Special Initiative
Report No. 33

Contracting Non-governmental Organizations to Combat HIV/AIDS

February 2001

Prepared by:

Courtney Barnett
Abt Associates Inc.

Catherine Connor, M.B.A.
Abt Associates Inc.

Pamela J. Putney, M.S.
Abt Associates Inc.

Partnerships
for Health
Reform

PHR

Partnerships
for Health
Reform

PHR

Mission

The Partnerships for Health Reform (PHR) Project seeks to improve people's health in low- and middle-income countries by supporting health sector reforms that ensure equitable access to efficient, sustainable, quality health care services. In partnership with local stakeholders, PHR promotes an integrated approach to health reform and builds capacity in the following key areas:

> better informed and more participatory policy processes in health sector reform;

> more equitable and sustainable health financing systems;

> improved incentives within health systems to encourage agents to use and deliver efficient and quality health services; and

> enhanced organization and management of health care systems and institutions to support specific health sector reforms.

PHR advances knowledge and methodologies to develop, implement, and monitor health reforms and their impact, and promotes the exchange of information on critical health reform issues.

February 2001

For additional copies of this report, contact the PHR Resource Center at PHR-InfoCenter@abtassoc.com or visit our website at www.phrproject.com.

The opinions stated in this document are solely those of the authors and do not necessarily reflect the views of USAID.

Abstract

In many developing countries, non-governmental organizations (NGOs) have taken the lead in responding to the HIV/AIDS crisis. As international funding to combat HIV/AIDS has increased, donors and government officials are looking for effective ways to distribute new funding to maximize impact. The Partnerships for Health Reform evaluated NGO contracting as a mechanism to increase the scale of HIV/AIDS services and streamline funding and monitoring. Contracting was found to give the purchaser more influence over defining the results of NGO activities and make the purchaser and NGO more accountable. Contracting was also found to be more conducive to introducing performance-based systems into HIV/AIDS programs. Challenges include the need for resources to plan and implement a contracting program, political resistance, and lack of capacity among NGOs, the public sector, and international agencies in relation to NGO contracting. The key operational elements for NGO contracting include: assessing the operating environment of the country; determining the institutional arrangements and objectives of the contracting program; and designing the solicitation and selection process, the contract terms, and the monitoring and evaluation systems. Best practices are recommended based on two case studies of large scale NGO contracting programs in Brazil and Guatemala.

Table of Contents

List of Tables

List of Figures

Acronyms

AIDS	Acquired Immunodeficiency Syndrome
CSLCS	Asociaciones Coordinadoras de Sectores de Lucha contra el SIDA (Association of HIV/AIDS NGOs, Guatemala)
HIV	Human Immunodeficiency Virus
IEC	Information, Education, and Communication
MOH	Ministry of Health
NC	National Coordination
NGO	Non-governmental Organization
PHR	Partnerships for Health Reform Project
PNS	*Programa Nacional de Prevención y Atención de ETS/VIH/SIDA* (National AIDS Program), Guatemala
RFP	Request for Proposals
TA	Technical Assistance
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
USAID	United States Agency for International Development

Acknowledgements

Executive Summary

This report examines the use of contracting non-governmental organizations (NGOs) as a mechanism to deliver HIV/AIDS services and programs in developing counties. It is intended to help donors, government officials, NGOs, and others decide if and how NGO contracting could contribute to their current efforts to combat HIV/AIDS in developing countries. In light of two current trends – increasing funding for HIV/AIDS and the reliance on NGOs to deliver services – the Partnerships for Health Reform (PHR) Project was asked by the HIV/AIDS Division of the United States Agency for International Development/Washington to evaluate NGO contracting as a mechanism to increase the scale, coverage, and quality of HIV/AIDS services.

To evaluate this type of contracting, the PHR Special Initiative on HIV/AIDS conducted case studies regarding experiences in Guatemala and Brazil. These two countries were selected because of their current and previous experience operating large-scale NGO contracting programs, and because the differences in their structure and operation offered an opportunity to compare approaches. In Brazil, contracting HIV/AIDS NGOs was implemented by the Ministry of Health through the AIDS I (1994-1998) and AIDS II (1998-2002) Projects, which were co-financed by the World Bank and the government of Brazil. In Guatemala, NGO contracting was implemented by international agencies that are members of the United Nations Expanded Theme Group. The Group includes representatives from U.N. agencies, the National AIDS Program (*Programa Nacional de Prevención y Atención de ETS/VIH/SIDA*, PNS), international donors, and the Association of HIV/AIDS NGOs (*Asociaciones Coordinadoras de Sectores de Lucha contra el SIDA*, CSLCS).

