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# Guide to PSC Publicizing and Competition Regulations

An Additional Help for ADS Chapter 309

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This additional help document is intended to highlight USAID's main publicizing and competition regulations for PSCs. However only the [AIDAR and its Appendices D and J](#) contain the governing regulations for PSCs, and nothing in this document serves to replace, supersede, or substitute any rule currently in effect under the AIDAR.

## **I. Competition for PSCs Generally**

- a. Full and Open Competition.** The Competition in Contracting Act (CICA) under [41 USC 3301](#), as implemented in [FAR Part 6](#), applies to personal services contracts and prohibits the CO from contracting for a PSC without full and open competition, unless an exception applies (see [FAR 6.301](#) and [6.302](#)). Accordingly, the CO must adhere to full and open competition requirements when recruiting PSCs (see [FAR 6.101](#)).
- b. Other than Full and Open Competition.** [FAR 6.302](#) and [AIDAR 706.302](#) contain the authorities that permit other than full and open competition for a PSC. [AIDAR 706.302-70\(b\)\(1\)](#) contains USAID's statutory authority under the Foreign Assistance Act for an exception to competition for PSCs under specific circumstances. [AIDAR Appendices D and J, in sections 5\(c\)](#) reference and explain the use of this exception. When alternate classification procedures are used for CCNs or TCNs (i.e. compensation and benefits based on Appendix D), see [ADS 309maa](#).

## **II. USPSCs**

### **a. Publicizing**

- (1) PSC solicitations are subject to the publicizing requirements of [FAR Part 5](#). See [FAR sections 5.102](#) and [5.203](#) for solicitation availability and response time requirements.
- (2) Other than Full and Open Competition (see [AIDAR Class Deviation and Class J&A for other than full and open competition](#)).
  - a)** For Resident Hire USPSCs and USPSCs serving abroad and recruited from outside the cooperating country for contracts of six months or less the CO is not required to:
    - i.** Issue advance notice of contract action, as required by [FAR 5.201](#), according to [AIDAR 705.202](#), or
    - ii.** Publicize the solicitation on the GPE, as required by [FAR 5.102](#). The CO must follow the [AIDAR Class Deviation and Class J&A for other than full and open competition](#) and [AIDAR Appendix D, sec. 5. \(c\)](#) regarding soliciting offers.

- b) Although the CO is required to summarize a planned follow-on extension or renewal of a USPSC made under the authorities in [AIDAR 706.302-70\(b\)\(5\)](#), the CO is not required to publicize the solicitation for follow-on extensions or renewals for USPSCs serving abroad and recruited from outside the cooperating country or for Washington based USPSCs issued under the authorities in [AIDAR 706.302-70\(b\)\(5\)](#). The synopsis must be publicized in accordance with [FAR 5.301](#) and [AIDAR 706.302-70\(c\)\(1\)](#). Additionally, as required by [FAR 6.305](#), the supporting justification must be published on the GPE after the contract is awarded.

## b. Competition

**(1) Full and Open Competition. See I above.**

**(2) Other than Full and Open Competition.** The CO may use USAID's express authorities under [AIDAR 706.302-70](#), "Impairment of Foreign Aid Programs," for USPSCs serving abroad as follows:

- a) For a new award, extension, or renewal of an award for a Resident Hire USPSCs, as well as a USPSC serving abroad and recruited from outside the cooperating country for a contract of six months or less, the CO must satisfy the conditions and requirements in [AIDAR Class Deviation and Class J&A for other than full and open competition](#) and [AIDAR Appendix D, sec. 5. \(c\)](#).
- b) The CO may use [AIDAR 706.302-70\(b\)\(5\)](#) for follow-on extensions or renewals for USPSCs serving abroad and recruited from outside the Cooperating Country or for a Washington based USPSC, for continuation of the same position with the same individual. The CO must meet the requirements for use of this exception, which includes preparing the justification for award without full and open competition as provided in [AIDAR 706.302-70\(c\)\(2\)](#) and [FAR 6.303](#). The CO must also obtain Agency Competition Advocate approval, as stated in [AIDAR 706.302-70\(c\)\(4\)](#). For the five year limitation on all PSCs see ADS 309.3.1.d.
- c) The CO must comply with the conditions, as well as the publicizing and documentation requirements of [AIDAR 706.302-70\(c\), Limitations](#). When using the class justification, the CO must include the required CO statement and comply with the file documentation requirements specified in [AIDAR Class Deviation and Class J&A for other than full and open competition](#).

### III. CCN and TCN PSCs

#### a. Publicizing

- (1) See [AIDAR Appendix J, sec. 5\(b\)](#) for publicizing requirements.
  - (2) The CO is responsible for meeting the solicitation requirements for prospective PSCs. Publicizing a PSC solicitation prior to the official release by the CO is a violation of federal procurement regulations and statutes. Therefore, all PSC solicitations must be prepared and issued by the corresponding CO, not the requesting office. Following the publication of the solicitation by the CO, requesting offices may place paid advertisements in other media such as newspapers, periodicals, and other methods in consultation with the CO.
  - (3) The CO must follow [FAR 5.203](#) regarding response time periods for PSC solicitations.
- (1) **Full and Open Competition.** PSC solicitations issued under full and open competition are subject to the publicizing requirements of [FAR Part 5](#). See [FAR sections 5.102](#) and [5.203](#) for solicitation availability and response time requirements.
  - (2) **Other Than Full and Open Competition.** The CO must advertise CCN or TCN PSCs in accordance with [AIDAR Appendix J](#) and [AIDAR Class Deviation and Class J&A for other than full and open competition](#).
  - (4) **Alternate Procedures.** If use of the GS-scale is approved in accordance with [ADS 309maa](#), solicitations must be publicized on [www.fedbizopps.gov](http://www.fedbizopps.gov) to satisfy the full and open competition requirements of [FAR Part 6](#) and [AIDAR Part 706](#). See the order of hiring preference in [ADS 495](#) and [309.3.3](#).

#### b. Competition.

- (1) **Full and Open Competition.** See I above.
- (2) **Other than Full and Open Competition.** See [AIDAR Appendix J, sec. 5\(c\)\(1\) and \(3\)](#) and [AIDAR Class Deviation and Class J&A for other than full and open competition](#).

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