowances for travelers shall not be in excess of the rates authorized in the Standardized Regulations (Government Civilians, Foreign Areas)-- hereinafter referred to as the Standardized Regulations--as from time to time amended, for not more than the travel time required by scheduled commercial air carrier using the most expeditious route. One stopover enroute for a period of not to exceed 24 hours is allowable when the traveler uses economy class accommodations for a trip of 14 hours or more of scheduled duration. Such stopover shall not be authorized when travel is by indirect route or is delayed for the convenience of the traveler. Per diem during such stopover shall be paid in accordance with the Federal Travel Regulations as from time to time amended.

(d) Local Travel. Reimbursement for local travel in connection with duties directly referable to the contract shall not be in excess of the rates established by the Mission Director for the travel costs of travelers in the Cooperating Country. In the absence of such established rates the contractor shall be reimbursed for actual travel costs in the Cooperating Country or the Mission, including travel allowances at rates not in excess of those prescribed by the Standardized Regulations.

(e) Indirect Travel for Personal Convenience. When travel is performed by an indirect route for the personal convenience of the traveler, the allowable costs of such travel will be computed on the basis of the cost of allowable air fare via the direct usually traveled route. If such costs include fares for air or ocean travel by foreign flag carriers, approval for indirect travel by such foreign flag carriers must be obtained from the Contracting Officer or the Mission Director before such travel is undertaken, otherwise only that portion of travel accomplished by the United States-flag carriers will be reimbursable within the above limitation of allowable costs.

(f) Limitation on Travel by Dependents. Travel costs and allowances will be allowed for authorized dependents of the contractor and such costs shall be reimbursed for travel from place of abode to assigned station in the Cooperating Country and returned, only if the dependent remains in the Cooperating Country for at least 9 months or one-half of the required tour of duty of the contractor, whichever is greater, except as otherwise authorized hereunder for education, medical or emergency visitation travel. If the dependent is eligible for educational travel pursuant to the 'Differential and Allowances' clause of this contract, time spent away from post resulting from educational travel will be counted as time at post.

(g) Delays Enroute. The contractor may be granted reasonable delays enroute while in travel status when such delays are caused by events beyond the control of the contractor and are not due to circuitous routine. It is understood that if delay is caused by physical incapacitation, he/she shall be eligible for such sick leave as provided under the 'Leave and Holidays' clause of this contract.

(h) Travel by Privately Owned Automobile (POV). If travel by POV is authorized in the contract schedule or approved by the Contracting Officer, the contractor shall be reimbursed for the cost of travel performed in his/her POV at a rate not to exceed that authorized in the Federal Travel Regulations plus authorized per diem for the employee and for each of the authorized dependents traveling in the POV, if the POV is being driven to or from the Cooperating Country as authorized under the contract, provided that the total cost of the mileage and the per diem paid to all authorized travelers shall not exceed the total constructive cost of fare and normal per diem by all authorized travelers by surface common carrier or authorized air fare, whichever is less.

(i) Emergency and Irregular Travel and Transportation. Emergency transportation costs and travel allowances while enroute, as provided in this section, will be reimbursed not to exceed amounts authorized by the Foreign Service Travel Regulations for USAID-direct hire employees in like circumstances under the following conditions:

(1) The costs of going from post of duty in the Cooperating Country to the employee's permanent, legal place of residence at the time he or she was employed for work under this contract or other location for contractor employees and dependents and returning to the post of duty, subject to the prior written approval of the Mission Director that such travel is necessary for one of the following reasons.

(i) Need for medical care beyond that available within the area to which the employee is assigned, or serious effect on physical or mental health if residence is continued at assigned post of duty. The Mission Director may authorize a medical attendant to accompany the employee at contract expense if, based on medical opinion, such an attendant is necessary.

(ii) Death, or serious illness or injury of a member of the immediate family of the employee or the immediate family of the employee's spouse.

(2) When, for any reason, the Mission Director determines it is necessary to evacuate the contractor or contractor's dependents, the contractor will be reimbursed for travel and transportation expenses and travel allowance while enroute, for the cost of the individuals going from post of duty in the Cooperating Country to the employee's permanent, legal place of residence at the time he or she was employed for work under this contract or other approved location. The return of such employees and dependents may also be authorized by the Mission Director when, in his/her discretion, he/she determines it is prudent to do so.

(3) The Mission Director may also authorize emergency or irregular travel and transportation in other situations, when in his/her opinion, the circumstances warrant such action. The authorization shall include the kind of leave to be used and appropriate restrictions as to time away from post, transportation of personal and household effects, etc.

(j) Home Leave Travel. To the extent that home leave has been authorized as provided in the 'Leave and Holidays' clause of this contract, the cost of travel for home leave is reimbursable for travel costs and travel allowances of travelers from the post of duty in the Cooperating Country to place of residence in the United States (or other location provided that the cost of such travel does not exceed the cost of travel to the contractor's residence in the United States) and return to the post of duty in the Cooperating Country. Reimbursement for travel will be in accordance with the Uniform State/USAID/USIA Foreign Service Travel Regulations, as from time to time amended, and will be limited to the cost of travel by the most direct and expeditious route. Travel allowances for travelers shall be in accordance with the rates authorized in the Standardized Regulations as from time to time amended, for not more than the travel time required by scheduled commercial air carrier using the most expeditious route using economy class. One stopover enroute for a period of not to exceed 24 hours is allowable when the traveler uses economy class accommodations for a trip of 14 hours or more of scheduled duration. Such stopover shall not be authorized when travel is by indirect route or is delayed for the convenience of the traveler or the traveler uses other than economy class. Per diem during such stopover shall be paid in accordance with the Standardized Regulations.

(k) Rest and Recuperations Travel. If approved in writing by the Mission Director, the contractor and his/her dependents shall be allowed rest and recuperation travel on the same basis as authorized USAID direct-hire Mission employees and their dependents.

(l) Transportation of Motor Vehicles, Personal Effects and Household Goods.

(1) Transportation costs will be paid on the same basis as for USAID direct-hire employees serving the same length tour of duty, as authorized in the schedule. Transportation, including packing and crating costs, will be paid for shipping from the point of origin in the United States (or other location as approved by the Contracting Officer) to post of duty in the Cooperating Country and return to point of origin in the United States (or other location as approved by the Contracting Officer) of one privately-owned vehicle for the contractor, personal effects of the contractor and authorized dependents, and household goods of the contractor not to exceed the limitations in effect for such shipments for USAID direct-hire employees in accordance with the Foreign Service Travel Regulations in effect at the time shipment is made. These limitations may be obtained from the Contracting Officer.

(2) The cost of transporting motor vehicles and household goods shall not exceed the cost of packing, crating, and transportation by surface common carrier. In the event that the carrier does not require boxing or crating of motor vehicles for shipment to the Cooperating Country, the cost of boxing or crating is not reimbursable. The transportation of a privately owned motor vehicle for a contractor may be authorized as a replacement of the last such motor vehicle shipped under this contract for such contractor when the Mission Director determines, in advance, and so notifies the contractor in writing, that the replacement is necessary for reasons not due to the negligence or malfeasance of the contractor. The determination shall be made under the same rules and regulations that apply to authorized Mission U.S. citizen direct-hire employees.

(m) Unaccompanied Baggage. Unaccompanied baggage is considered to be those personal belongings needed by the traveler immediately upon arrival of the contractor and dependents, and consideration should be given to advance shipments of unaccompanied baggage. The contractor will be reimbursed for costs of shipment of unaccompanied baggage (in addition to the weight allowance for household effects) not to exceed the limitations in effect for USAID direct-hire employees in accordance with the Foreign Service Travel Regulations as in effect when shipment is made. These limitations are available from the Contracting Officer. This unaccompanied baggage may be shipped as air freight by the most direct route between authorized points of origin and destination regardless of the modes of travel used. This provision is applicable to home leave travel when authorized by the terms of this contract.

(n) International Ocean Transportation.

(1) (i) Transportaiton of things. Where U.S. flag vessels are not available, or their use would result in a significant delay, the contractor may obtain a release from the requirement to use U.S. flag

vessels from the Transportation Division, Office of Procurement, U.S. Agency for International Development, Washington, D.C. 20523-1419, or the Mission Director, as appropriate, giving the basis for the request.

(ii) Transportation of persons. Where U.S. flag vessels are not available, or their use would result in a significant delay, the contractor may obtain a release from the requirement to use U.S. flag vessels from the Contracting Officer or the Mission Director, as appropriate.

(2) Transportation of foreign-made vehicles. Reimbursement of the costs of transporting a foreign-made motor vehicle will be made in accordance with the provisions of the Foreign Service Travel Regulations.

(3) Reduced rates on U.S.-flag carriers are in effect for shipments of household goods and personal effects of USAID contractors between certain locations. These reduced rates are available provided the shipper furnishes to the carrier at the time of the issuance of the Bill of Lading documentary evidence that the shipment is for the account of USAID. The Contracting Officer will, on request, furnish to the contractor current information concerning the availability of a reduced rate with respect to any proposed shipment. The contractor will not be reimbursed for shipments of household goods or personal effects in amounts in excess of the reduced rates which are available in accordance with the foregoing.

(o) Storage of household effects. The cost of storage charges (including packing, crating, and drayage costs) in the U.S. of household goods of the contractor will be permitted in lieu of transportation of all or any part of such goods to the Cooperating Country under paragraph (1) above provided that the total amount of effects shipped to the Cooperating Country or stored in the U.S. shall not exceed the amount authorized for USAID direct-hire employees under the Uniform Foreign Service Travel Regulations. These amounts are available from the Contracting Officer.

GP.9 PAYMENT (AUG 1996)

(a) Once each month, or at more frequent intervals, if approved by the paying office indicated on the Cover Page, the contractor may submit to such office form SF 1034 'Public Voucher for Purchases and Services Other Than Personal' (original) and SF 1034-A (three copies), or whatever other form is locally required or accepted. Each voucher shall be identified by the USAID contract number and properly executed in the amount of dollars claimed during the period covered. The voucher forms shall be supported by:

(1) The contractor's detailed invoice, in original and two copies, indicating for each amount claimed the paragraph of the contract under which payment is to be made, supported when applicable as follows:

(i) For compensation--a statement showing period covered, days worked, and days when contractor was in authorized travel, leave, or stopover status for which compensation is claimed. All claims for compensation will be accompanied by, or will incorporate, a certification signed by the Project Officer covering days or hours worked, or authorized travel or leave time for which compensation is claimed.

(ii) For travel and transportation--a statement of itinerary with attached carrier's receipt and/or passenger's coupons, as appropriate.

(iii) For reimbursable expenses--an itemized statement supported by original receipts.

(2) The first voucher submitted shall account for, and liquidate the unexpended balance of any funds advanced to the contractor.

(b) A final voucher shall be submitted by the contractor promptly following completion of the duties under this contract but in no event later than 120 days (or such longer period as the Contracting Officer may in his/her discretion approve in writing) from the date of such completion. The contractor's claim, which includes his/her final settlement of compensation, shall not be paid until after the performance of the duties required under the terms of this contract has been approved by USAID. On receipt and approval of the voucher designated by the contractor as the 'final voucher' submitted on Form SF 1034 (original) and SF 1034-A (three copies), together with a refund check for the balance remaining on hand of any funds which may have been advanced to the contractor, the Government shall pay any amounts due and owing the contractor.

(c) If approved by the paying office time and attendance may be submitted for PSCs in the same manner as is approved for direct-hire personnel.

**GP.10 CONVERSION OF U.S. DOLLARS TO LOCAL CURRENCY
(DEC 1985)**

Upon arrival in the Cooperating Country, and from time to time as appropriate, the contractor shall consult with the Mission Director or his/her authorized representative who shall provide, in writing, the policy the contractor shall follow in the conversion of U.S. dollars to local currency. This may include, but not be limited to the

conversion of said currency through the cognizant U.S. Disbursing Officer, or Mission Controller, as appropriate.

**GP.11 POST OF ASSIGNMENT PRIVILEGES
(JULY 1993)**

Privileges such as the use of APO, PX's, commissaries and officers clubs are established at posts abroad under agreements between the U.S. and host governments. These facilities are intended for and usually limited to members of the official U.S. establishment including the Embassy, USAID Mission, U.S. Information Service and the Military. Normally, the agreements do not permit these facilities to be made available to non-official Americans. However, in those cases where facilities are open to non-official Americans, they may be used.

GP.12 SECURITY REQUIREMENTS (JUNE 1990)

(a) This entire provision shall apply to the extent that this contract involves access to classified information ('Confidential', 'Secret', or 'Top Secret') or access to administratively controlled information ('Limited Official Use'). Contractors that are not U.S. citizens shall not have access to classified or administratively controlled information.

(b) The contractor

(1) shall be responsible for safeguarding all classified or administratively controlled information in accordance with appropriate instructions furnished by the USAID Office of Security (IG/SEC), as referenced in paragraph (d) of this provision and shall not supply, disclose, or otherwise permit access to classified information or administratively controlled information to any unauthorized person;

(2) shall not make or permit to be made any reproductions of classified information or administratively controlled information except with the prior written authorization of the Contracting Officer or Mission Director;

(3) shall submit to the Contracting Officer, at such times as the Contracting Officer may direct, an accounting of all reproductions of classified or administratively controlled information; and

(4) shall not incorporate in any other project any matter which will disclose classified and/or administratively controlled information except with the prior written authorization of the Contracting Officer.

(c) The contractor shall follow the procedures for classifying, marking, handling, transmitting, disseminating, storing, and

destroying official material in accordance with the regulations in the Foreign Affairs Manual, Chapter 5 (5 FAM 900), a copy of which will be furnished by the Contracting Officer or Mission Director.

(d) The contractor agrees to submit immediately to the Mission Director or Contracting Officer a complete detailed report, appropriately classified, of any information which the contractor may have concerning existing or threatened espionage, sabotage, or subversive activity.

(e) The Government agrees that, when necessary, it shall indicate by security classification or administratively controlled designation, the degree of importance to the national defense of information to be furnished by the contractor to the Government or by the Government to the contractor, and the Government shall give written notice of such security classification or administratively controlled designation to the contractor and of any subsequent changes thereof. The contractor is authorized to rely on any letter or other written instrument signed by the Contracting Officer changing a security classification or administratively controlled designation of information.

(f) The contractor agrees to certify after completion of his/her assignment under this contract that he/she has surrendered or disposed of all classified and/or administratively controlled information in his/her custody in accordance with applicable security instructions.

GP.13 CONTRACTOR-MISSION RELATIONSHIPS (DEC 1985)

(a) The contractor acknowledges that this contract is an important part of the U.S. Foreign Assistance Program and agrees that his/her duties will be carried out in such a manner as to be fully commensurate with the responsibilities which this entails.

(b) While in the Cooperating Country, the contractor is expected to show respect for the conventions, customs, and institutions of the Cooperating Country and not interfere in its political affairs.

(c) If the contractor's conduct is not in accordance with paragraph (b) of this provision, the contract may be terminated under General Provision 16 of this contract. The Contractor recognizes the right of the U.S. Ambassador to direct his/her immediate removal from any country when, in the discretion of the Ambassador, the interests of the United States so require.

(d) The Mission Director is the chief representative of USAID in the Cooperating Country. In this capacity, he/she is responsible for the total USAID Program in the Cooperating Country including certain administrative responsibilities set forth in this contract and for advising USAID regarding the performance of the work under the contract and its effect on the U.S. Foreign Assistance Program. The

contractor will be responsible for performing his/her duties in accordance with the statement of duties called for by the contract. However, he/she shall be under the general policy guidance of the Mission Director, and shall keep the Mission Director or his/her designated representative currently informed of the progress of the work under this contract.

GP.14 TERMINATION (NOV 1989)

(This is an approved deviation to be used in place of the clause specified in FAR 52.249-12.)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part:

(1) For cause, which may be effected immediately after establishing the facts warranting the termination, by giving written notice and a statement of reasons to the contractor in the event

(i) the Contractor commits a breach or violation of any obligations herein contained,

(ii) a fraud was committed in obtaining this contract, or

(iii) the contractor is guilty (as determined by USAID) of misconduct in the Cooperating Country. Upon such a termination, the contractor's right to compensation shall cease when the period specified in such notice expires or the last day on which the contractor performs services hereunder, whichever is earlier. No costs of any kind incurred by the contractor after the date such notice is delivered shall be reimbursed hereunder except the cost of return transportation (not including travel allowances), if approved by the Contracting Officer. If any costs relating to the period subsequent to such date have been paid by USAID, the contractor shall promptly refund to USAID any such prepayment as directed by the Contracting Officer.

