

TITLE: CIB 98-22 Administration of Assistance Instruments

MEMORANDUM FOR CONTRACTING OFFICERS AND NEGOTIATORS

TO: Distribution List FAC

From: M/OP/OD, Marcus L. Stevenson, Procurement Executive

Subject: Administration of Assistance Instruments

CONTRACT INFORMATION BULLETIN 98 - 22

The Administrator issued a General Notice on July 28, 1998 (copy attached) that reiterated the basic policy principles for dealing with PVOs/NGOs under assistance instruments. He is very concerned about the way grants and cooperative agreements are being administered and the sometimes excessive requirements that are being imposed on recipients. The Administrator and the Assistant Administrator for Management requested that I issue this CIB to ask Agreement Officers to be vigilant in ensuring that agreements do not contain undue requirements leading to micro-management by the Agency. In other words, Agreement Officers, which could include some Mission Directors given their existing warrant authorities, must help to ensure that assistance instruments are administered consistently in accordance with the requirements of the government-wide rules in OMB Circular A-110 (as set forth in 22 CFR Part 226) and in keeping with the concepts of the Administrator's policy principles.

Three aspects of USAID's management of assistance instruments have been particularly troublesome:

- 1) Work plans or implementation plans being required more often than once a year.
- 2) Requiring an excessive number of performance reports and improper information in financial reports (reports may be required no more often than quarterly; financial reports must be in accordance with 22 CFR 226.52). When there are special circumstances, as was the case in the ENI region due to congressional requirements for country specific financial reports, a deviation must be properly documented and approved.
- 3) Micro-management - too much involvement in the day-to-day operations of the recipient. The elements of substantial involvement that are included in a cooperative agreement must be in accordance with the policy set forth in ADS 303.5.11, or a deviation must be justified and approved.

Cooperative agreements (and grants if applicable) should be amended before the end of this calendar year if they contain any of the following requirements:

- more than one work/implementation plan a year;
- performance reporting that is not directly supportive or tied to elements in the Program Description or otherwise is not in compliance with 22 CFR 226.51(d), or is being required more often than quarterly;
- financial reporting which calls for more information than is specified in 22 CFR 226.52.
- substantial involvement elements that are not in compliance with 3) above.

Regardless of the specific guidance on substantial involvement, in the end it amounts to common sense and rule of reason. For example, work/implementation plans can be straightforward and focused on major expectations or detailed far beyond the need of program oversight. Substantial involvement also requires reasonable negotiation with the recipient, recognizing their interests and concerns, and must be directly associated with the requirements specified in the program description.

While Agreement Officers cannot control how activities are managed outside the scope of the agreement, they can ensure that the agreement is written appropriately. With a well written agreement, recipients may operate their programs in accordance with the terms of the agreement and be justified in declining to comply with excessive requirements that are not included in the agreement document. Where controls are being applied outside the agreement, it should be brought to my attention for forwarding to AA/M. We are also encouraging the home offices of NGOs, PVOs and universities to bring instances of what they believe to be excessive imposition of management controls in grants or cooperative agreements to the attention of the Agency's Ombudsman for Procurement.

Attachment: a/s
Attachment

USAID/General Notice

ADMINISTRATORE

07/28/98

E X E C U T I V E M E S S A G E

SUBJECT: Message from the Administrator

I want all of you to know how much I appreciate your efforts to make our management reforms a success. USAID was given high praise in the Development Assistance Committee's recent peer review for creating a management system that focuses on participation and results. We have made significant progress in implementing these reforms despite reductions in our overseas staffing, inadequate resources for training, and many unforeseen changes in our program budgets.

We have continued in the midst of these fundamental changes to achieve results in our development work and to respond to the need for humanitarian relief. I recognize that this has created great strain, both to you individually and to our organization. I am very grateful for your tenacity and professionalism during one of the most difficult periods in the Agency's history.

Now I need to ask your help once again. This time, I hope, to reduce the workload the reforms have imposed on us and our partners. Many of you have registered concerns about aspects of the implementation process in the survey or during interviews with the "stocktaking" team. Our NGO, PVO, university, and private contractor partners and implementors have also expressed serious concerns that the reforms have been difficult to absorb and that in some ways they have tended to undermine what had been increasingly healthy relationships.

