

March 30, 2001

MEMORANDUM FOR ALL CONTRACTING OFFICERS, NEGOTIATORS AND
EXECUTIVE OFFICERS

FROM: M/OP, Francis A. Donovan, Acting Director

SUBJECT: Competitive Process - Personal Services Contracts
("PSCs") with U.S. Citizens for Support of HIV/AIDS
and Infectious Disease Initiatives

CONTRACT INFORMATION BULLETIN No. 01 - 09

This CIB establishes the competitive process to be used for USPSC positions that are directly in support of the HIV/AIDS and Infectious Disease Initiatives. This guidance is effective from the date of this CIB through December 31, 2007. You are reminded that you must first follow the procedures detailed in CIB 00-08 and CIB 00-08S prior to filling any USPSC position in support of an HIV/AIDS activity or otherwise.

The Global AIDS and Tuberculosis Relief Act of 2000, in conjunction with the Fiscal Year (FY) 2001 Appropriations Act, provides USAID with resources to combat HIV/AIDS and infectious disease epidemics in the developing world. In particular, the Appropriations Act emphasizes the emergency nature of the crisis and urges USAID to use its existing waiver authorities regarding the procurement of services to expedite assistance.

To support this critical need, Contracting Officers have the option of using the attached class justification to process requests for USPSCs. To take advantage of this option, contracting offices shall follow the procedures below:

- 1. Comply with CIB 00-08 and supplement.** When a requirement for a USPSC arises, Contracting Officers shall ensure that the requiring office in the Mission or Bureau first reviews the PSC Availability List and accompanying credentials, as detailed in CIB 00-08. As CIB 00-08 indicates, review of these credentials are required through October 3, 2003. If the requiring office in the Mission or Bureau determines that none of the candidates meets the Agency's needs, the requiring office may use the HIV/AIDS waiver procedures established in this CIB.

2. **Comply with CIB 01-04.** The requiring office and contracting office will follow the "Procedures" contained in the General Notice dated March 6, 2001, entitled, "Procurement and Assistance Procedures for the HIV/AIDS and Infectious Disease Initiatives", and the implementation guidance contained in CIB 01-04, specifically in paragraph C, "Procurement of Goods & Services."

3. **Follow the procedures in this CIB:** The cognizant contracting office may consider candidates that the Mission or Bureau has identified for the PSC position or conduct a simplified advertising process, in accordance with the attached Class Justification. Ideally, no less than three (3) candidates should be considered for such positions. However, the Contracting Officer may consider less than 3 candidates, if, in the Contracting Officer's judgment, conditions warrant such action. In either situation, the Contracting Officer shall document the contract file describing the actions taken using this justification. It is not sufficient to merely include a copy of the Class Justification in the contract file. Additionally, the Contracting Officer must also comply with the "Reporting Procedures" contained in CIB 01-04.

4. **Follow standard policy.** If no individual is available who meets the requiring office's needs, the Contracting Officer shall advertise in accordance with standard USAID policy and regulations. In all cases, the Contracting Officer shall indicate, as part of the negotiating memorandum, the process and steps followed.

None of the above changes the requirement for USPSC positions to be classified, offered, and negotiated within the market value of the position. M/HR approval will continue to be required whenever an internationally recruited USPSC is to be funded from the Operating Expense account.

Questions regarding this CIB may be sent to Tom M. Henson, M/OP/POL, 202-712-5448.

Attachments:

1. Class Justification

Attachment 1

CLASS JUSTIFICATION FOR USE OF OTHER THAN FULL
AND OPEN COMPETITION FOR PERSONAL SERVICES CONTRACTS

I. General

This document is a Class Justification for other than full and open competition as authorized by Section 6.303-1(c) of the Federal Acquisition Regulation ("FAR").

Any USAID Contracting Officer acting within the scope of his/her delegated authority may use this Class Justification in accordance with its terms. This Class Justification shall be effective from the date of the CIB through December 31, 2007.

This Class Justification is applicable to personal service contracts ("PSCs") for performance abroad and in the United States, by U.S. citizens, (whether short or long-term, resident or non-resident) provided the appropriate requirements in Section II of this Class Justification are followed.

Pursuant to USAID Acquisition Regulation ("AIDAR") Section 706.302-70(b), for personal services contracts with US citizens, to be performed overseas and also for those to be performed in the United States, the Administrator has determined that full and open competition need not be obtained in order to select an individual for a personal services contract in support of the HIV/AIDS and infectious diseases initiatives.

This Class Justification may be used to satisfy the provisions of AIDAR Section 706.302-70(c)(2), which requires that justifications pursuant to FAR 6.303 be prepared.

II. Conditions for Use

- A. A requiring office in USAID/Washington or overseas must make a written determination if a planned personal services contract with a US citizen falls under the HIV/AIDS and Infectious Disease Initiatives. The requiring office and cognizant contracting office shall follow the procedures contained in the General Notice dated March 6, 2001, entitled "Procurement and Assistance Procedures for the HIV/AIDS and Infectious Disease Initiatives" and, CIB 01-04, paragraph C, "Procurement of Goods and Services. In the General Notice, the Administrator authorized the use of exceptions to the competition requirements for assistance in ADS 303 and for acquisition in the USAID Acquisition Regulation (AIDAR). The head of the operating unit or designee decides whether the activity in question falls under the Initiatives. When such decision has been made, the contracting or agreement officer will implement the decision, and determine how to conduct the acquisition or assistance action, including deciding how many sources are practicable under the circumstances.
- B. In the case of USPSCs, the Contracting Officer shall ensure the requiring office first reviews the credentials of the individuals on the PSC availability List and complies with the procedures detailed in CIB 00-08 and CIB 00-08S, as long as those procedures remain in effect.
- C. If after following the procedures in CIB 00-08, no one meets the Agency's needs, the Contracting Officer may consider candidates that the Mission or Bureau has identified for the PSC position, or may conduct a simplified advertising process. At least three (3) candidates shall be considered for such positions when practical. However, the Contracting Officer may determine that the situation does not allow for such consideration.

If only one candidate is considered, the Contracting Officer shall document in writing the reason for noncompetitive selection and include it in the contract file. In all cases, the Contracting Officer or Negotiator shall indicate, as part of the negotiating memorandum, the process steps followed. The Contracting Officer shall also follow the "Reporting Procedures" contained in CIB 01-04.

- D. When a contract is awarded under the conditions noted above, this Class Justification shall be used. It must be included in the contract-file, together with other written documentation, signed by the Contracting Officer, that the contract is being awarded pursuant to AIDAR 706.302-70(b)(1); that the conditions in this Class Justification have been met; and that the cost of the contract is reasonable.

III. Effective Date

This Class Justification is effective from the date of this CIB through December 31, 2007.

Acting Director
Office of Procurement

Date