(2) For the convenience of USAID, by giving not less than 15 calendar days advance written notice to the contractor. Upon such a termination, contractor's right to compensation shall cease when the period specified in such notice expires except that the contractor shall be entitled to any unused vacation leave, return transportation costs and travel allowances and transportation of unaccompanied baggage costs at the rate specified in the contract and subject to the limitations which apply to authorized travel status.

(3) For the convenience of USAID, when the contractor is unable to complete performance of his/her services under the contract by

reason of sickness or physical or emotional incapacity based upon a certification of such circumstances by a duly qualified doctor of medicine approved by the Mission. The contract shall be deemed terminated upon delivery to the Contractor of a termination notice. Upon such a termination, the contractor shall not be entitled to compensation except to the extent of any unused vacation or sick leave but shall be entitled to return transportation, travel allowances, and unaccompanied baggage costs at rates specified in the contract and subject to the limitations which apply to authorized travel status.

(b) The contractor, with the written consent of the Contracting Officer, may terminate this contract upon at least 15 days' written notice to the Contracting Officer.

GP.15 RELEASE OF INFORMATION (DEC 1985)

All rights in data and reports shall become the property of the U.S. Government. All information gathered under this contract by the Contractor and all reports and recommendations hereunder shall be treated as confidential by the Contractor and shall not, without the prior written approval of the Contracting Officer, be made available to any person, party, or government, other than USAID, except as otherwise expressly provided in this contract.

GP.16 NOTICES (DEC 1985)

Any notice, given by any of the parties hereunder, shall be sufficient only if in writing and delivered in person or sent by telegraph, telegram, registered, or regular mail as follows:

To USAID: Administrator, U.S. Agency for International Development, Washington, D.C. 20523-0001, Attention: Contracting Officer.

(name of the cognizant Contracting Officer with a copy to the appropriate Mission Director).

To Contractor:

At his/her post of duty while in the Cooperating Country and at the Contractor's address shown on the Cover Page of this contract or to such other address as either of such parties shall designate by notice given as herein required. Notices hereunder shall be effective in accordance with this clause or on the effective date of the notice, whichever is later.

GP.17 REPORTS (JUNE 1987)

(a) The Contractor shall prepare and submit 2 copies of each technical report required by the schedule of this contract to the

Bureau for Program and Policy Coordination, Center for Development Information and Evaluation, Development Information Division (PPC/CDIE/DI). All documents should be mailed to:

Document Acquisitions
USAID Development Experience Clearinghouse
8403 Colesville Rd Suite 210
Silver Spring MD 20910-6344 USA

Telephone Number: 301-562-0641
Fax Number: 301-588-7787
Email: docsmith@dec.cdie.org
Internet Address: <http://dec.usaid.gov/>

The title page of all reports forwarded to PPC/CDIE/DI pursuant to this paragraph shall include a descriptive title, the author's name(s), contract number, project number and title, contractor's name, name of the USAID project office, and the publication or insurance date of the report.

(b) When preparing reports, the contractor shall refrain from using elaborate art work, multicolor printing and expensive paper/binding, unless it is specifically authorized in the Contract Schedule. Wherever possible, pages should be printed on both sides using single spaced type.

GP.18 BIOGRAPHICAL DATA (JUNE 1990)

(a) The contractor agrees to furnish biographical information to the Contracting Officer on forms (SF 171 and 171As) provided for that purpose.

(b) Emergency locator information. The contractor agrees to provide the following information to the Mission Administrative Officer on arrival in the host country regarding himself/herself and dependents:

(1) Contractor's full name, home address, and telephone number including any after-hours emergency number(s).

(2) The name and number of the contract, and whether the individual is the contractor or the contractor's dependent.

(3) The name, address, and home and office telephone number(s) of each individual's next of kin.

(4) Any special instructions pertaining to emergency situations such as power of attorney designees or alternate contact persons.

**GP.19 CONDITIONS FOR CONTRACTING PRIOR TO RECEIPT OF
SECURITY CLEARANCE (JULY 1993)**

(a) U.S. Resident Hire PSC. The contractor may commence work prior to the completion of the security clearance. However, until such time as clearance is received, the contractor shall have no access to classified or administratively controlled materials. Further, failure to obtain clearance will constitute cause for contract termination in accordance with paragraph (a) (2) of General Provision 16 of this contract.

(b) U.S. PSC--Non-Resident Hire. The contractor may elect to commence travel to post immediately to begin work prior to completion of the security clearance. However, until such time as security clearance is received, the contractor shall:

(1) Have no access to classified or administratively controlled materials;

(2) Be authorized to travel to post himself/herself only; and

(3) Be authorized no entitlements other than those normally authorized for short term (less than a year) employees at post.

Even if the contract is for one year or more, dependents may not accompany contractor unless at his/her expense, and transportation/storage of household/personal effects and motor vehicle will not be financed by USAID prior to the receipt of the security clearance. Upon receipt of clearance, the Contracting Officer will authorize reimbursement of any such costs borne at contractor's expense prior to clearance provided they are reasonable, allocable and allowable. If appropriate given the length of time remaining, the Contracting Officer will authorize dependent travel and shipment/storage of motor vehicle and effects. Allowances which would not be provided to short term employees will be authorized after clearance is received provided that the contractor is otherwise entitled to such benefits. Failure to obtain the security clearance will constitute cause for contract termination in accordance with paragraph (a) (2) of General Provision 16 of this contract.

**GP.20 MEDICAL EVACUATION (MEDEVAC) SERVICES
(JULY 1993)**

(a) The contractor agrees to obtain medevac service coverage for himself/herself and his/her authorized dependents while performing personal services abroad. Coverage shall be obtained pursuant to the terms of the contract between USAID and USAID's medevac service provider unless exempted in accordance with paragraph (b).

(b) The following are exempted from the requirements in paragraph (a):

(1) Contractors and their dependents with a health insurance program that includes sufficient medevac coverage as approved by the Contracting Officer.

(2) Contractors and their dependents located at Missions where the Mission Director makes a written determination to waive the requirement for such coverage based on findings that the quality of local medical services or other circumstances obviate the need for such coverage.

(c) Information on the current medevac service provider, including application procedures, is available from the Contracting Officer.

GP.21 GOVERNING LAW (NOV 1996)

This contract is established under the procurement authorities of the United States Government and shall be interpreted in accordance with the body of Federal Procurement Law in the United States. This contract is a complete statement of the duties, compensation, benefits, leave, notice, termination, and the like; therefore, the laws of the country of performance with respect to labor and contract matters shall not apply to either the carrying out of the obligations of the parties or to the interpretation of this agreement.

FAR CLAUSES

FC.1 52.203-5 COVENANT AGAINST CONTINGENT FEES (APR 1984)

(a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of the contingent fee.

(b) "Bona fide agency," as used in this clause, means an established commercial or selling agency, maintained by a contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

"Bona fide employee," as used in this clause, means a person, employed by a contractor and subject to the contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

"Contingent fee," as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

"Improper influence," as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

FC.2 52.232-34 PAYMENT BY ELECTRONIC FUNDS TRANSFER--OTHER THAN CENTRAL CONTRACTOR REGISTRATION (MAY 1999)

(a) Method of payment. (1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT) except as provided in paragraph (a) (2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either--

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend payment due dates until such time as the Government makes payment by EFT (but see paragraph (d) of this clause).

(b) Mandatory submission of Contractor's EFT information. (1) The Contractor is required to provide the Government with the information required to make payment by EFT (see paragraph (j) of this clause). The Contractor shall provide this information directly to the office designated in this contract to receive that information (hereafter: "designated office") by . If not otherwise specified in this contract, the payment office is the designated office for receipt of the Contractor's EFT information. If more than one designated office is named for the contract, the Contractor shall provide a separate notice to each office. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the designated office(s).

(2) If the Contractor provides EFT information applicable to multiple contracts, the Contractor shall specifically state the applicability of this EFT information in terms acceptable to the designated office. However, EFT information supplied to a designated office shall be applicable only to contracts that identify that designated office as the office to receive EFT information for that contract.

(c) Mechanisms for EFT payment. The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR part 210.

(d) Suspension of payment. (1) The Government is not required to make any payment under this contract until after receipt, by the designated office, of the correct EFT payment information from the Contractor. Until receipt of the correct EFT information, any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(2) If the EFT information changes after submission of correct EFT information, the Government shall begin using the changed EFT information no later than 30 days after its receipt by the designated office to the extent payment is made by EFT. However, the Contractor may request that no further payments be made until the updated EFT

information is implemented by the payment office. If such suspension would result in a late payment under the prompt payment terms of this contract, the Contractor's request for suspension shall extend the due date for payment by the number of days of the suspension.

(e) Liability for uncompleted or erroneous transfers. (1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for--

- (i) Making a correct payment;
- (ii) Paying any prompt payment penalty due; and
- (iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and--

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment and the provisions of paragraph (d) shall apply.

(f) EFT and prompt payment. A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(g) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall provide the EFT information required by paragraph (j) of this clause to the designated office, and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(h) Liability for change of EFT information by financial agent. The Government is not liable for errors resulting from changes to EFT information provided by the Contractor's financial agent.

(i) Payment information. The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address in the contract.

(j) EFT information. The Contractor shall provide the following information to the designated office. The Contractor may supply this data for this or multiple contracts (see paragraph (b) of this clause). The Contractor shall designate a single financial agent per contract capable of receiving and processing the EFT information using the EFT methods described in paragraph (c) of this clause.

(1) The contract number (or other procurement identification number).

(2) The Contractor's name and remittance address, as stated in the contract(s).

(3) The signature (manual or electronic, as appropriate), title, and telephone number of the Contractor official authorized to provide this information.

(4) The name, address, and 9-digit Routing Transit Number of the Contractor's financial agent.

(5) The Contractor's account number and the type of account (checking, saving, or lockbox).

(6) If applicable, the Fedwire Transfer System telegraphic abbreviation of the Contractor's financial agent.

(7) If applicable, the Contractor shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment if the Contractor's financial agent is not directly on-line to the Fedwire Transfer System; and, therefore, not the receiver of the wire transfer payment.

**FC.3 52.233-1 DISPUTES (JUL 2002)
ALTERNATE I (DEC 1991)**

(a) This contract is subject to the Contracts Disputes Act of 1978, as amended (41 U.S.C. 601-613).

(b) Except as provided in the Act, all disputes arising under or related to this contract shall be resolved under this clause.

(c) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(d) (1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.

(2) (i) The Contractor shall provide the certification specified in paragraph (d) (2) (iii) of this clause when submitting any claim exceeding \$100,000.

(ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.

(iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am duly authorized to certify the claim on behalf of the Contractor."

(3) The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.

(e) For Contractor claims of \$100,000 or less, the contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$100,000, the Contracting Officer must, within 60 days,

decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer's decision shall be final unless the contractor appeals or files a suit as provided in the Act.

(g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the offer.

(h) The Government shall pay interest on the amount found due and unpaid from (1) the date that the Contracting Officer receives the claim (certified, if required); or (2) the date that payment otherwise would be due, if that date is later, until the date of payment. With regard to claims having defective certifications, as defined in (FAR) 48 CFR 33.201, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the ACT, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

(i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision of the Contracting Officer.

**FC.4 52.247-63 PREFERENCE FOR U.S.-FLAG AIR CARRIERS
(JUNE 2003)**

(a) Definitions. As used in this clause--

International air transportation means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.

United States means the 50 States, the District of Columbia, and outlying areas.

U.S.-flag air carrier means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

(b) Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires that all Federal agencies and Government contractors and

subcontractors use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

(c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

(d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

STATEMENT OF UNAVAILABILITY OF U.S.-FLAG AIR CARRIERS

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons (see section 47.403 of the Federal Acquisition Regulation):

[State reasons]: _____

(End of statement)

(e) The Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

FC.5 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es): <http://arnet.gov/far/>

FAR NUMBER	TITLE	DATE
52.203-7	ANTI-KICKBACK PROCEDURES	JUL 1995
52.203-12	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS	SEP 2005
52.215-2	AUDIT AND RECORDS-NEGOTIATION	JUN 1999
52.224-1	PRIVACY ACT NOTIFICATION	APR 1984
52.224-2	PRIVACY ACT	APR 1984
52.229-8	TAXES--FOREIGN COST-REIMBURSEMENT CONTRACTS	MAR 1990
52.232-17	INTEREST	JUN 1996
52.232-20	LIMITATION OF COST	APR 1984
52.232-22	LIMITATION OF FUNDS	APR 1984
52.232-23	ASSIGNMENT OF CLAIMS	JAN 1986
52.237-2	PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION	APR 1984
52.242-1	NOTICE OF INTENT TO DISALLOW COSTS	APR 1984
52.246-5	INSPECTION OF SERVICES--COST-REIMBURSEMENT	APR 1984
52.246-25	LIMITATION OF LIABILITY-SERVICES	FEB 1997

FC.6 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within 60 days.

**FC.7 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT
(MAR 2000)**

(a) The Government may extend the term of this contract by written notice to the Contractor within 60 days; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 60 months.

USAID Acquisition Regulation (AIDAR) Appendix D
**Direct USAID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services
Abroad**

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USAID Acquisition Regulation (AIDAR) Appendix D
Direct USAID Contracts with a U.S. Citizen or a U.S. Resident Alien for Personal Services
Abroad

1. General

- (a) **Purpose.** This appendix sets forth the authority, policy, and procedures under which USAID contracts with a U.S. citizen or U.S. resident alien for personal services abroad.
- (b) **Definitions.**
- (1) **Personal Services Contract (PSC)** means a contract that, by its express terms or as administered, make the contractor personnel appear, in effect, Government employees (see FAR 37.104).
 - (2) **Employer-Employee Relationship** means an employment relationship under a service contract with an individual which occurs when, as a result of the contract's terms or the manner of its administration during performance, the contractor is subject to the relatively continuous supervision and control of a Government officer or employee.
 - (3) **Non-person Services Contract** means a contract under which the personnel rendering the services are not subject either by the contract's terms or by the manner of its administration, to the supervision and control usually prevailing in relationships between the Government and its employees.
 - (4) **Independent Contractor Relationship** means a contract relationship in which the contractor is not subject to the supervision and control prevailing in relationships between the Government and its employees. Under this relationship, the Government does not normally supervise the performance of the work, control the days of the week or hours of the day in which it is to be performed, or the location of performance.
 - (5) **Resident Hire** means a U.S. citizen who, at the time of hire as a PSC, resides in the cooperating country as a spouse or dependent of a U.S. citizen employed by a U.S. government agency or under any U.S. government-financed contract or agreement, or for reasons other than for employment with a U.S. government agency or under any U.S. government-financed contract or agreement. A U.S. citizen for purposes of this definition also includes persons who at the time of contracting are lawfully admitted permanent residents of the United States.
 - (6) **U.S. Resident Alien** means a non-U.S. citizen lawfully admitted for permanent residence in the United States.
 - (7) **Abroad** means outside the United States and its territories and possessions.
 - (8) **USAID Direct-Hire Employees** means civilian employees appointed under USAID Handbook 25 procedures or superseding Automated Directive System (ADS) Chapters.

2. Legal Basis

- (a) Section 635(b) of the Foreign Assistance Act of 1961, as amended (hereinafter referred to as the "FAA") provides the Agency's contracting authority.
- (b) Section 636(a)(3) of the FAA (22 U.S.C. 2396(a)(3)) authorizes the Agency to enter into personal services contracts with individuals for personal services abroad and provides further that such individuals " * * * shall not be regarded as employees of the U.S. Government for the purpose of any law administered by the Civil Service Commission."
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3. Applicability

- (a) This appendix applies to all personal services contracts with U.S. citizens or U.S. resident aliens to provide assistance abroad under Section 636(a)(3) of the FAA.
- (b) This appendix does not apply to:
 - (1) Nonpersonal services contracts with U.S. citizens or U.S. resident aliens; such contracts are covered by the basic text of the FAR (48 CFR Chapter 1) and the AIDAR (48 CFR Chapter 7).
 - (2) Personal services contracts with individual Cooperating Country Nationals (CCNs) or Third Country Nationals (TCNs). Such contracts are covered by Appendix J of this chapter.
 - (3) Other personal services arrangements covered by USAID Handbook 25-Employment and Promotion or superseding ADS Chapters.
 - (4) Interagency agreements (e.g., PASAs and RSSAs covered by ADS 306--Interagency Agreements).