I am not at all surprised that we would be experiencing difficulties as we seek to fulfill the legal requirements of the Government Performance and Results Act (GPRA) in a way that would enhance our development and humanitarian mission. Every government agency is struggling to implement this important statute. It is filled with good intentions but also numerous ambiguities that need to be worked out. We have a head start in working with GPRA, and I am confident we can identify the issues and find the right balance between the requirement that we adhere to the Act and the need for flexibility, creativity, and effectiveness in carrying out our strategic objectives.

My biggest worry is that your interpretation of headquarters guidance is leading many of you to spend more of your valuable time than you can afford in implementation of the results measurement, reporting, and budgeting processes. This is an unintended consequence of our formal and informal guidance to you. In turn, some of you are transferring the pressures you may feel to comply with this guidance to our partners and implementors in a way that undermines the spirit of trust that forms the basis of a healthy relationship. None of this, I am sure, is intended, but we must examine both our guidance and our individual actions to correct the problems that have arisen.

When I came to this position some five years ago, I wanted USAID to create real partnerships with the organizations we depend on to carry out our programs. It seemed strange to me that USAID's policies and procedures had made such strong critics of those with whom we worked directly. We succeeded in eliminating much of the tension, but we are hearing complaints once again about micro-management and a desire to increase control over our partners. Much of this is attributed to our implementation of GPRA and the R-4 process, as well as our management of grants and cooperative agreements.

As we work our way through this, we have become more aware of the dysfunctional activities and more aware of best practices. I am, therefore, confident that we can clarify our expectations of you in terms of results monitoring and reporting and you in turn can approach our partners and implementors with less onerous approaches to "substantial involvement" and other control mechanisms.

The attached timeline reflects the steps we plan to take to correct these problems. We need your input as we consider changes in procedure and policy (please send them to the groups mentioned in the timeline paper), but I wanted you to understand the principles I want to follow in making changes.

1. We are not modifying our commitment to strategic planning, results measurement, performance-informed budgeting, and participation. The law requires us to report results, but, equally importantly, I am convinced that a results focus combined with listening to our developing world partners produces better development.

2. We must resist the temptation to control implementing partners and contractors. We don't have the time to micro-manage nor do we have the need to do so. We must see ourselves as coordinating activities within and across SO's, while keeping our eye on outcomes and using indicators only to help us and our partners manage an activity to contribute to the outcome we want.

3. We should strive to achieve more consistency in our relationship with implementing partners and contractors. When we tell them something is required in one mission or region when it is not required in another, they can only assume they are being victimized by arbitrary behavior. Variations when they exist should be transparent and easily communicated.

4. We are collecting more data than is necessary to monitor the effectiveness of our programs and to inform budget decisions. Some of this, I understand, is being driven by competition for scarce resources. Nonetheless, the "transaction costs" are too high, and the paperwork is overwhelming us and those responsible for carrying out programs. We need to "right-size" the R-4 process in both Washington and the field.

5. We need to clarify the bases for making choices for selecting among the three instruments we use to get work done: contracts, grants, and cooperative agreements. As stated in USAID General Notice 72 (June 24, 1998), incorporation of results is not a basis to select a cooperative agreement over a grant or a contract over a cooperative agreement. Choice of instruments should be based on the nature of the relationship we are seeking with the implementing organization. If a contract is the best way we can acquire the talent needed in a certain area, then we should use it. If a grant gives us the flexible creativity and the host country-U.S. partnership we want, use it. We should select those instruments which help us achieve our program objectives with the minimum degree of control. Think less control, not more.

6. A very small number of USAID employees, for whatever reason, are treating our partners and their needs and requirements with less than full respect. This is unacceptable. We should strive for partnerships built on respect and mutual trust. If you don't feel an individual or an organization is interacting appropriately with you, don't react the same way. Pass it on to a higher level, and we will attempt to deal with the problem.

We will be consulting you and our partners on the items in the timeline over the next few months. We hope to have all items completed by the first week of November when we will have a meeting in Washington of all mission directors. Our hope is to simplify your work so that you will have more time to coordinate within strategic objectives. We want more mature partnerships, procurement practices that support partnerships, a performance-informed budgeting process that is as realistic as possible, a results reporting system that is streamlined, and a training program that is vastly improved. I know we can make useful changes but I will need your help every step of the way.

Attachment: a/s

POINTS OF CONTACT: Terrence Brown, AA/M, (202) 712-1200 and Thomas Fox, AA/PPC, (202) 712-1430.

