

TITLE: CIB 96-23 - Unauthorized Provision in Personal Services Contracts

September 30, 1996

MEMORANDUM FOR ALL CONTRACTING OFFICERS AND NEGOTIATORS

TO: DISTRIBUTION LIST FAC

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

SUBJECT: Unauthorized Provision in Personal Services Contracts

CONTRACT INFORMATION BULLETIN 96-23

It has come to my attention that language similar to that below is being used in personal services contracts both with U.S. citizens and foreign national employees in various contracting offices in Washington as well as overseas.

The Government's liability for payment under this contract is dependent upon the annual appropriation of funds by the Congress of the United States of America and shall be obligated on a recurring basis. Should the Congress fail to appropriate funds on a timely basis to permit this recurring obligation to take place, nothing in this contract shall be construed as implying that Congress will, at a later date, appropriate funds sufficient to meet any deficiencies.

There is no clause in either AIDAR Appendix D or Appendix J that is comparable to this. Additionally, the above language is extremely ambiguous.

Appropriate provisions for PSC's are set forth in the AIDAR Appendices. If there is need for special provisions to meet unique circumstances in a country or program, a class deviation from the AIDAR may be processed, with supporting rationale and justification. No such deviation has been processed through the Policy Division of the Office of Procurement for the language set forth above.

Consequently, use of this provision must cease immediately.