4. Policy

- (a) **General.** USAID may finance, with either program or operating expense (OE) funds, the cost of personal services contracts as part of the Agency's program of foreign assistance by entering into a direct contract with an individual U.S. citizen or U.S. resident alien for personal services abroad.
 - (1) **Program funds.** Under the authority of Section 635(h) of the FAA, program funds may be obligated for periods up to five years where necessary and appropriate to the accomplishment of the tasks involved.
 - (2) **Operating Expense Funds.** Pursuant to USAID budget policy, OE funded salaries and other recurrent cost items may be forward funded for a period of up to three (3) months beyond the fiscal year in which these funds were obligated. Non-recurring cost items may be forward funded for periods not to exceed twenty-four (24) months where necessary and appropriate to accomplishment of the work. 12\
- (b) **Limitations on Personal Services Contracts.**
 - (1) Personal services contracts may only be used when adequate supervision is available.

11\ The Civil Service Commission is now the Federal Office of Personnel Management.

12\ If there is a need, these contracts may be written for 5 years also but funded only as outlined in paragraph 4(a) of this Appendix.

- (2) Personal services contracts may be used for commercial activities. Commercial activities provide a product or service which could be obtained from a commercial source. See Attachment A of OMB Circular A-76 for a representative list of such activities.**
- (3) Notwithstanding any other provision of USAID directives, regulations or delegations, U.S. citizen personal services contractors (USPSCs) may be delegated or assigned any authority, duty or responsibility delegable to U.S. citizen direct-hire employees (USDH employees) except that:**
- a. They may not supervise U.S. direct-hire employees of USAID or other U.S. Government agencies. They may supervise USPSCs and non-U.S. citizen employees.**
 - b. They may not be designated as Contracting Officers or delegated authority to sign obligating or subobligating documents.**
 - c. They may represent the agency, except that communications that reflect a final policy, planning or budget decision of the agency must be cleared by a USDH employee.**
 - d. They may participate in personnel selection matters, but may not be delegated authority to make a final decision on personnel selection.**
 - e. Exceptions to the limitations in this paragraph (b)(3) must be approved by the Assistant Administrator for Management (AA/M).**

(c) Withholdings and Fringe Benefits.

- (1) Personal services contractors (PSCs) are Government employees for purposes of the Internal Revenue Code (Title 26 of the United States Code) and are, therefore, subject to social security (FICA) and Federal income tax (FIT) withholdings. As employees, they are ineligible for the "foreign earned income" exclusion under the Internal Revenue Service (IRS) regulations (see 26 CFR 1.911-3(c)(3)).**
- (2) Personal services contractors are treated on par with other Government employees, except for programs based on any law administered by the Federal Office of Personnel Management (e.g., incentive awards, life insurance, health insurance, and retirement programs covered by 5 CFR Parts 530, 531, 831, 870, 871, and 890). While PSCs are ineligible to participate in any of these programs, the following fringe benefits are provided as a matter of policy:**
- i) The employer's FICA contribution for retirement purposes.**
 - ii) A contribution against the actual cost of the PSC's annual health and life insurance costs. Proof of health and life insurance coverage and its actual cost to the PSC shall be submitted to the Contracting Officer before any contribution is made. (See also paragraph 4(c)(3) of this Appendix.)**
 - (A) The contribution for health insurance shall not exceed 50% of the actual cost to the PSC for his/her annual health insurance, or the maximum U.S. Government contribution for a direct-hire employee, as announced annually by the Office of Personnel Management, whichever is less. If the PSC is covered under a spouse's health insurance plan, where the spouse's employer pays some or all of the health insurance costs, the cost to the PSC for annual health insurance shall be considered to be zero.**
 - (B) The contribution for life insurance shall be up to 50% of the actual annual costs to the PSC for life insurance, not to exceed \$500.00 per year.**

- iii) PSCs shall receive the same percentage pay comparability adjustment as U.S. Government employees subject to the availability of funds.
 - iv) PSCs shall receive a 3% annual salary increase subject to satisfactory performance documented in their annual written evaluation. Such increase may not exceed 3% without a deviation. This 3% limitation also applies to extensions of the same service or negotiations for a new contract for the same or similar services unless a deviation has been approved.
 - v) PSCs shall receive the following allowances and differentials provided in the State Department's Standardized Regulations (Government Civilians Foreign Areas) on the same basis as U.S. Government employees (except for U.S. resident hires, see paragraph 4(d) and Section 12, General Provisions, Clause 22, "U.S. Resident Hire Personal Services Contractors"):
 - (A) Temporary lodging allowance (Section 120),^{13\}
 - (B) Living quarters allowance (Section 130),^{13\}
 - (C) Post allowance (Section 220),^{13\}
 - (D) Supplemental post allowance (Section 230),^{13\}
 - (E) Sep arate maintenance allowance (Section 260),^{14\}
 - (F) Education allowance (Section 270),^{14\}
 - (G) Educational travel (Section 280),^{14\}
 - (H) Post differential (Section 500),
 - (I) Payments during evacuation/authorized departure (Section 600), and
 - (J) Danger pay (Section 650).
 - vi) Any allowance or differential that is not expressly stated in paragraph 4(c)(2)(v) is not authorized for any PSC unless a deviation is approved. The only exception is a consumables allowance if authorized for the post under Handbook 22 or superseding ADS Chapter.
 - vii) Health room services may be provided in accordance with the clause of this contract entitled "Physical Fitness and Health Room Privileges."
 - viii) PSCs are eligible to receive benefits for injury, disability, or death under the Federal Employees' Compensation Act since the law is administered by the Department of Labor not the Office of Personnel Management.
 - ix) PSCs are eligible to earn four hours of annual leave and four hours of sick leave for each two week period. However, PSCs with previous PSC service (not previous U.S. Government civilian or military service) earn either six hours of annual leave for each two week period if their previous PSC service exceeds 3 years (including 10 hours annual leave for the final pay period of a calendar year), or eight hours of annual leave for each two week period if their previous PSC service exceeds 15 years.
- (3) A PSC who is a spouse of a current or retired Civil Service, Foreign Service, or Military Service member and who is covered by their spouse's Government health or life insurance policy is ineligible for the contribution under paragraph 4(c)(2)(ii) of this appendix.
- (4) Retired U.S. Government employees shall not be paid additional contributions for health or life insurance under their contract (since the Government will normally have already paid its contribution for the retiree) unless the employee can prove to the satisfaction of the Contracting Officer that his/her health and life insurance does not provide or specifically excludes coverage overseas. If coverage overseas is excluded, then eligibility as cited in paragraph 4(c)(3) applies.

^{13\} Mission Directors may authorize per diem in lieu of these allowances.

^{14\} These allowances are not authorized for short tours (i.e., less than a year).

- (5) Retired U.S. Government employees may be awarded Personal Services Contracts without any reduction in or offset against their Government annuity.
- (d) **U.S. Resident Hire Personal Services Contractors.** U.S. resident-hire PSCs are not eligible for any fringe benefits (except contributions for FICA, health insurance, and life insurance), including differentials and allowances unless such individuals can demonstrate to the satisfaction of the Contracting Officer that they have received similar benefits and allowances from their immediately previous employer in the cooperating country, or the Mission Director may determine that payment of such benefits would be consistent with the Mission's policy and practice and would be in the best interests of the U.S. Government.
- (e) **Determining Salary for Personal Services Contractors.**
- (1) There are two separate and distinct methods of establishing a salary for personal services contractors. Use of method number 1 is required unless justified and approved as provided for in paragraph (e)(1)(ii).
- (i) **Method 1:** Salaries for Personal Services Contractors shall be established based on the market value in the United States of the position being recruited for. This requires the Contracting Officer in coordination with the Technical Officer to determine the correct market value (a salary range) of the position to be filled. This method is required in establishing salary for all PSCs unless method 2 is authorized as provided for in paragraph (e)(1)(ii). Contract Information Bulletin (CIB) 96-8 dated February 23, 1996 provides a guide which contains information concerning Preparation of Scopes of Work, Determination of Salary Class Grade, Salary Class Bench Marks and Salary Class Review. The market value of the position then becomes the basis along with the applicants' certified salary history on the SF 171, "Personal Qualifications Statement" for salary negotiations by the Contracting Officer. The SF 171 must be retained in the permanent contract file. Any position which is determined to be above the GS-13 equivalent and exceeds six months in duration must be classified by M/HR/POD. The crucial point is the establishment of a realistic and reasonable market value for a job. The final determination regarding the reasonableness of a salary level rests with the Contracting Officer. Paying salaries using this method avoids "rank in person" salaries which are in excess of the value of the job being contracted for.
- (ii) **Method 2:** If approved in writing by the Mission Director or the cognizant Assistant Administrator, based on written justification, salary may be negotiated based on the applicant's current earnings adjusted in accordance with the factors set out in paragraphs (e)(1)(ii) (A) through (C). This approval requirement cannot be redelegated. Current earnings must be certified by the contractor on the SF 171, (see paragraph 6(b)(3) of this appendix). This is guidance for establishing initial salaries, not subsequent increases, for the same contractor performing the same function.
- (A) As a rule, up to a 3 percent increase above current earnings may be given. However, a 3 percent increase is awarded only to a PSC whose earnings are based on a period of twelve months or more; 2 percent for established earnings of less than twelve months but not less than four months; or 1 percent for established earnings during the past four months.
- (B) Additional percentages may be given for the following factors. If a PSC has worked in a developing country for more than two years, an additional 1 percent may be awarded. Education related to the area of

specialization and above the minimum qualification required may warrant an additional 1 percent, and those specialties for which there is keen competition in the employment market or a serious shortage category nationwide may be awarded an additional 2 percent. In addition, related technical experience over 5 years may increase the percentage by 1 and over ten years by 3.

(C) All requests for an initial rate of pay above 10 percent over current earnings must be approved in writing by the appropriate Assistant Administrator or Mission Director. Current earnings are actual earnings for work reasonably related to the position for which the applicant is being considered. Paragraphs 4(e)(1)(ii) (A) through (C) apply only to salary setting method number 2 in paragraph 4 (e)(1)(ii).

(2) When an applicant has no current earnings history (e.g., a person returning to the workforce after an absence of a number of years) or when an applicant's current earnings history doesn't accurately reflect the applicant's job market worth (e.g., a Peace Corps volunteer), every effort should be made to establish a market value for the position as a basis for negotiation, notwithstanding the lack of a current earnings history, provided that the applicant has the full qualifications for the job and could command a similar salary in the open job market.

(3) Salaries in excess of the ES-6 level must also be approved by the M/OP Director based upon a memorandum through the appropriate Assistant Administrator or Mission Director and Contracting Officer, as provided for in internal guidelines on "Approval Procedures for Contractor Salaries". This approval level cannot be redelegated.

- (f) **Incentive Awards.** U.S. PSCs are not eligible to receive monetary awards. They are eligible for non-monetary awards such as certificates.
- (g) **Annual Salary Increase.** PSC contracts written for more than one year should provide for a 3% annual increase based on satisfactory performance documented in their annual written evaluations.
- (h) **Pay Comparability Adjustment.** PSCs shall receive the same percentage pay comparability adjustment as that received by U.S. Government employees subject to the availability of funds.
- (i) **Subcontracting.** PSCs are U.S. Government employees and may not be called upon (or permitted) to subcontract out any part of their work. Funds for subcontracting have no place in the budget of a personal services contract. Support services, equipment, and supplies (e.g., typing and report preparation, paper, pens, computers, and furniture) should be furnished to PSCs just as they would be to direct-hire employees. To the extent that direct-hire personnel may be authorized to purchase supporting services or supplies under a travel authorization, so may PSCs; otherwise, contracts for personal services should not contain any funds for procurement.

5. Soliciting for Personal Services Contracts

- (a) **Technical Officer's Responsibilities.** The Technical Officer will prepare a written detailed statement of duties and a statement of minimum qualifications to cover the position being recruited for. The statement shall be included in the procurement request (the Acquisition & Assistance Request Document) e.g., the request shall also include the following additional information as a minimum:

- (1) The specific foreign location(s) where the work is to be performed, including any travel requirements (with an estimate of frequency);**
- (2) The length of the contract, with beginning and ending dates, plus any options for renewal or extension;**
- (3) The basic education, training, experience, and skills required for the position;**
- (4) An estimate of what a comparable GS/FS equivalent position should cost, including basic salary, allowances, and differentials, if appropriate; and**
- (5) A list of Government or host country furnished items (e.g., housing).**

(b) Contracting Officer's Responsibilities.

- (1) The Contracting Officer will prepare the solicitation for personal services which shall contain:**
 - (i) Three sets of SF 171s and SF 171As. (Upon receipt, one copy of each SF 171 and SF 171A shall be forwarded to the Project Officer.)**
 - (ii) A detailed statement of duties or a completed position description for the position being recruited for.**
 - (iii) A copy of the prescribed contract Cover Page, Contract Schedule, General Provisions as appropriate, as well as the FAR Clauses to be incorporated in full text and by reference.**
 - (iv) A copy of the USAID General Notice entitled "Employee Review of the New Standards of Conduct".**
- (2) The Contracting Officer shall comply with the requirements of (48 CFR) AIDAR 706.302-70(c) as detailed in paragraph 5(c) except those recruited from the U.S.**

(c) Competition.

- (1) Under (48 CFR) AIDAR 706.302-70(b)(1), Personal Services Contracts (except those recruited from the U.S.) are exempt from the requirements for full and open competition with two limitations that must be observed by Contracting Officers:**
 - (i) Offers are to be requested from as many potential offerors as is practicable under the circumstances, and**
 - (ii) A justification supporting less than full and open competition must be prepared in accordance with FAR 6.303.**
- (3) PSCs With United States Citizens or Resident Aliens Recruited from Outside the Cooperating Country. Solicitations for PSCs recruited outside the cooperating country must be publicized via the Agency's External Home Page on the Internet under the caption "Business & Procurement, USAID Procurements." Instructions regarding how to access the External Internet and the information to be provided have been approved and included in a CIB. A justification under FAR 6.303 is not required when this procedure is followed.**
- (4) A class justification was approved by the USAID Procurement Executive to satisfy the requirements of (48 CFR) AIDAR 706.302-70(c)(2) for a justification in accordance with FAR 6.303. This class justification for Personal Services Contracts with U.S. Citizens may only be used for those who are recruited locally subject to the following conditions:**

- (i) The position was publicized locally in accordance with established Mission policy or procedure, or the procedures in paragraph 5(c)(ii) was followed;
 - (ii) As an alternative to the procedures in paragraphs 5(c) (i) and (ii), at least 3 individuals were considered by consulting source lists (e.g., applications or resumes on hand) or conducting other informal solicitation.
 - (iii) Extensions or renewals with the same individual for continuing services do not need to be publicized.
 - (iv) A copy of the class justification (which was distributed to all USAID Contracting Officers via Contract Information Bulletin) must be included in the contract file, together with a written statement, signed by the Contracting Officer, that the contract is being awarded pursuant to (48 CFR) AIDAR 706.302-70(b)(1); that the conditions for use of this class justification have been met; and that the cost of the contract is fair and reasonable.
- (5) If the appropriate competitive procedure in paragraph 5(3) is not followed, the Contracting Officer must prepare a separate justification as required under (48 CFR) AIDAR 706.302-70(c)(2).
- (6) Since the award of a Personal Services Contract is based on technical qualifications, not price, and since the SF 171, "Personal Qualifications Statement", and SF 171A, "Continuation Sheet for Standard Form 171", are used to solicit for such contracts, FAR subparts 15.4 and 15.5 and FAR parts 52 and 53 are inappropriate and shall not be used. Instead, the solicitation and selection procedures outlined in this Appendix shall govern.

6. Negotiating a Personal Services Contract.

Negotiating a Personal Services Contract is significantly different from negotiating a nonpersonal services contract because it establishes an employer-employee relationship; therefore, the selection procedures are more akin to the personnel selection procedures.

- (a) **Technical Officer's Responsibilities.** The Technical Officer shall be responsible for reviewing and evaluating the applications (i.e., SF 171s) received in response to the solicitation issued by the Contracting Officer. If deemed appropriate, interviews may be conducted with the applicants before the final selection is submitted to the Contracting Officer.
- (b) **Contracting Officer's Responsibilities.**
- (1) The Contracting Officer shall forward a copy of each SF 171 received under the solicitation to the Project Officer for evaluation.
 - (2) On receipt of the Technical Officer's recommendation, the Contracting Officer shall conduct negotiations with the recommended applicant. Normally, the Contracting Officer shall negotiate only the salary (see the salary setting coverage in paragraph 4(e) of this Appendix). The terms and conditions of the contract, including differentials and allowances, are not negotiable or waivable without a properly approved deviation (see (48 CFR) AIDAR 701.470). If the Contracting Officer can negotiate a salary that is fair and reasonable, then the award shall be made.
 - (3) The Contracting Officer shall use the certified salary history on the SF 171 as the basis for salary negotiations, along with the market value of the position being recruited for (unless approval not to use market value has been granted under paragraph 4(e)(1)(ii)), and the Technical Officer's cost estimate.

