

TITLE: CIB 89-7 Contracts and Agreements to Obtain the Services of an Individual

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

AGENCY FOR INTERNATIONAL DEVELOPMENT
WASHINGTON, DC 20523

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MEMORANDUM FOR ALL CONTRACTING OFFICERS AND NEGOTIATORS

TO: Distribution List D-14(LL)

FROM: M/AAA/SER, John F. Owens, Procurement Executive
CONTRACT INFORMATION BULLETIN 89-7

SUBJECT: Contracts and Agreements to Obtain the Services of
an Individual

In 1984, in response to an increasing number of cases coming to their attention, the General Counsel and the Office of Procurement issued a General Notice stating that contracting with an organization to establish an employee-employer relationship with a named individual is not permissible.

In the last few months, we have again been seeing cases where the primary purpose of some proposed institutional contracts and PASA/RSSA subcontracts was to establish such an employee-employer relationship with a named individual. We are therefore issuing this CIB to re-emphasize and to expand upon our policy on this matter.

Neither a contract with an organization, an assistance instrument, nor a PASA/RSSA should be used to obtain the services of a named individual if the agreement does not provide for other substantial input from the organization in the overall performance of the agreement. In cases where the primary purpose is to obtain a particular individual's services and when these services require relatively continuous supervision by A.I.D., the proper and acceptable method for establishing this relationship is:

- A. An appropriate personnel action (direct hire, appointment as re-employed annuitant, etc.) or
- B. A personal services contract, in accordance with Appendices D or J of the AIDAR.

Use of a contract with an organization, an assistance instrument, or a PASA/RSSA to obtain the services of a particular individual is both improper and probably more costly than the use of a personnel action or a personal services contract.

If the success of a contract with an organization or of a PASA/RSSA depends on the experience and ability of a particular person, that person (or persons) may be specified as key personnel whose services must be supplied under the agreement. (Given the basic nature of assistance relationships, the need for a specified individual should not arise therein: such a need is an indication that a contract is the more proper instrument.)