ACTIONS TO BE TAKEN RE: PARTNERS AND RESULTS

As announced by the Administrator in his special message to all USAID employees, and as approved by him, USAID's management team has agreed that we will be taking the following steps between now and the Mission Directors' Conference in early November. Of course, other items might be added (and possibly subtracted.)

- The Administrator will send a statement to all operating units on the issues we are confronting, particularly the relationship with partners and related issues of USAID's implementation of GPRA and managing for results. (PPC, with LPA & M, by July 27.)

- Following the articulation by the Administrator of relevant principles, establish a working group to oversee and coordinate a full review of USAID's managing-for-results policies and practices and our implementation of the Government Performance and Results Act. Co-chaired by PPC's Dirk Dijkerman and Africa's Carol Peasley, this working group will include four mission directors on a "virtual" basis" and will be in regular communication with all bureaus and operating units. This group will also consult and include partners (InterAction, ACVFA, etc.) in their deliberations. Its ultimate product will be a series of recommendations to the Administrator on changes to existing systems and practices and accompanying communication to the Agency. (PPC will draft the Administrator's principles - with help from M and LPA - and then establish the group and flesh out its scope of work, by July 31. It will meet with the selected mission directors in early September, provide an interim report to the Administrator, hold a public discussion at the ACVFA meeting in mid-September, and prepare final reports for the Administrator and then the Mission Directors' Conference by November 1.)

This working group's mandate will specifically include gathering data and perspective from missions, completing the review and revisions of the Washington R4 review process, consulting with not only partners like NGOs but also Hill staff and OMB, and reviewing performance measurement indicators by sector. Special attention, perhaps with a separate working group including NGO partners, will be paid to the particularly challenging issue of appropriate performance measures in the democracy and governance areas. It will also be important to review each of USAID's goal areas, with partners, to see how/where other goal-specific issues should be addressed, beyond the generic issues raised within our procurement, GPRA, and managing for results processes.

- Update and reissue the April, 1995, guidance on assistance instruments, prominently including "substantial involvement." (M/OP, by July 31 - after the Administrator's statement.)

- Issue guidance to the Contracts and Project/Technical Officers, reminding them of the policy that workplans for Cooperative Agreements can be no more onerous than annual and asking the Contracts Officers to review their entire cooperative agreement portfolios with the goal of ensuring their conformance with Agency policy by the end of the current calendar year. (M/OP, by July 31 - after the Administrator's statement.)

- Release to the external web of USAID's website, "Results-Oriented Assistance: A USAID Sourcebook", on the use of assistance instruments to implement USAID's program and achieve results. (M/OP and LPA, with substantial previous support from BHR/PVC, by July 24.)
- Develop an outreach strategy with specific dates of meetings and other consultations for USAID's efforts to review and reform its GPRA, results, and partnership practices. (LPA, by July 31.)
- Develop, pilot, and implement a basic USAID implementation course for overseas missions - "Reaching 4 Results." The course will be open to a limited number of partners. (M, with PPC support, piloted on August 3.)
- Consider establishing a new mechanism to extend the outreach function of the OP Ombudsman and OP/Policy, and the newly created Assistance and Acquisition Advisory Panel to expand outreach to the NGO and contractor communities through quarterly open forums dealing with specific issues, including substantial involvement, basis of choice of assistance vs. acquisition instruments, competition, conflict of interest, etc. The outcome would include increased understanding, knowledge, and development of best practices. (M/OP, by September 1.)
- A special message will be sent to all Missions, suggesting that all missions consider holding a retreat with partners this fall, perhaps involving relevant USAID/Washington offices, as well. The message will contain specific guidance and an illustrative agenda for such a retreat. (LPA and M, by July 31.)
- Provide a monthly status report on all of these actions to the Administrator, key Hill staff and OMB, and engaged partners like the ACVFA, InterAction, the democracy NGOs, and the Professional Services Council. The September ACVFA meeting provides a special opportunity for a consultation with partners on these issues. (PPC and LPA, with the first report by July 31.)
- Develop a video on best practices and procedures for dealing with partners, choosing assistance vs. acquisition instruments, etc. Reader-friendly written materials on these same issues will also be prepared. (LPA and M, in August.)

DEADLINE: Mission Directors' Conference