- (4) The Contracting Officer will obtain two copies of IRS Form W-4, "Employee's Withholding Allowance Certificate", from the successful applicant. (Upon receipt, the Contracting Officer will forward one copy of the W-4 to the Office of the Controller.)
- (5) Security clearance is required for all U.S. citizens entering into USAID PSCs. The Contracting Officer will obtain four sets of SF 86, "Security Investigation Data for Sensitive Position", from the successful applicant and forward them to the Office of Security. PSCs may receive a preliminary clearance and be placed under contract prior to receipt of clearance provided the appropriate paper work has been completed, reviewed by IG/SEC/PSI and acknowledged as a "no objection" to the appropriate Mission. See General Provision 24 in section 12 of this Appendix.

7. Executing Personal Services Contracts

Contracting Officers or Heads of Contracting Activities, whether USAID/W or Mission, may execute Personal Services Contracts, provided that the amount of the contract does not exceed the contracting authority that has been redelegated to them. In executing a Personal Services Contract, the Contracting Officer is responsible for insuring that:

- (a) The proposed contract is within his/her delegated authority;
- (b) A Request Number covering the proposed contract has been received;
- (c) The position has been classified by either the Mission or M/HR/POD (see CIB 96-8) and the classification is in the contract file;
- (d) The proposed Statement of Duties is contractible, contains a statement of minimum qualifications from the technical office requesting the services, and is suitable to the use of a Personal Services Contract in that:
 - (1) Performance of the proposed work requires or is best suited for an employer-employee relationship, and is thus not suited to the use of a non-personal services contract;
 - (2) The Statement of Duties does not require performance of any function normally reserved for Federal employees (see paragraph 4(b) of this Appendix); and
 - (3) There is no apparent conflict of interest involved (if the Contracting Officer believes that a conflict of interest may exist, the question should be referred to the cognizant legal counsel);
- (e) Selection of the contractor is documented and justified. (48 CFR) AIDAR 706.302-70(b)(1) provides an exception to the requirement for full and open competition for Personal Services Contracts abroad (see paragraph 5(c) of this Appendix);
- (f) The standard contract format prescribed for Personal Services Contracts (Sections 10, 11, 12 and 13 to this Appendix) is used; or that any necessary deviations are processed as required by (48 CFR) AIDAR 701.470. (Note: The prescribed contract format is designed for use with contractors who are residing in the U.S. when hired. If the contract is with a U.S. citizen residing in the cooperating country when hired, contract provisions governing physical fitness and travel/transportation expenses, and home leave, allowances, and orientation should be suitably modified (see paragraph 4(d) of this Appendix)). These modifications are not considered deviations subject to (48 CFR) AIDAR 701.470. (Justification and explanation of these modifications is to be included in the contract file);
- (g) Orientation is arranged in accordance with General Provision 23 in section 12 of this Appendix;

- (h)** The contractor has submitted the names, addresses, and telephone numbers of at least two persons who may be notified in the event of an emergency (this information is to be retained in the contract file);
- (i)** The contract is complete and correct and all information required on the contract Cover Page (USAID Form 1420-36A) has been entered;
- (j)** The contract has been signed by the Contracting Office and the contractor, and fully executed copies are properly distributed;
- (k)** The following clearances, approvals and forms have been obtained, properly completed, and placed in the contract file before the contract is signed by both parties;
 - (1)** Evidence of job classification in the file by the Mission except for grade equivalents above GS-13. For those positions with grade equivalent above GS-13, evidence of job classification done by M/HR/POD;
 - (2)** Security clearance, including the completed SF 86, to the extent required by USAID Handbook 6, Security or superseding ADS Chapter, (see General Provisions 14 and 24 in section 12 of this Appendix);
 - (3)** Mission, host country, Human Resources Office, and technical office clearance, as appropriate;
 - (4)** Medical examinations and certifications as required by the contract general provision entitled "Physical Fitness and Health Room Privileges";
 - (5)** One original executed IRS Form W-4 entitled "Employee's Withholding Allowance Certificate", and one copy, shall be obtained. The original shall be sent to the Controller of the paying office and one shall be placed in the contract file;
 - (6)** Evidence of DAA/HR clearance that the position may be filled by PSC.
 - (7)** The approval for any salary in excess of ES-6, in accordance with Appendix G of this chapter;
 - (8)** A copy of the class justification or other appropriate explanation and support required by (48 CFR) AIDAR 706.302-70, if applicable;
 - (9)** Any deviation to the policy or procedures of this appendix, processed and approved under (48 CFR) AIDAR 701.470;
 - (10)** A fully executed SF 171, and a copy of the position classification, and approved deviation, if appropriate;
 - (11)** The Memorandum of Negotiation; and
 - (12)** The Contracting Officer's signed certification that competition requirements have been satisfied as described in paragraph 5(c) of the policy text of this Appendix. The certification shall be a part of the Memorandum of Negotiations.
- (l)** Funds for the contract are properly obligated to preclude violation of the Anti-Deficiency Act, 31 U.S.C. 1341 (the Contracting Officer ensures that the contract has been properly

recorded by the appropriate accounting office prior to its release for the signature of the selected contractor);

- (m) The contractor receives and understands the USAID General Notice entitled "Employee Review of the New Standards of Conduct" and a copy is attached to each contract as provided for in paragraph (c) of General Provision 1, section 12;
- (n) Agency conflict of interest requirements as set out in the General Notice "Employee Review of the New Standards of Conduct" are met by the contractor prior to his/her reporting for duty;
- (o) A copy of a Checklist for Personal Services contractors which may be in the format set out in this section or another format convenient for the Contracting Officer, provided that a memorandum containing all of the information described in this section 7 shall be prepared for each PSC and placed in the contract file;
- (p) The contractor understands that he/she is an employee of the United States for purposes of the Foreign Assistance Act of 1961, as amended, and the Internal Revenue Code (Title 26 of the United States Code). This subjects the employee to withholding for both FICA and Federal Income Tax and precludes the employee from receiving the Federal Earned Income Tax exclusion of 26 U.S.C. Section 911. See Special Note on the Cover Page of USAID Form 1420-36.
- (q) The contractor also understands that he/she may commence work prior to the completion of the security clearance. However, until such time as clearance is received, the contractor may not have access to classified or administratively controlled materials. Failure to obtain clearances will constitute cause for termination.

8. Post Audit.

The Inspector General, or his/her designee, audits the Personal Services Contracts of all contracting activities for the purpose of ensuring conformance to applicable policy and regulations.

9. Contracting Format.

The prescribed Contract Cover Page, Contract Schedule, General Provisions, and appropriate Federal Acquisition Regulations (FAR) clauses for Personal Services Contracts covered by this appendix are included as follows:

- 10. Form USAID 1420-36, "Cover Page" and "Schedule".
- 11. Optional Schedule With a U.S. Citizen or U.S. Resident Alien.
- 12. General Provisions.
- 13. FAR Clauses to be Incorporated in Full Text in Personal Services Contracts.
- 14. FAR Clauses to be incorporated by reference in Personal Services Contracts.

10. Form AID 1420-36A Cover Page and Schedule

Contract With a U.S. Citizen or U.S. Resident Alien for Personal Services Abroad--Form AID 1420-36A (11/96) (Cover Page)

PRIVACY ACT STATEMENT

This information is provided pursuant to Public Law 93-579 (Privacy Act of 1974), December 31, 1974, for individuals who complete this form.

The Executive Office of the President, Office of Management and Budget has required that all departments and agencies comply with the reporting requirements of Section 6041 of the Internal Revenue Code, Section 6041 states that all departments and agencies making payments totaling \$600 or more in one year to a recipient for services provided must be reported to the Internal Revenue Service (IRS). The SSN and all financial numbers will be disclosed to U.S. Agency for International Development (USAID) payroll office personnel and personnel in the Department of the Treasury, Division of Disbursements. USAID will use this SSN to complete Form W-2 of the Code on employee compensation. Disclosure by the personal services contractor of the SSN is necessary to obtain the services, benefits or processes provided by this contract. Disclosure of the SSN may be made outside USAID (a) pursuant to any applicable routine use listed in USAID's Notice for implementing the Privacy Act as published in the Federal Register or (b) when disclosure by virtue of a contract being a public document after signatures is authorized under the Freedom of Information Act.

SCHEDULE

(The Illustrated Schedule consists of this Table of Contents--Articles I-VI, and the General Provisions.)

TABLE OF CONTENTS

Article I	--	Statement of Duties
Article II	--	Period of Service Overseas
Article III	--	Contractor's Compensation and Reimbursement in U.S. Dollars
Article IV	--	Costs Reimbursable and Logistic Support
Article V	--	Precontract Expenses
Article VI	--	Additional Clauses

GENERAL PROVISIONS

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

1. Definitions
2. Laws and Regulations Applicable Abroad
3. Physical Fitness and Health Room Privileges
4. Workweek and Compensation (Pay Comparability Adjustments)
5. Leave and Holidays
6. Differential and Allowances
7. Social Security, Federal Income Tax and Foreign Earned Income
8. Advance of Dollar Funds
9. Insurance
10. Travel and Transportation Expenses
11. Payment
12. Conversion of U.S. Dollars to Local Currency
13. Post of Assignment Privileges
14. Security Requirements
15. Contractor-Mission Relationships
16. Termination
17. Release of Information

- 18. Notices
- 19. Reports
- 20. Use of Pouch Facilities
- 21. Biographical Data
- 22. Resident Hire PSC
- 23. Orientation and Language Training
- 24. Conditions for Contracting Prior to Receipt of Security Clearance
- 25. Medical Evacuation Services
- 26. Governing Law

For each tour of duty, attach the applicable General Provisions.

Schedule: (Note: Use of the following Schedule Articles are not mandatory. They are intended to serve as guidelines for contracting offices in drafting contract schedules. Article language may be changed to suit the needs of the particular contract).

Article I--Statement of Duties

(The statement of duties shall include:

- A. General statement of the purpose of the contract.
- B. Statement of duties to be performed.
- C. Any USAID consultation or orientation.)

Article II--Period of Service Overseas

Within _____ days after written notice from the Contracting Officer that all clearances, including the doctor's statement of medical opinion required under General Provision Clause 4, have been received or unless another date is specified by the Contracting Officer in writing, the contractor shall proceed to _____ where he/she shall promptly commence performance of the duties specified above. The contractor's period of service overseas shall be approximately _____ in _____. (Specify time of duties in each location as well as authorized stopovers with purpose of each.)

Article III--Contractor's Compensation and Reimbursement in U.S. Dollars

- A. Except to the extent reimbursement is payable in the currency of the Cooperating Country pursuant to Article IV, USAID shall pay the contractor compensation after it has accrued and reimburse him/her in U.S. dollars for necessary and reasonable costs actually incurred by him/her in the performance of this contract within the categories listed in paragraph C, below, and subject to the conditions and limitations applicable thereto as set out herein and in the attached General Provisions (GP).
- B. The amount budgeted and available as personal compensation to the contractor is calculated to cover a calendar period of approximately _____ (days) (weeks) (months) (years) which is to include:
 - (1) vacation, sick, and home leave which may be earned during the contractor's tour of duty (GP Clause 5);
 - (2) _____ days for authorized travel (GP Clause 10); and
 - (3) _____ days for orientation and consultation in the United States (GP Clause 23).
- C. Allowable Costs:
 - 1. Compensation at the rate of \$_____ per (year) (month) (week) (day). Adjustments in compensation (pay) for periods when the contractor is not in compensable pay status shall be calculated as follows:
 - Rate of \$_____ per (day) (hour).
 - Contingency for Compensation (Pay Comparability)
 - Adjustments. \$_____.
 - Annual Salary increase (3%) \$_____.

2. Overtime (Unless specifically authorized in the Schedule of this contract, no overtime hours shall be allowed hereunder.)\$_____.

* 3. Overseas Differential (Ref. GP Clause No. 6.)
Rate \$_____ and Contingency \$_____ = Total \$_____.

** 4. Allowances in Cooperating Country (Ref. GP Clause 6.)
\$_____.

** 5. Travel and Transportation (Ref. GP Clause 10.) (Includes the value of GTRs furnished by the Government, not payable to contractor).

- a. United States \$_____
 - b. International \$_____
 - c. Cooperating and Third Country \$_____
- Subtotal Item 5 \$_____

** 6. Subsistence or Per Diem (Ref. GP Clause 10.)

- a. United States \$_____
 - b. International \$_____
 - c. Cooperating and Third Country \$_____.
- Subtotal Item 6 \$_____

7. Other Direct Costs.

- a. Health and Life Insurance \$_____
 - b. Precontract Costs, passport, visa, inoculations, etc. (Ref. GP Clause 8.) \$_____
 - c. Physical Examination (Ref. GP Clause 3.)\$_____
 - d. Communications, Miscellaneous. \$_____
- Subtotal Item 7 \$_____

8. F.I.C.A.-U.S.G. Contribution (not payable to contractor). \$_____

D. Maximum U.S.-Dollar Obligation:

In no event shall the maximum U.S.-dollar obligation under this contract exceed \$_____. Contractor shall keep a close account of all obligations he/she incurs and accrues hereunder and promptly notify the Contracting Officer whenever in his/her opinion the said maximum is not sufficient to cover all compensation and costs reimbursable in U.S. dollars which he/she anticipates under the contract.

Article IV—Costs Reimbursable and Logistic Support

A. General:

The contractor shall be provided with or reimbursed in local currency (_____) for the following:

[Complete]

B. Method of Payment of Local Currency Costs: Those contract costs which are specified as local currency costs in paragraph A above, if not furnished in kind by the cooperating government or the Mission, shall be paid to the contractor in a manner adapted to the local situation, based on vouchers submitted in accordance with General Provision Clause 11. The documentation for such costs shall be on such forms and in such manner as the Mission Director shall prescribe.

* If post differential is applicable to the assigned post, a contingency for the adjusted amount of differential resulting from compensation (pay comparability) adjustment should be included.

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

Article V--Precontract Expenses

No expense incurred before execution of this contract will be reimbursed unless such expense was incurred after receipt and acceptance of a precontract expense letter issued to the contractor by the Contracting Officer, and then only in accordance with the provisions and limitations contained in such letter. The rights and obligations created by such letter shall be considered as merged into this contract.

Article VI--Additional Clauses

(Additional Schedule Clauses may be added such as the implementation of General Provisions or Additional Clauses.)

11. Optional Schedule With U.S. Citizen or U.S. Resident Alien

A U.S. Citizen or a U.S. Resident Alien PSC Contract No. _____

TABLE OF CONTENTS (Optional Schedule)

(Use of the Optional Schedule is not mandatory. It is intended to serve as an alternate procedure for OE funded U.S. PSCs or U.S. Resident Alien PSCs. The Schedule is for use when the Contracting Officer anticipates incremental recurring cost funded contracts. Use of the Optional Schedule eliminates the need to amend the contract each time funds are obligated. However, the Contracting Officer is required to amend each contract not less than twice during a 12 month period to ensure that the contract record of obligations is up to date and agrees with the figures in the master funding document.)

The Schedule on pages _____ thru _____ consists of this Table of Contents and the following Articles:

Article I	--	Statement of Duties
Article II	--	Period of Service Overseas
Article III	--	Contractor's Compensation and Reimbursement in U.S. Dollars
Article IV	--	Costs Reimbursable and Logistic Support
Article V	--	Precontract Expenses
Article VI	--	Additional Clauses

GENERAL PROVISIONS:

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

1. Definitions
2. Laws and Regulations Applicable Abroad
3. Physical Fitness and Health Room Privileges
4. Workweek and Compensation (Pay Comparability Adjustments)
5. Leave and Holidays
6. Differential and Allowances
7. Social Security and Federal Income Tax
8. Advance of Dollar Funds
9. Insurance
10. Travel and Transportation Expenses
11. Payment
12. Conversion of U.S. Dollars of Local Currency
13. Post of Assignment Privileges
14. Security Requirements
15. Contractor-Mission Relationships
16. Termination
17. Release of Information
18. Notices
19. Reports
20. Use of Pouch Facilities

21. Biographical Data
22. Resident Hire PSC
23. Orientation and Language Training
24. Conditions for Contracting Prior to Receipt of Security Clearance
25. Medical Evacuation Services
26. Governing Law

For each tour of duty, attach the applicable General Provisions.

Article I--Statement of Duties.

(The statement of duties shall include:

- A. General statement of the purpose of the contract.
- B. Statement of duties to be performed.
- C. Any USAID consultation or orientation.)

Article II--Period of Service Overseas.

Within _____ days after written notice from the Contracting Officer that all clearances, including the doctor's statement of medical opinion required under General Provision Clause 3, have been received or unless another date is specified by the Contracting Officer in writing, the contractor shall proceed to _____ where he/she shall promptly commence performance of the duties specified above. The contractor's period of service overseas shall be approximately _____ in _____. (Specify time of duties in each location as well as authorized stopovers with purpose of each.)

Article III--Contractor's Compensation and Reimbursement in U.S. Dollars.

- A. Except to the extent reimbursement is payable in the currency of the Cooperating Country pursuant to Article IV, USAID shall pay the contractor compensation after it has accrued and reimburse him/her in U.S. dollars for necessary and reasonable costs actually incurred by him/her in the performance of this contract within the categories listed in paragraph C, below, and subject to the conditions and limitations applicable thereto as set out herein and in the attached General Provisions (GP).
- B. The amount budgeted and available as personal compensation to the contractor is calculated to cover a calendar period of approximately _____ (days) (weeks) (months) (years) which is to include:
 1. Vacation, sick, and home leave which may be earned during the contractor's tour of duty (GP Clause 5);
 2. _____ days for authorized travel (GP Clause 10); and
 3. _____ days for orientation and consultation in the United States (GP Clause 23).
- C. Allowable Costs:
 1. The following illustrative budget details allowable costs under this contract and provides estimated incremental recurrent cost funding in the total amount shown. Additional funds for the full term of this contract will be provided by the preparation of a master PSC funding document issued by the Mission Controller for the purpose of providing additional funding for a specific period. The master PSC funding document will be attached to this contract and will form a part of the executed contract while also serving to amend the budget.
 2. Compensation at the rate of \$ _____ per (year)(month)(week)(day). Adjustments in compensation (pay) for periods when the contractor is not in compensable pay status shall be calculated as follows:

Rate of \$ _____ per (day) (hour).

Contingency for Compensation (Pay Comparability Adjustments.) \$ _____
Annual Salary increase (3%) \$ _____

3. Overtime (Unless specifically authorized in the Schedule of this contract, no overtime hours shall be allowed hereunder.) \$_____
- * 4. Overseas Differential (Ref. GP Clause No. 6.)
Rate \$_____ and Contingency \$_____ = Total \$_____.
- ** 5. Allowances in Cooperating Country (Ref. GP Clause 6.) \$_____.
- ** 6. Travel and Transportation (Ref. GP Clause 10.) (Includes the value of GTRs furnished by the Government, not payable to contractor).
a. United States \$_____
- b. International \$_____
- c. Cooperating and Third Country \$_____
- Subtotal Item 6 \$_____
- ** 7. Subsistence or Per Diem (Ref. GP Clause 10.)
a. United States \$_____
- b. International \$_____
- c. Cooperating and Third Country \$_____
- Subtotal Item 7 \$_____
- ** 8. Other Direct Costs
a. Health and Life Insurance (Ref. GP Clause 9.) \$_____
- b. Precontract Costs, passport, visa, inoculations, etc. (Ref. GP Clause 8.) \$_____
- c. Physical Examination (Ref. GP Clause 3.) \$_____
- d. Communications, Miscellaneous \$_____
- Subtotal Item 8 \$_____
9. F.I.C.A.—U.S.G. contribution (not payable to contractor). \$_____
- D. Maximum U.S.-Dollar Obligation: In no event shall the maximum U.S.-dollar obligation under this contract exceed \$_____.
- E. Salary changes and personnel-related contract actions will be made by processing the same forms as used in making such changes and actions for direct-hire employees. When issued by the Contracting Officer, the forms utilized will be attached to the contract and will form a part of the contract terms and conditions.
- * If post differential is applicable to the assigned post, a contingency for the adjusted amount of differential resulting from compensation (pay comparability) adjustment should be included.
- ** Do not include the value of any costs to be paid or reimbursed in local currency.
- F. Any adjustment or increase in the compensation granted to direct-hire employees will be allowed for in PSCs subject to the availability of funds. Such an adjustment will be effected by a mass pay adjustment notice from the Contracting Officer, which will be attached to the contract and form a part of the executed contract.
- G. At the end of each year of satisfactory service, PSC contractors will be eligible to receive an increase equal to 3% pending availability of funds provided their services have been satisfactory. Such increase will be effected by the execution of an SF-1126, payroll change slip which is to be attached to each contract and each action forms a part of the official contract file.

- H. The master PSC funding document may not exceed the term or estimated total cost of this contract. Notwithstanding that additional funds are obligated under this contract through the issuance and attachment of the master PSC funding document, all other contract terms and conditions remain in full effect.

Article IV—Costs Reimbursable and Logistic Support

- A. General: The contractor shall be provided with or reimbursed in local currency (_____) for the following:

[Complete]

- B. Method of Payment of Local Currency Costs: Those contract costs which are specified as local currency costs in paragraph A above, if not furnished in kind by the cooperating government or the Mission, shall be paid to the contractor in a manner adapted to the local situation, based on vouchers submitted in accordance with General Provision Clause 12. The documentation for such costs shall be on such forms and in such manner as the Mission Director shall prescribe.

Article V—Precontract Expenses

No expense incurred before execution of this contract will be reimbursed unless such expense was incurred after receipt and acceptance of a precontract expense letter issued to the contractor by the Contracting Officer, and then only in accordance with the provisions and limitations contained in such letter. The rights and obligations created by such letter shall be considered as merged into this contract.

Article VI—Additional Clauses

(Additional Schedule Clauses may be added such as the implementation of General Provisions or Additional Clauses.)

12. General Provisions

Contract With a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

The following clauses are to be used (when applicable), for both tours of duty of less than 1 year as well as 1 year or more.

INDEX OF CLAUSES

1. Definitions
2. Compliance with Laws and Regulations Applicable Abroad
3. Physical Fitness and Health Room Privileges
4. Workweek and Compensation (Pay Comparability Adjustments)
5. Leave and Holidays
6. Differential and Allowances
7. Social Security, Federal Income Tax, and Foreign Earned Income
8. Advance of Dollar Funds
9. Insurance
10. Travel and Transportation Expenses
11. Payment
12. Conversion of U.S. Dollars to Local Currency
13. Post of Assignment Privileges
14. Security Requirements
15. Contractor-Mission Relationships
16. Termination
17. Release of Information
18. Notices
19. Reports

- 20. Use of Pouch Facilities
- 21. Biographical Data
- 22. U.S. Resident Hire Personal Services Contractor
- 23. Orientation and Language Training
- 24. Conditions for Contracting Prior to Receipt of Security Clearance
- 25. Medical Evacuation (MEDEVAC) Services
- 26. Governing Law

1. DEFINITIONS (June 1990)

- (a) **"USAID"** shall mean the Agency for International Development.
- (b) **"Administrator"** shall mean the Administrator or the Deputy Administrator of USAID.
- (c) **"Contracting Officer"** shall mean a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.
- (d) **"Contractor"** shall mean the individual engaged to serve under this contract.
- (e) **"Cooperating Country"** shall mean the foreign country in or for which services are to be rendered hereunder.
- (f) **"Cooperating Government"** shall mean the government of the Cooperating Country.
- (g) **"Government"** shall mean the United States Government.
- (h) **"Local currency"** shall mean the currency of the Cooperating Country.
- (i) **"Mission"** shall mean the United States USAID Mission, or principal USAID office, in the Cooperating Country, or USAID/Washington (USAID/W).
- (j) **"Mission Director"** shall mean the principal officer in the Mission in the Cooperating Country, or his/her designated representative.
- (k) **"Technical Officer"** shall mean the USAID official to whom the contractor reports, and who is responsible for monitoring the contractor's performance.
- (l) **"Tour of duty"** shall mean the contractor's period of service under this contract and shall include orientation in the United States (less language training), authorized leave, and international travel.
- (m) **"Traveler"** shall mean--
 - (1) The contractor in authorized travel status or
 - (2) Dependents of the contractor who are in authorized travel status.
- (n) **"Dependents"** means:
 - (1) Spouse.
 - (2) Children (including step and adopted children) who are unmarried and under 21 years of age or, regardless of age, are incapable of self-support.
 - (3) Parents (including step and legally adoptive parents) of the employee or of the spouse, when such parents are at least 51 percent dependent on the contractor for support.
 - (4) Sisters and brothers (including step or adoptive sisters or brothers) of the contractor, or of the spouse, when such sisters and brothers are at least 51 percent dependent

on the contractor for support, unmarried and under 21 years of age, or regardless of age, are incapable of self-support.

- (o) **"U.S. Resident Alien"**, as used in this contract, shall mean an alien immigrant, legally resident in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States, and having a valid "Alien Registration and Receipt Card" (Immigration and Naturalization Service forms I-151 or I-551).
- (p) **"U.S. Resident Hire Personal Services Contractor" ("PSC")** means a U.S. citizen who, at the time of hiring as a PSC, resides in the Cooperating Country:
 - (1) As a spouse or dependent of a U.S. citizen employed by a U.S. Government Agency or under any U.S. Government-financed contract or agreement, or
 - (2) For reasons other than for employment with a U.S. Government Agency or under any U.S. Government-financed contract or agreement. A U.S. citizen for purposes of this definition also includes a person who at the time of contracting, is a lawfully admitted permanent resident of the United States.

2. COMPLIANCE WITH LAWS AND REGULATIONS APPLICABLE ABROAD (July 1993)

- (a) **Conformity to Laws and Regulations of the Cooperating Country.** Contractor agrees that, while in the cooperating country, he/she as well as authorized dependents will abide by all applicable laws and regulations of the cooperating country and political subdivisions thereof.
- (b) **Purchase or Sale of Personal Property or Automobiles.** To the extent permitted by the cooperating country, the purchase, sale, import, or export of personal property or automobiles in the cooperating country by the contractor shall be subject to the same limitations and prohibitions which apply to Mission U.S.-citizen direct-hire employees.
- (c) **Code of Conduct.** The contractor shall, during his/her tour of duty under this contract, be considered an "employee" (or if his/her tour of duty is for less than 130 days, a "special Government employee") for the purposes of, and shall be subject to, the provisions of 18 U.S.C. 202(a) and the USAID General Notice entitled "Employee Review of the New Standards of Conduct" pursuant to 5 CFR part 2635. The contractor acknowledges receipt of a copy of these documents by his/her acceptance of this contract.

3. PHYSICAL FITNESS AND HEALTH ROOM PRIVILEGES (Apr 1997)

(a) Physical Fitness.

- (1) For all assignments outside of the United States the contractor and any authorized dependents shall be required to be examined by a licensed doctor of medicine, and the contractor shall obtain from the doctor a statement of medical opinion that, in the doctor's opinion, the contractor is physically able to engage in the type of activity for which he/she is to be employed under the contract, and the contractor and any dependents are physically able to reside in the Cooperating Country. A copy of the statement(s) shall be provided to the Contracting Officer prior to the contractor's departure for the Cooperating Country, or for a U.S. resident hire, before he/she starts work under the contract.
- (2) For assignments of 60 days or more in the Cooperating Country, the Contracting Officer shall provide the contractor and all authorized dependents copies of the "USAID Contractor Employee Physical Examination Form". This form is for collection of information; it has been reviewed and approved by OMB, and assigned Control No. 0412-0536. Information required by the Paperwork Reduction Act (burden estimate, points of contract, and OMB approval expiration date) is printed on the

form. The contractor and all authorized dependents shall obtain a physical examination from a licensed physician, who will complete the form for each individual. The contractor will deliver the physical examination form(s) to the Embassy health unit in the Cooperating Country. A copy of the doctor's statement of medical opinion at the end of the form which identifies the contractor or dependent by name may be used to meet the requirement in (a)(1) above.

- (3) For end-of-tour the contractor and his/her authorized dependents are authorized physical examinations within 60 days after completion of the contractor's tour-of-duty.

(b) Reimbursement.

- (1) As a contribution to the cost of medical examinations required by paragraph (a)(1) of this clause, USAID shall reimburse the contractor not to exceed \$100 for each physical examination, plus reimbursement of charges for immunizations.
- (2) As a contribution to the cost of medical examinations required by paragraph (a)(2) of this clause the contractor shall be reimbursed in an amount not to exceed half of the cost of the examination up to a maximum USAID share of \$300 per examination plus reimbursement of charges for immunizations for himself/herself and each authorized dependent 12 years of age or over. The USAID contribution for authorized dependents under 12 years of age shall not exceed half of the cost of the examination up to a maximum share of \$120 per individual plus reimbursement of charges for immunizations. The contractor must obtain the prior written approval of the Contracting Officer to receive any USAID obligations higher than these limits.

- (c) **Health Room Privileges.** Routine health room services may be available, subject to post policy and in accordance with the requirements of paragraph (a) of this clause, to U.S. citizen contractors and their authorized dependents (regardless of citizenship) at the post of duty. These services do not include hospitalization or predeparture examinations. The services normally include such medications as may be available, immunizations and preventive health measures, diagnostic examinations and advice, and home visits as medically indicated. Emergency medical treatment is provided to U.S. citizen contractor employees and dependents, whether or not they may have been granted access to routine health room services, on the same basis as it would be to any U.S. citizen in an emergency medical situation in the country.

4. WORKWEEK AND COMPENSATION (PAY COMPARABILITY ADJUSTMENTS) (Dec 1985)

- (a) **Workweek.** The contractor's workweek shall not be less than 40 hours, unless otherwise provided in the Contract Schedule, and shall coincide with the workweek for those employee of the Mission or the Cooperating Country agency most closely associated with the work of this contract. If the contract is for less than full time (40 hours weekly), the annual and sick leave earned shall be prorated (see the General Provision of this contract entitled Leave and Holidays).
- (b) **Compensation (Pay Comparability) Adjustments.** The contractor's compensation shall be adjusted to reflect the pay comparability adjustments which are granted from time to time to U.S. direct-hire employees by Executive Order for the statutory pay systems. Any adjustments authorized are subject to the availability of funds and shall not exceed that percentage stated in the Executive Order granting the adjustment. Further, the adjusted compensation may not exceed the maximum ES-6 annual compensation (or the equivalent daily rate).

5. LEAVE AND HOLIDAYS (APR 1997)

(a) Vacation Leave.

- (1) The contractor shall earn vacation leave at the rate of 13 workdays per annum or 4 hours every 2 weeks. However, no vacation shall be earned if the tour of duty is less than 90 days.**
- (2) Notwithstanding paragraph (a)(1) above, if the contractor has had previous PSC service (i.e., has served under other personal services contracts (PSCs) covered by Sec. 636(a)(3) of the FAA), he/she shall earn vacation leave at the rate of either 6 hours every two weeks (10 hours for the final pay period of a calendar year) cumulative PSC service exceeding 3 years, or 8 hours every two weeks for cumulative PSC service exceeding 15 years. Former Civil Service, Foreign Service, or a Military Service experience is not creditable towards PSC service for annual leave purposes.**
- (3) It is understood that vacation leave is provided under this contract primarily for the purposes of affording necessary rest and recreation during the tour of duty in the Cooperating Country. The Contractor in consultation with the USAID Mission shall develop a vacation leave schedule early in his/her tour of duty taking into consideration project requirements, employee preference and other factors. All vacation leave earned by the contractor must be used during his/her tour of duty. All vacation leave earned by the contractor but not taken by the end of his/her tour of duty will be forfeited unless the requirements of the activity precluded the employee from taking such leave and the Contracting Officer, with the endorsement of the Mission Director, approves one of the following as an alternative:
 - (i) Taking leave during the concluding weeks of the employee's tour, or**
 - (ii) Lump-sum payment for leave not taken provided such leave does not exceed the number of days which can be earned by the employee during a twelve month period.****
- (4) With the approval of the Mission Director, and if the circumstances warrant, a contractor may be granted advance vacation leave in excess in that earned, but in no case shall a contractor be granted advance vacation leave in excess of that which he/she will earn over the life of the contract. The contractor agrees to reimburse USAID for leave used in excess of the amount earned during the contractor's assignment under the contract.**

- (b) Sick Leave.** Sick leave is earned at a rate not to exceed 13 work-days per annum or 4 hours every 2 weeks. Unused sick leave may be carried over under an extension of this contract for the same or similar services at the same Mission, but the contractor will not be compensated for unused sick leave at the completion of this contract. No leave may be carried over from one post to another.

(c) Home Leave.

- (1) Home leave is leave earned for service abroad for use only in the United States, in the Commonwealth of Puerto Rico, or in the possessions of the United States.**
- (2) A contractor who is a U.S. citizen or U.S. resident alien and has served as least 2 years overseas, as defined in paragraph (c)(4) below, under personal services contract in this Mission, and has not taken more than 30 workdays leave (vacation, sick, or leave without pay) in the United States, may be granted home leave of not more than 15 work days for each such year of service overseas; provided, that the contractor agrees to return overseas upon completion of home leave under an additional 2 year appointment, or for such shorter period of not less than 1 year of overseas service**

under the contract as the Mission Director may approve in advance. Home leave must be taken in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States, and any days spent elsewhere will be charged to vacation leave or leave without pay.

- (3) Notwithstanding the requirement in paragraph (c)(2) above that the contractor must have served 2 years overseas under personal services contract with this Mission to be eligible for home leave, the contractor may be granted advance home leave subject to all of the following conditions:
- (i) Granting of leave home leave would in each case serve to advance the attainment of the objectives of this contract;
 - (ii) The contractor has served a minimum of 18 months in the Cooperating Country on his/her current tour of duty under this contract; and
 - (iii) The contractor agrees to return to the Cooperating Country to serve out the remainder of his/her current tour of duty and an additional 2 year appointment under this or subsequent contract, or such other additional appointment of not less than 1 year of overseas service as the Mission Director may approve.
- (4) The period of service overseas required under paragraph (c)(2), or paragraph (c)(3) above, shall include the actual days in orientation in the United States (less language training) and the actual days overseas beginning on the date of departure from the U.S. port of embarkation on international travel and continuing, inclusive of authorized delays enroute, to the date of arrival at the U.S. port of debarkation from international travel. Allowable vacation and sick leave taken while overseas, but not leave without pay, shall be included in the required period of service overseas. An amount equal to the number of days of vacation and sick leave taken in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States will be added to the required period of service overseas.
- (5) Salary during the travel to and from the United States for home leave will be limited to the time required for travel by the most expeditious air route. The contractor will be responsible for reimbursing USAID for payments made during home leave, if, in spite of the undertaking of the new appointment, the contractor, except for reasons beyond his/her control as determined by the Contracting Officer, does not return overseas and complete the additional required service. Unused home leave is not reimbursable under this contract.
- (6) To the extent deemed necessary by the Contracting Officer, a contractor in the United States on home leave may be authorized to spend not more than 5 days in work status for consultation at USAID/Washington before returning to post duty. Consultation at locations other than USAID/Washington as well as any time in excess of 5 days spent for consultation, must be approved by the Mission Director or the Contracting Officer.
- (d) **Holidays.** The contractor, while serving abroad, shall be entitled to all holidays granted by the Mission to U.S.-citizen direct-hire employees.
- (e) **Military Leave.** Military leave of not more than 15 calendar days in any calendar year may be granted to a contractor who is a reservist of the Armed Forces, provided that military leave has been approved in advance by the Contracting Officer or the Mission Director. A copy of any such approval shall be part of the contract file.
- (f) **Leave Without Pay.** Leave without pay may be granted only with the written approval of the Contracting Officer or Mission Director.

- (g) **Compensatory Time.** Compensatory leave may be granted only with the written approval of the Contracting Officer or Mission Director in rare instances when it has been determined absolutely essential and used under those guidelines which apply to direct-hire employees.
- (h) **Leave Records.** The contractor shall maintain current leave records for himself/herself and make them available, as requested by the Mission Director or the Contracting Officer.

6. DIFFERENTIAL AND ALLOWANCES (June 1990)

- (a) The following differential and allowances will be granted to the contractor and his/her authorized dependents to the same extent and on the same basis as they are granted to U.S. citizen direct-hire employees at the Mission by the Standardized Regulations (Government Civilians, Foreign Areas), as from time to time amended, except as noted to the contrary below:

Applicable Reference to Standardized Regulations

- (1) Post Differential..... Chapter 500 and Tables in Chapter 900.
 - (2) Living Quarters Allowance..... Section 130.
 - (3) Temporary Lodging Allowance..... Section 120.
 - (4) Post Allowance..... Section 220.
 - (5) Supplemental Post Allowance..... Section 230.
 - (6) Payments During Evacuation..... Section 600.
 - (7) Education Allowance..... Section 270.
 - (8) Separate Maintenance Allowance..... Section 260.
 - (9) Danger Pay Allowance..... Section 650.
 - (10) Education Travel..... Section 280.
- (1) **Post Differential.** Post differential is an additional compensation for service at places in foreign areas where conditions of environment differ substantially from conditions of environment in the continental United States and warrant additional compensation as a recruitment and retention incentive. In areas where post differential is paid to USAID direct-hire employees, post differential not to exceed the percentage of salary as is provided such USAID employees in accordance with the Standardized Regulations (Government Civilians, Foreign Areas) Chapter 500 (except the limitation contained in Section 552, "Ceiling on Payment") Tables—Chapter 900, as from time to time amended, will be reimbursable hereunder for employees in respect to amounts earned during the time such employees actually spend overseas on work under this contract. When such post differential is provided to the contractor, it shall be payable beginning on the date of arrival at the post of assignment and continue, including periods away from post on official business, until the close of business on the day of departure from post of assignment enroute to the United States. Sick or vacation leave taken at or away from the post of assignment will not interrupt the continuity of the assignment or require a discontinuance of such post differential payments, provided such leave is not taken within the United States or the territories of the United States. Post differential will not be payable while the employee is away from his/her post of assignment for purposes of home leave. Short-term employees shall be entitled to pose differential beginning with the forty-third (43rd) day at post.
 - (2) **Living Quarters Allowance.** Living quarters allowance is an allowance granted to reimburse an employee for substantially all of his/her cost for either temporary or residence quarters whenever Government-owned or Government-rented quarters are not provided to him/her at his/her post without charge. Such costs are those incurred for temporary lodging (temporary lodging allowance) or one unit of residence quarters (living quarters allowance) and include rent, plus any costs not included therein for

heat, light, fuel, gas, electricity and water. The temporary lodging allowance and the living quarters allowance are never both payable to an employee for the same period of time. The contractor will receive living quarters allowance for payment of rent and utilities if such facilities are not supplied. Such allowance shall not exceed the amount paid USAID employees of equivalent rank in the Cooperating Country, in accordance with either the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 130, as from time to time amended, or other rates approved by the Mission Director. Subject to the written approval of the Mission Director, short-term employees may be paid per diem (in lieu of living quarters allowance) at rates prescribed by the Federal Travel Regulations, as from time to time amended, during the time such short-term employees spend at posts of duty in the Cooperating Country under this contract. In authorizing such per diem rates, the Mission Director shall consider the particular circumstances involved with respect to each such short-term employee including the extent to which meals and/or lodging may be made available without charge or at nominal cost by an agency of the United States Government or of the Cooperating Government, and similar factors.

- (3) Temporary Lodging Allowance.** Temporary lodging allowance is a quarters allowance granted to an employee for the reasonable cost of temporary quarters incurred by the employee and his/her family for a period not in excess of (i) three months after first arrival at a new post in a foreign area or a period ending with the occupation of residence (permanent) quarters, if earlier, and (ii) one month immediately preceding final departure from the post subsequent to the necessary vacating of residence quarters. The contractor will receive temporary lodging allowance for himself/herself and authorized dependents, in lieu of living quarters allowance, not to exceed the amount set forth in the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 120, as from time to time amended.
- (4) Post Allowance.** Post allowance is a cost-of-living allowance granted to an employee officially stationed at a post where the cost of living, exclusive of quarters cost, is substantially higher than in Washington, D.C. The contractor will receive post allowance payments not to exceed those paid USAID employees in the Cooperating Country, in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 220, as from time to time amended.
- (5) Supplemental Post Allowance.** Supplemental post allowance is a form of post allowance granted to an employee at his/her post when it is determined that assistance is necessary to defray extraordinary subsistence costs. The contractor will receive supplemental post allowance payments not to exceed the amount set forth in the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 230, as from time to time amended.
- (6) Payments During Evacuation.** The Standardized Regulations (Government Civilians, Foreign Areas) provide the authority for efficient, orderly, and equitable procedure for the payment of compensation, post differential and allowances in the event of an emergency evacuation of employees or their dependents, or both, from duty stations for military or other reasons or because of imminent danger to their lives. If evacuation has been authorized by the Mission Director, the contractor will receive payments during evacuation for himself/herself and authorized dependents evacuated from their post of assignment in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 600, and the Federal Travel Regulations, as from time to time amended.
- (7) Educational Allowance.** Educational allowance is an allowance to assist the contractor in meeting the extraordinary and necessary expenses, not otherwise

compensated for, incurred by reason of his/her service in a foreign area in providing adequate elementary and secondary education for his/her children. The contractor will receive educational allowance payments for his/her dependent children in amounts not to exceed those set forth in Standardized Regulations (Government Civilians, Foreign Areas), Chapter 270, as from time to time amended.

- (8) Separate Maintenance Allowance.** Separate maintenance allowance is an allowance to assist an employee who is compelled by reason of dangerous, notably unhealthful, or excessively adverse living conditions at his/her post of assignment in a foreign area, or for the convenience of the Government, to meet the additional expense of maintaining his/her dependents elsewhere than at such post. The contractor will receive separate maintenance allowance payments not to exceed that made to USAID employees in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 260, as from time to time amended.
- (9) Danger Pay Allowance.** Danger pay allowance is an allowance to provide additional compensation above basic compensation to employees in foreign areas where civil insurrection, civil war, terrorism or wartime conditions threaten physical harm or imminent danger to the health or well-being of the employee. The danger pay allowance is in lieu of that part of the post differential which is attributable to political violence. Consequently, the post differential may be reduced while danger pay is in effect to avoid dual crediting for political violence. The contractor shall be allowed danger pay allowance not to exceed that paid USAID employees in the Cooperating Country, in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 650, as from time to time amended.
- (10) Educational Travel.** Educational travel is travel to and from a school in the United States for secondary education (in lieu of an educational allowance) and for college education. The contractor will receive educational travel payments for his/her dependent children provided such payment does not exceed that which would be payable in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 280, as from time to time amended. Educational travel shall not be authorized for contractors whose assignment is less than two years.

- (b)** The allowances provided in paragraphs (a) (1) through (10) of this provision shall be paid to the contractor in dollars or in the currency of the Cooperating Country in accordance with practice prevailing at the Mission, or the Mission Director may direct that the contractor be paid a per diem in lieu thereof as prescribed by the Standardized Regulations (Government Civilians, Foreign Areas), as from time to time amended.

7. SOCIAL SECURITY, FEDERAL INCOME TAX, AND FOREIGN EARNED INCOME (June 1990)

- (a)** Since the contractor is an employee, F.I.C.A. contributions and U.S. Federal Income Tax withholding shall be deducted in accordance with regulations and rulings of the Social Security Administration and the U.S. Internal Revenue Service, respectively.
- (b)** As an employee, the contractor is not eligible for the "foreign earned income" exclusion under the IRS Regulations (see 26 CFR 1.911-3(c)(3)).

8. ADVANCE OF DOLLAR FUNDS (Apr 1997)

If requested by the contractor and authorized in writing by the Contracting Officer, USAID will arrange for an advance of funds to defray the initial cost of travel, travel allowances, authorized precontract expenses, and shipment of personal property. The advance shall be granted on the

same basis as to a USAID U.S.-citizen direct-hire employee in accordance with USAID Handbook 22, Chapter 4 or superseding ADS Chapter.

9. INSURANCE (Apr 1997)

- (a) Worker's Compensation Benefits.** The contractor shall be provided worker's compensation benefits in accordance with the Federal Employees' Compensation Act.
- (b) Health and Life Insurance.**
- (1)** The contractor shall be provided a maximum contribution of up to 50% against the actual costs of the contractor's annual health insurance costs, provided that such costs may not exceed the maximum U.S. Government contribution for direct-hire personnel as announced annually by the Office of Personnel Management.
 - (2)** The contractor shall be provided a contribution of up to 50% against the actual costs of annual life insurance not to exceed \$500.00 per year.
 - (3)** Retired U.S. Government employees shall not be paid additional contributions for health or life insurance under their contracts. The Government will normally have already paid its contribution for the retiree unless the employee can prove to the satisfaction of the Contracting Officer that his/her health and life insurance does not provide or specifically excludes coverage overseas. In such case, the contractor would be eligible for contributions under paragraphs (b)(1) or (2) as appropriate.
 - (4)** Proof of health and life insurance coverage shall be submitted to the Contracting Officer before any contribution is paid. On assignments of less than one year, costs for health and life insurance shall be prorated and paid accordingly.
 - (5)** A contractor who is a spouse of a current or retired Civil Service, Foreign Service, or Military Service member and who is covered by their spouse's Government health or life insurance policy is ineligible for the contribution under paragraphs (b)(1) or (b)(2) of this provision.
- (c) Insurance on Private Automobiles.** If the contractor or his/her dependents transport, or cause to be transported, privately owned automobile(s) to the Cooperating Country, or any of them purchase an automobile within the Cooperating Country, the contractor agrees to ensure that all such automobile(s) during such ownership within the Cooperating Country will be covered by a current, i.e., not in arrears, insurance policy issued by a reliable company providing the following minimum coverage, or such other minimum coverage as may be set by the Mission Director, payable in U.S. dollars or its equivalent in the currency of the Cooperating Country: injury to persons, \$10,000/\$20,000; property damage, \$5,000. The contractor further agrees to deliver, or cause to be delivered to the Mission Director, the insurance policies required by this clause or satisfactory proof of the existence thereof, before such automobile(s) operated within the Cooperating Country. The premium costs for such insurance shall not be a reimbursable cost under this contract.

10. TRAVEL AND TRANSPORTATION EXPENSES (July 1993)

(a) General.

- (1)** USAID/Washington Office of Administrative Services, or such other office as may be designated by that office, may furnish Transportation Requests (TR's) to the contractor for transportation authorized by this contract originating in the United States, and the executive or administrative officer at the Mission may furnish TR's for such authorized

transportation which is payable in local currency or is to originate overseas. When transportation is not provided by the Government-issued TR, the contractor shall procure his/her own transportation, the costs of which will be reimbursed in accordance with the terms of this contract.

- (2) The contractor will be reimbursed for reasonable, allocable and allowable travel and transportation expenses incurred under and for the performance of this contract. Determination of reasonableness, allocability and allowability will be made by the Contracting Officer in accordance with USAID's established policies and procedures for USAID direct-hire employees, and the particular needs of the activity being implemented by this contract. The following paragraphs provide specific guidance and limitations on particular items of cost.

- (b) **U.S. Travel and Transportation.** The contractor shall be reimbursed for actual transportation costs and travel allowances in the United States as authorized in the Contract Schedule or approved in advance by the Contracting Officer or the Mission Director. Transportation costs and travel allowances shall not be reimbursed in any amount greater than the cost of, and time required for, Economy-class commercially scheduled air travel by the most expeditious route except as otherwise provided in paragraph (g) of this provision unless economy air travel is not available and the contractor certifies to this in his/her voucher or other documents submitted for reimbursement.
- (c) **International Travel.** For travel to and from post of assignment, the contractor shall be reimbursed for travel costs and travel allowances from place of residence in the United States (or other location provided that the cost of such travel does not exceed the cost of the travel from the contractor's residence in the United States) to the post of duty in the Cooperating Country and return to place of residence in the United States (or other location provided that the cost of such travel does not exceed the cost of travel from the post of duty in the Cooperating Country to the contractor's residence) upon completion of services by the individual. Reimbursement for travel will be in accordance with USAID's established policies and procedures for its direct-hire employees and the provisions of this contract, and will be limited to the cost of travel by the most direct and expeditious route. If the contract is for longer than one year and the contractor does not complete one full year at post of duty (except for reasons beyond his/her control), the costs of going to and from the post of duty for the contractor and his/her dependents are not reimbursable hereunder. If the contractor serves more than one year but less than the required service in the Cooperating Country (except for reasons beyond his/her control) the costs of going to the post of duty are reimbursable hereunder but the costs of going from post of duty to the contractor's permanent, legal place of residence at the time he or she was employed for work under this contract, or other location as approved by the Contracting Officer, are not reimbursable under this contract for the contractor and his/her dependents. When travel is by economy class accommodations, the contractor will be reimbursed for the cost of transporting up to 10 kilograms/22 pounds of accompanied personal baggage per traveler in addition to that regularly allowed with the economy ticket provided that the total number of pounds of baggage does not exceed that regularly allowed for first class travelers. Travel allowances for travelers shall not be in excess of the rates authorized in the Standardized Regulations (Government Civilians, Foreign areas)-hereinafter referred to as the Standardized Regulations—as from time to time amended, for not more than the travel time required by scheduled commercial air carrier using the most expeditious route. One stopover enroute for a period of not to exceed 24 hours is allowable when the traveler uses economy class accommodations for a trip of 14 hours or more of scheduled duration. Such stopover shall not be authorized when travel is by indirect route or is delayed for the convenience of the traveler. Per diem during such stopover shall be paid in accordance with the Federal Travel Regulations as from time to time amended.

- (d) Local Travel.** Reimbursement for local travel in connection with duties directly referable to the contract shall not be in excess of the rates established by the Mission Director for the travel costs of travelers in the Cooperating Country. In the absence of such established rates the contractor shall be reimbursed for actual travel costs in the Cooperating Country or the Mission, including travel allowances at rates not in excess of those prescribed by the Standardized Regulations.
- (e) Indirect Travel for Personal Convenience.** When travel is performed by an indirect route for the personal convenience of the traveler, the allowable costs of such travel will be computed on the basis of the cost of allowable air fare via the direct usually traveled route. If such costs include fares for air or ocean travel by foreign flag carriers, approval for indirect travel by such foreign flag carriers must be obtained from the Contracting Officer or the Mission Director before such travel is undertaken, otherwise only that portion of travel accomplished by the United States-flag carriers will be reimbursable within the above limitation of allowable costs.
- (f) Limitation on Travel by Dependents.** Travel costs and allowances will be allowed for authorized dependents of the contractor and such costs shall be reimbursed for travel from place of abode to assigned station in the Cooperating Country and returned, only if the dependent remains in the Cooperating Country for at least 9 months or one-half of the required tour of duty of the contractor, whichever is greater, except as otherwise authorized hereunder for education, medical or emergency visitation travel. If the dependent is eligible for educational travel pursuant to the "Differential and Allowances" clause of this contract, time spent away from post resulting from educational travel will be counted as time at post.
- (g) Delays Enroute.** The contractor may be granted reasonable delays enroute while in travel status when such delays are caused by events beyond the control of the contractor and are not due to circuitous routine. It is understood that if delay is caused by physical incapacitation, he/she shall be eligible for such sick leave as provided under the "Leave and Holidays" clause of this contract.
- (h) Travel by Privately Owned Automobile (POV).** If travel by POV is authorized in the contract schedule or approved by the Contracting Officer, the contractor shall be reimbursed for the cost of travel performed in his/her POV at a rate not to exceed that authorized in the Federal Travel Regulations plus authorized per diem for the employee and for each of the authorized dependents traveling in the POV, if the POV is being driven to or from the Cooperating Country as authorized under the contract, provided that the total cost of the mileage and the per diem paid to all authorized travelers shall not exceed the total constructive cost of fare and normal per diem by all authorized travelers by surface common carrier or authorized air fare, whichever is less.
- (i) Emergency and Irregular Travel and Transportation.** Emergency transportation costs and travel allowances while enroute, as provided in this section, will be reimbursed not to exceed amounts authorized by the Foreign Service Travel Regulations for USAID-direct hire employees in like circumstances under the following conditions:
- (1)** The costs of going from post of duty in the Cooperating Country to the employee's permanent, legal place of residence at the time he or she was employed for work under this contract or other location for contractor employees and dependents and returning to the post of duty, subject to the prior written approval of the Mission Director that such travel is necessary for one of the following reasons.
 - (i)** Need for medical care beyond that available within the area to which the employee is assigned, or serious effect on physical or mental health if residence is continued at assigned post of duty. The Mission Director may authorize a

medical attendant to accompany the employee at contract expense if, based on medical opinion, such an attendant is necessary.

- (ii) Death, or serious illness or injury of a member of the immediate family of the employee or the immediate family of the employee's spouse.
- (2) When, for any reason, the Mission Director determines it is necessary to evacuate the contractor or contractor's dependents, the contractor will be reimbursed for travel and transportation expenses and travel allowance while enroute, for the cost of the individuals going from post of duty in the Cooperating Country to the employee's permanent, legal place of residence at the time he or she was employed for work under this contract or other approved location. The return of such employees and dependents may also be authorized by the Mission Director when, in his/her discretion, he/she determines it is prudent to do so.
- (3) The Mission Director may also authorize emergency or irregular travel and transportation in other situations, when in his/her opinion, the circumstances warrant such action. The authorization shall include the kind of leave to be used and appropriate restrictions as to time away from post, transportation of personal and household effects, etc.
- (j) **Home Leave Travel.** To the extent that home leave has been authorized as provided in the "Leave and Holidays" clause of this contract, the cost of travel for home leave is reimbursable for travel costs and travel allowances of travelers from the post of duty in the Cooperating Country to place of residence in the United States (or other location provided that the cost of such travel does not exceed the cost of travel to the contractor's residence in the United States) and return to the post of duty in the Cooperating Country. Reimbursement for travel will be in accordance with the Uniform State/USAID/USIA Foreign Service Travel Regulations, as from time to time amended, and will be limited to the cost of travel by the most direct and expeditious route. Travel allowances for travelers shall be in accordance with the rates authorized in the Standardized Regulations as from time to time amended, for not more than the travel time required by scheduled commercial air carrier using the most expeditious route using economy class. One stopover enroute for a period of not to exceed 24 hours is allowable when the traveler uses economy class accommodations for a trip of 14 hours or more of scheduled duration. Such stopover shall not be authorized when travel is by indirect route or is delayed for the convenience of the traveler or the traveler uses other than economy class. Per diem during such stopover shall be paid in accordance with the Standardized Regulations.
- (k) **Rest and Recuperation Travel.** If approved in writing by the Mission Director, the contractor and his/her dependents shall be allowed rest and recuperation travel on the same basis as authorized USAID direct-hire Mission employees and their dependents.
- (l) **Transportation of Motor Vehicles, Personal Effects and Household Goods.**
 - (1) Transportation costs will be paid on the same basis as for USAID direct-hire employees serving the same length tour of duty, as authorized in the schedule. Transportation, including packing and crating costs, will be paid for shipping from the point of origin in the United States (or other location as approved by the Contracting Officer) to post of duty in the Cooperating Country and return to point of origin in the United States (or other location as approved by the Contracting Officer) of one privately-owned vehicle for the contractor, personal effects of the contractor and authorized dependents, and household goods of the contractor not to exceed the limitations in effect for such shipments for USAID direct-hire employees in accordance with the Foreign Service Travel Regulations in effect at the time shipment is made. These limitations may be obtained from the Contracting Officer.

- (2) The cost of transporting motor vehicles and household goods shall not exceed the cost of packing, crating, and transportation by surface common carrier. In the event that the carrier does not require boxing or crating of motor vehicles for shipment to the Cooperating Country, the cost of boxing or crating is not reimbursable. The transportation of a privately owned motor vehicle for a contractor may be authorized as a replacement of the last such motor vehicle shipped under this contract for such contractor when the Mission Director determines, in advance, and so notifies the contractor in writing, that the replacement is necessary for reasons not due to the negligence or malfeasance of the contractor. The determination shall be made under the same rules and regulations that apply to authorized Mission U.S. citizen direct-hire employees.
- (m) **Unaccompanied Baggage.** Unaccompanied baggage is considered to be those personal belongings needed by the traveler immediately upon arrival of the contractor and dependents, and consideration should be given to advance shipments of unaccompanied baggage. The contractor will be reimbursed for costs of shipment of unaccompanied baggage (in addition to the weight allowance for household effects) not to exceed the limitations in effect for USAID direct-hire employees in accordance with the Foreign Service Travel Regulations as in effect when shipment is made. These limitations are available from the Contracting Officer. This unaccompanied baggage may be shipped as air freight by the most direct route between authorized points of origin and destination regardless of the modes of travel used. This provision is applicable to home leave travel when authorized by the terms of this contract.
- (n) **International Ocean Transportation.**
- (1) (i) **Transportation of things.** Where U.S. flag vessels are not available, or their use would result in a significant delay, the contractor may obtain a release from the requirement to use U.S. flag vessels from the Transportation Division, Office of Procurement, U.S. Agency for International Development, Washington, D.C. 20523-1419, or the Mission Director, as appropriate, giving the basis for the request.
(ii) **Transportation of persons.** Where U.S. flag vessels are not available, or their use would result in a significant delay, the contractor may obtain a release from the requirement to use U.S. flag vessels from the Contracting Officer or the Mission Director, as appropriate.
- (2) **Transportation of foreign-made vehicles.** Reimbursement of the costs of transporting a foreign-made motor vehicle will be made in accordance with the provisions of the Foreign Service Travel Regulations.
- (3) **Reduced rates on U.S.-flag carriers** are in effect for shipments of household goods and personal effects of USAID contractors between certain locations. These reduced rates are available provided the shipper furnishes to the carrier at the time of the issuance of the Bill of Lading documentary evidence that the shipment is for the account of USAID. The Contracting Officer will, on request, furnish to the contractor current information concerning the availability of a reduced rate with respect to any proposed shipment. The contractor will not be reimbursed for shipments of household goods or personal effects in amounts in excess of the reduced rates which are available in accordance with the foregoing.
- (o) **Storage of household effects.** The cost of storage charges (including packing, crating and drayage costs) in the U.S. of household goods of the contractor will be permitted in lieu of transportation of all or any part of such goods to the Cooperating Country under paragraph (i) above provided that the total amount of effects shipped to the Cooperating Country or stored in the U.S. shall not exceed the amount authorized for USAID direct-hire

employees under the Uniform Foreign Service Travel Regulations. These amounts are available from the Contracting Officer.

11. PAYMENT (Aug 1996)

- (a) Once each month, or at more frequent intervals, if approved by the paying office indicated on the Cover Page, the contractor may submit to such office form SF 1034 "Public Voucher for Purchases and Services Other Than Personal" (original) and SF 1034-A (three copies), or whatever other form is locally required or accepted. Each voucher shall be identified by the USAID contract number and properly executed in the amount of dollars claimed during the period covered. The voucher forms shall be supported by:
- (1) The contractor's detailed invoice, in original and two copies, indicating for each amount claimed the paragraph of the contract under which payment is to be made, supported when applicable as follows:
 - (i) For compensation—a statement showing period covered, days worked, and days when contractor was in authorized travel, leave, or stopover status for which compensation is claimed. All claims for compensation will be accompanied by, or will incorporate, a certification signed by the Project Officer covering days or hours worked, or authorized travel or leave time for which compensation is claimed.
 - (ii) For travel and transportation—a statement of itinerary with attached carrier's receipt and/or passenger's coupons, as appropriate.
 - (iii) For reimbursable expenses—an itemized statement supported by original receipts.
 - (2) The first voucher submitted shall account for, and liquidate the unexpended balance of any funds advanced to the contractor.
- (b) A final voucher shall be submitted by the contractor promptly following completion of the duties under this contract but in no event later than 120 days (or such longer period as the Contracting Officer may in his/her discretion approve in writing) from the date of such completion. The contractor's claim, which includes his/her final settlement of compensation, shall not be paid until after the performance of the duties required under the terms of this contract has been approved by USAID. On receipt and approval of the voucher designated by the contractor as the "final voucher" submitted on Form SF 1034 (original) and SF 1034-A (three copies), together with a refund check for the balance remaining on hand of any funds which may have been advanced to the contractor, the Government shall pay any amounts due and owing the contractor.
- (c) If approved by the paying office time and attendance may be submitted for PSCs in the same manner as is approved for direct-hire personnel.

12. CONVERSION OF U.S. DOLLARS TO LOCAL CURRENCY (Dec 1985)

Upon arrival in the Cooperating Country, and from time to time as appropriate, the contractor shall consult with the Mission Director or his/her authorized representative who shall provide, in writing, the policy the contractor shall follow in the conversion of U.S. dollars to local currency. This may include, but not be limited to the conversion of said currency through the cognizant U.S. Disbursing Officer, or Mission Controller, as appropriate.

13. POST OF ASSIGNMENT PRIVILEGES (July 1993)

Privileges such as the use of APO, PX's, commissaries and officers clubs are established at posts abroad under agreements between the U.S. and host governments. These facilities are intended for and usually limited to members of the official U.S. establishment including the Embassy, USAID Mission, U.S. Information Service and the Military. Normally, the agreements do not permit these facilities to be made available to non-official Americans. However, in those cases where facilities are open to non-official Americans, they may be used.

14. SECURITY REQUIREMENTS (June 1990)

- (a)** This entire provision shall apply to the extent that this contract involves access to classified information ("Confidential", "Secret", or "Top Secret") or access to administratively controlled information ("Limited Official Use"). Contractors that are not U.S. citizens shall not have access to classified or administratively controlled information.
- (b)** The contractor (1) shall be responsible for safeguarding all classified or administratively controlled information in accordance with appropriate instructions furnished by the USAID Office of Security (IG/SEC), as referenced in paragraph (d) of this provision and shall not supply, disclose, or otherwise permit access to classified information or administratively controlled information to any unauthorized person; (2) shall not make or permit to be made any reproductions of classified information or administratively controlled information except with the prior written authorization of the Contracting Officer or Mission Director; (3) shall submit to the Contracting Officer, at such times as the Contracting Officer may direct, an accounting of all reproductions of classified or administratively controlled information; and (4) shall not incorporate in any other project any matter which will disclose classified and/or administratively controlled information except with the prior written authorization of the Contracting Officer.
- (c)** The contractor shall follow the procedures for classifying, marking, handling, transmitting, disseminating, storing, and destroying official material in accordance with the regulations in the Foreign Affairs Manual, Chapter 5 (5 FAM 900), a copy of which will be furnished by the Contracting Officer or Mission Director.
- (d)** The contractor agrees to submit immediately to the Mission Director or Contracting Officer a complete detailed report, appropriately classified, of any information which the contractor may have concerning existing or threatened espionage, sabotage, or subversive activity.
- (e)** The Government agrees that, when necessary, it shall indicate by security classification or administratively controlled designation, the degree of importance to the national defense of information to be furnished by the contractor to the Government or by the Government to the contractor, and the Government shall give written notice of such security classification or administratively controlled designation to the contractor and of any subsequent changes thereof. The contractor is authorized to rely on any letter or other written instrument signed by the Contracting Officer changing a security classification or administratively controlled designation of information.
- (f)** The contractor agrees to certify after completion of his/her assignment under this contract that he/she has surrendered or disposed of all classified and/or administratively controlled information in his/her custody in accordance with applicable security instructions.

15. CONTRACTOR-MISSION RELATIONSHIPS (Dec 1985)

- (a)** The contractor acknowledges that this contract is an important part of the U.S. Foreign Assistance Program and agrees that his/her duties will be carried out in such a manner as to be fully commensurate with the responsibilities which this entails.
- (b)** While in the Cooperating Country, the contractor is expected to show respect for the conventions, customs, and institutions of the Cooperating Country and not interfere in its political affairs.
- (c)** If the contractor's conduct is not in accordance with paragraph (b) of this provision, the contract may be terminated under General Provision 16 of this contract. The Contractor recognizes the right of the U.S. Ambassador to direct his/her immediate removal from any country when, in the discretion of the Ambassador, the interests of the United States so require.
- (d)** The Mission Director is the chief representative of USAID in the Cooperating Country. In this capacity, he/she is responsible for the total USAID Program in the Cooperating Country including certain administrative responsibilities set forth in this contract and for advising USAID regarding the performance of the work under the contract and its effect on the U.S. Foreign Assistance Program. The contractor will be responsible for performing his/her duties in accordance with the statement of duties called for by the contract. However, he/she shall be under the general policy guidance of the Mission Director, and shall keep the Mission Director or his/her designated representative currently informed of the progress of the work under this contract.

16. TERMINATION (Nov 1989)

(This is an approved deviation to be used in place of the clause specified in FAR 52.249-12.)

- (a)** The Government may terminate performance of work under this contract in whole or, from time to time, in part:
 - (1)** For cause, which may be effected immediately after establishing the facts warranting the termination, by giving written notice and a statement of reasons to the contractor in the event
 - (i)** the Contractor commits a breach or violation of any obligations herein contained,
 - (ii)** a fraud was committed in obtaining this contract, or
 - (iii)** the contractor is guilty (as determined by USAID) of misconduct in the Cooperating Country. Upon such a termination, the contractor's right to compensation shall cease when the period specified in such notice expires or the last day on which the contractor performs services hereunder, whichever is earlier. No costs of any kind incurred by the contractor after the date such notice is delivered shall be reimbursed hereunder except the cost of return transportation (not including travel allowances), if approved by the Contracting Officer. If any costs relating to the period subsequent to such date have been paid by USAID, the contractor shall promptly refund to USAID any such prepayment as directed by the Contracting Officer.
 - (2)** For the convenience of USAID, by giving not less than 15 calendar days advance written notice to the contractor. Upon such a termination, contractor's right to compensation shall cease when the period specified in such notice expires except that the contractor shall be entitled to any unused vacation leave, return transportation costs and travel allowances and transportation of unaccompanied baggage costs at the rate specified in the contract and subject to the limitations which apply to authorized travel status.

(3) For the convenience of USAID, when the contractor is unable to complete performance of his/her services under the contract by reason of sickness or physical or emotional incapacity based upon a certification of such circumstances by a duly qualified doctor of medicine approved by the Mission. The contract shall be deemed terminated upon delivery to the Contractor of a termination notice. Upon such a termination, the contractor shall not be entitled to compensation except to the extent of any unused vacation or sick leave but shall be entitled to return transportation, travel allowances, and unaccompanied baggage costs at rates specified in the contract and subject to the limitations which apply to authorized travel status.

(b) The contractor, with the written consent of the Contracting Officer, may terminate this contract upon at least 15 days' written notice to the Contracting Officer.

17. RELEASE OF INFORMATION (Dec 1985)

All rights in data and reports shall become the property of the U.S. Government. All information gathered under this contract by the Contractor and all reports and recommendations hereunder shall be treated as confidential by the Contractor and shall not, without the prior written approval of the Contracting Officer, be made available to any person, party, or government, other than USAID, except as otherwise expressly provided in this contract.

18. NOTICES (Dec 1985)

Any notice, given by any of the parties hereunder, shall be sufficient only if in writing and delivered in person or sent by telegraph, telegram, registered, or regular mail as follows:

To USAID:

Administrator

U.S. Agency for International Development,
Washington, D.C. 20523-0001,

Attention: Contracting Officer (name of the cognizant Contracting Officer with a copy to the appropriate Mission Director).

To Contractor:

At his/her post of duty while in the Cooperating Country and at the Contractor's address shown on the Cover Page of this contract or to such other address as either of such parties shall designate by notice given as herein required. Notices hereunder shall be effective in accordance with this clause or on the effective date of the notice, whichever is later.

19. REPORTS (June 1987)

- (a)** The Contractor shall prepare and submit 2 copies of each technical report required by the schedule of this contract to the Bureau for Program and Policy Coordination, Center for Development Information and Evaluation, Development Information Division (PPC/CDIE/DI). All documents should be mailed to:
PPC/CDIE/DI, Acquisitions, Room 209, SA-18
U.S. Agency for International Development, Washington, D.C. 20523-1802.
The title page of all reports forwarded to PPC/CDIE/DI pursuant to this paragraph shall include a descriptive title, the author's Name(s), contract number, project number and title, contractor's name, name of the USAID project office, and the publication or insurance date of the report.
- (b)** When preparing reports, the contractor shall refrain from using elaborate art work, multicolor printing and expensive paper/ binding, unless it is specifically authorized in the

Contract Schedule. Wherever possible, pages should be printed on both sides using single spaced type.

20. USE OF POUCH FACILITIES (July 1993)

- (a) Use of diplomatic pouch is controlled by the Department of State. The Department of State has authorized the use of pouch facilities for USAID contractors and their employees as a general policy, as detailed in paragraphs (a)(1) through (a)(6) of this provision. However, the final decision regarding use of pouch facilities rests with the Embassy or USAID Mission. In consideration of the use of pouch facilities as hereinafter stated, the Contractor agrees to indemnify and hold harmless the Department of State and USAID for loss or damage occurring in pouch transmission.**
- (1) Contractors are authorized use of the pouch for transmission and receipt of up to a maximum of 0.90 kilogram/2 pounds per shipment of correspondence and documents needed in the administration of foreign assistance programs.**
- (2) U.S. citizen contractors are authorized use of the pouch for personal mail up to a maximum of 0.45 kilogram/one pound per shipment (but see (a)(3) below). Non- U.S. citizen Contractors are not permitted use of the pouch for personal mail except to the extent that such use may be authorized by the Chief of Mission.**
- (3) Merchandise, parcels, magazines, or newspapers are not considered to be personal mail for purpose of this clause, and are not authorized to be sent or received by pouch.**
- (4) Official and personal mail under paragraphs (a) (1) and (2) of this provision, sent by pouch, should be addressed as follows:
Individual's Name (C), U.S. Agency for International Development, Washington, D.C. 20523-0001.**
- (5) Mail sent via the diplomatic pouch may not be in violation of U.S. Postal laws and may not contain material ineligible for pouch transmission.**
- (6) Use of military postal facilities (APO/FPO) is authorized to U.S. contractors on the same basis as approved for direct-hire employees at the USAID Mission. Posts having access to APO/FPO facilities and using such for diplomatic pouch dispatch, may, however, accept official and personal mail for the pouch provided, of course, adequate postage is affixed when onward transmission (mail to other than USAID/W) through U.S. postal channels is required.**
- (b) The contractor shall be responsible for compliance with these guidelines and limitations on use of pouch facilities.**
- (c) Specific additional guidance on use of pouch facilities in accordance with this clause is available from the Post Communication Center at the Embassy or USAID Mission.**

21. BIOGRAPHICAL DATA (June 1990)

- (a) The contractor agrees to furnish biographical information to the Contracting Officer on forms (SF 171 and 171As) provided for that purpose.**
- (b) Emergency locator information. The contractor agrees to provide the following information to the Mission Administrative Officer on arrival in the host country regarding himself/herself and dependents:**

- (1) Contractor's full name, home address, and telephone number including any after-hours emergency number(s).
- (2) The name and number of the contract, and whether the individual is the contractor or the contractor's dependent.
- (3) The name, address, and home and office telephone number(s) of each individual's next of kin.
- (4) Any special instructions pertaining to emergency situations such as power of attorney designees or alternate contact persons.

22. U.S. RESIDENT HIRE PERSONAL SERVICES CONTRACTOR (June 1990)

A contractor meeting the definition of a U.S. Resident Hire PSC contained in Section 12, General Provisions, Clause 1, Definitions, shall be subject to U.S. Federal Income Tax, but shall not be eligible for any fringe benefits (except contributions for FICA, health insurance and life insurance), allowances, or differentials, including but not limited to travel and transportation, medical, orientation, home leave, etc., unless such individual can demonstrate to the satisfaction of the Contracting Officer that he/she has received similar benefits/allowances from their immediately previous employer in the Cooperating Country, or the Mission Director determines that payment of such benefits would be consistent with the Mission's policy and practice and would be in the best interest of the U.S. Government.

23. ORIENTATION AND LANGUAGE TRAINING (July 1993)

- (a) Except as set forth in paragraph (b)(4) below, the Contractor shall receive a maximum of 2 weeks USAID orientation before travel overseas. The dates of orientation shall be selected by the Contractor and approved by the Contracting Officer from the orientation schedule provided by USAID.
- (b) As either set forth in the Contract Schedule, or provided in writing by the Contracting Officer, the following may be authorized taking into consideration specific job requirements, contractor's prior overseas experience, or unusual circumstances, in connection with orientation of individual Contractors:
 - (1) Modified orientation,
 - (2) Language training,
 - (3) Orientation for Contractor's dependents at contract expense.
 - (4) Waiver of orientation for individual contractor.
- (c) Transportation costs and travel allowances not to exceed one round trip from the Contractor's residence to place of orientation and return will be reimbursed, pursuant to Clause 10 of the General Provisions, entitled "Travel and Transportation Expenses," if the orientation is more than 80 kilometers/50 miles from the contractor's residence. Allowable salary costs during the period of orientation are also reimbursable.

24. CONDITIONS FOR CONTRACTING PRIOR TO RECEIPT OF SECURITY CLEARANCE (July 1993)

- (a) **U.S. Resident Hire PSC.** The contractor may commence work prior to the completion of the security clearance. However, until such time as clearance is received, the contractor shall have no access to classified or administratively controlled materials. Further, failure to obtain clearance will constitute cause for contract termination in accordance with paragraph (a)(2) of General Provision 16 of this contract.

- (b) U.S. PSC—Non-Resident Hire.** The contractor may elect to commence travel to post immediately to begin work prior to completion of the security clearance. However, until such time as security clearance is received, the contractor shall:
- (1)** Have no access to classified or administratively controlled materials;
 - (2)** Be authorized to travel to post himself/herself only; and
 - (3)** Be authorized no entitlements other than those normally authorized for short term (less than a year) employees at post. Even if the contract is for one year or more, dependents may not accompany contractor unless at his/her expense, and transportation/storage of household/personal effects and motor vehicle will not be financed by USAID prior to the receipt of the security clearance. Upon receipt of clearance, the Contracting Officer will authorize reimbursement of any such costs borne at contractor's expense prior to clearance provided they are reasonable, allocable and allowable. If appropriate given the length of time remaining, the Contracting Officer will authorize dependent travel and shipment/storage of motor vehicle and effects. Allowances which would not be provided to short term employees will be authorized after clearance is received provided that the contractor is otherwise entitled to such benefits. Failure to obtain the security clearance will constitute cause for contract termination in accordance with paragraph (a)(2) of General Provision 16 of this contract.

25. MEDICAL EVACUATION (MEDEVAC) SERVICES (July 1993)

- (a)** The contractor agrees to obtain medevac service coverage for himself/herself and his/her authorized dependents while performing personal services abroad. Coverage shall be obtained pursuant to the terms of the contract between USAID and USAID's medevac service provider unless exempted in accordance with paragraph (b).
- (b)** The following are exempted from the requirements in paragraph (a):
 - (1)** Contractors and their dependents with a health insurance program that includes sufficient medevac coverage as approved by the Contracting Officer.
 - (2)** Contractors and their dependents located at Missions where the Mission Director makes a written determination to waive the requirement for such coverage based on findings that the quality of local medical services or other circumstances obviate the need for such coverage.
- (c)** Information on the current medevac service provider, including application procedures, is available from the Contracting Officer.

26. GOVERNING LAW (Nov 1996)

This contract is established under the procurement authorities of the United States Government and shall be interpreted in accordance with the body of Federal Procurement Law in the United States. This contract is a complete statement of the duties, compensation, benefits, leave, notice, termination, and the like; therefore, the laws of the country of performance with respect to labor and contract matters shall not apply to either the carrying out of the obligations of the parties or to the interpretation of this agreement.

13. FAR Clauses to be Incorporated in Full Text in Personal Services Contracts.

The following FAR Clauses are always to be used along with the General Provisions. They are required in full text.

1. Covenant Against Contingent Fees 52.203-5
2. Electronic Funds Transfer Payment Methods 52.232-28
3. Disputes 52.233-1 (Alternate 1)
4. Preference for U.S. Flag Air Carriers 52.247-63

14. FAR Clauses to be Incorporated by Reference in Personal Services Contracts.

The following FAR Clauses are to be used along with the General Provisions, and when appropriate, be incorporated in each personal services contract by reference:

1. Anti-Kickback Procedures 52.203-7
2. Limitation on Payments to Influence Certain Federal Transactions 52.203-12
3. Audit and Records—Negotiation 52.215-2
4. Privacy Act Notification 52.224-1
5. Privacy Act 52.224-2
6. Taxes—Foreign Cost Reimbursement Contracts 52.229-8
7. Interest 52.232-17
8. Limitation of Cost 52.232-20
9. Limitation of Funds 52.232-22
10. Assignment of Claims 52.232-23
11. Protection of Government Buildings, Equipment, and Vegetation 52.237-2
12. Notice of Intent to Disallow Costs 52.242-1
13. Inspection 52.246-5
14. Limitation of Liability—Services 52.246-25



**"Brown, Lawrence
(GH/PDMS)"**

08/29/2008 12:20 PM

To

cc

**Subject RE: confirmation of telephone conversation for Advisory
Opinion request**

Dear Ms. Rothstein and Ms. Heiden,

Thank you for your call to discuss my August 19, 2008, request for an Advisory Opinion. I would like to explicitly state that, if a favorable opinion is rendered by the Federal Election Commission, it is my intent to resume making financial contributions to political parties, candidates and political action committees.

I am pleased to provide you with the attached copy of the August 21, 2008, amendment to my Personal Services Contract (GPO-S-00-06-00010-00), extending its period of performance from 09/30/2008 to 09/30/2010, among other changes.

In addition, below is the URL link to the USAID Handbook #25 referenced in my original documentation. From this link, you will also be able to reach any other ADS and HB information to which you may find references.

<http://www.usaid.gov/policy/ads/handbooks/#25>

If there is any additional information you would like, please do not hesitate to contact me.

Thank you for your assistance and consideration,

Larry

**Lawrence Brown
USAID/GH/PDMS
RRB 5.8-132**

Home:

North Potomac, MD 20878

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT			1 CONTRACT ID CODE GPO-S-00-06-00010-00	PAGE OF PAGES 1 2
2. AMENDMENT/MODIFICATION NO. 01	3. EFFECTIVE DATE See Block 16 C	4. REQUISITION/PURCHASE REQ. NO 12606 NMS 0147	5. PROJECT NO. (If applicable)	
6. ISSUED BY US Agency for International Development Office of Acquisition and Assistance RRB 7.09-076 M/OAA/GH/POP	CODE	7. ADMINISTERED BY (IF OTHER THAN ITEM 6)		CODE
8. NAME AND ADDRESS OF CONTRACTOR (No., Street, County, State, and Zip Code) Lawrence Martin E. Brown North Potomac, MD 20878-3789		9A. AMENDMENT OF SOLICITATION NO.		
		9B. DATED (SEE ITEM 11)		
		<input checked="" type="checkbox"/> 10A. MODIFICATION OF CONTRACT/ORDER NO. GPO-S-00-06-00010-00		
CODE:		FACILITY CODE:		10B. DATED (SEE ITEM 11) 29 September 2006
11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS				

The above numbered, solicitation is amended as set forth in item 14. The hour and date specified for receipt of Offers is extended is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended by one of the following methods:

(a) By completing Items 8 and 15, and returning copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If Required)

**13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS,
IT MODIFIES THE CONTRACT/ORDER NO., AS DESCRIBED IN ITEM 14**

- A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify Authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
- B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103 (b).
- C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
- D. OTHER (Specify type of modification and authority)
FAR CLAUSE 52.217-7, Option for Increase Quantities and FAR 17.207 Exercise of Options

E. IMPORTANT: Contractor is NOT is required to sign this document and return 3 copies to the issuing office.

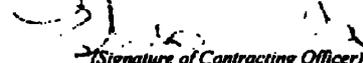
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.

The purpose of this Modification is as follows:

- 1) Exercise option years one and two.
- 2) Extend the period of performance from 09/30/2008 to 09/30/2010.
- 3) Correct a typographical error.

(continued on Page 2)

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER Lawrence Martin E. Brown Sr. HR Advisor		16A. NAME AND TITLE OF CONTRACTING OFFICER Eduardo Elia, Contracting Officer	
15B. CONTRACTOR/OFFEROR  (Signature of person authorized to sign)	15C. DATE SIGNED 8/21/2008	16B. UNITED STATES OF AMERICA  (Signature of Contracting Officer)	16C. DATE SIGNED 8/21/08

Due to this modification the specific changes are as follows:

I. COVER PAGE

Estimated Completion Date, delete "09/30/2008" and replace with "09/30/2010".

II. SCHEDULE

1. In Section A.2 ARTICLE II – PERIOD OF SERVICE, delete "30 September 2008" and replace with "30 September 2010".

2. In Section A.3 ARTICLE III – CONTRACTOR'S COMPENSATION AND REIMBURSEMENT IN U.S. DOLLARS, F. Allowable Costs, 1. Compensation, a. Basic Compensation, correct contractor's annual salary to read [REDACTED] of [REDACTED]

Total Amount This Action:	\$	0.00
Total Amount Obligated:	\$	[REDACTED]
Total Estimated Amount:	\$	[REDACTED]

End of Modification