In many countries NGOs were providing basic prevention, education and care for those infected with HIV/AIDS before the government acknowledged that HIV/AIDS was a national problem. NGOs have also emerged to fill the gap to provide services that governments are unable or reluctant to provide. Many governments and international agencies recognize that NGOs are uniquely capable of reaching populations affected by HIV/AIDS and work with NGOs to:

> Extend coverage to high-risk and under-served populations;

> Address specific gaps in capacity in the public sector;

> Improve the quality of care;

> Deliver HIV/AIDS services at a lower cost;

> Strengthen the institutional capacity of NGOs to provide better services and scale up activities; and

> Encourage competition among providers – private and public.

Collaboration of governments and international agencies with NGOs has primarily been through grants, cooperative agreements, provision of technical assistance, participation in strategic planning, or simply coordination. Contracting is less common. Since the design and implementation of a contracting program takes time and resources, what can be gained by moving to contracting with NGOs? There are six important advantages:

1. Contracting gives the purchaser more influence in the definition of the activities to be delivered by the NGO;

2. A contract is legally binding, which may give both the purchaser and the NGO more security that each side will fulfill its responsibilities;

3. The disincentive for non-performance is far greater with a contract than with other mechanisms;

4. The contracting process typically calls for NGOs to meet certain pre-requisites in order to be eligible for contracting, which can identify NGOs with a minimum level of infrastructure needed to absorb more funding and more demanding tasks;

5. Contracting can make the NGOs and the purchaser more accountable for how funds are spent; and

6. It may be easier and faster to introduce performance-based systems into HIV/AIDS programs through private sector contracting than through government systems.

There are key elements to the operational side of contracting that must be accomplished before beginning the program:

> Planning the NGO contracting program including assessment and defining objectives, institutional arrangements, and funding;

> Solicitation and selection of NGOs for contracting;

> Determining the structure and terms of the NGO contracts;

> Implementation of the contract by the NGO; and

> Monitoring and evaluation, both financial and programmatic.

Clearly, the operational aspects are greatly influenced by the operating environment of the country implementing the program. A variety of different assessment methods are presented as well as the design implications of different program objectives. Institutional arrangements determine who is responsible for what in the contracting program. The criteria for best practices in institutional arrangements are:

> Be inclusive of all available resources;

> Promote local leadership and ownership;

> Build local capacity; and

> Establish a strong, client-orientated administrative entity.

There are different ways to administer or manage an NGO contracting program, but channeling contracts through a single administrative unit in which NGOs can feel comfortable and one that they find trustworthy is likely to be the best approach. The planning and organization of NGO contracting should be the fruit of coordination among the major stakeholders working on HIV/AIDS in a given country. This coordination will help avoid the establishment of duplicate or competing contracting systems, competition between contracting and grants, and the delivery of duplicate or competing interventions by NGOs, government providers, and international agencies.

The contract solicitation process should spell out clearly the objectives of the program and this information should be communicated broadly and consistently. The process must build trust among participants from the outset. The selection process can be competitive or non-competitive but must be transparent. The contract must clearly define outputs, payment terms, and the rights and responsibilities of all parties. The reporting obligations should be fully understood by both parties to the contract. An evaluation of the impact of services provided by contracting NGOs and of the contracting process would be valuable to all stakeholders to refine the program and advocate its continuation.

1. Introduction

The purpose of this report is to present contracting non-governmental organizations (NGOs) as a mechanism to deliver HIV/AIDS services and programs in developing counties. It is intended to help donors, government officials, NGOs, and others decide if and how NGO contracting could contribute to their current efforts to combat HIV/AIDS in developing countries. The report also introduces the many operational issues and steps involved in implementing an NGO contracting program, with special consideration for addressing these issues in relation to HIV/AIDS. The findings and recommendations presented are based on two case studies of countries operating large-scale NGO contracting programs, as well as a review of the literature on public-private contracting in the health sector and partnering with NGOs for HIV/AIDS.

This report will present:

> The benefits of partnering and contracting with NGOs for HIV/AIDS services;

> How contracting NGOs for HIV/AIDS services compares with other forms of partnerships with NGOs (e.g., grants, cooperative agreements, technical assistance);

> How contracting NGOs for HIV/AIDS is different from contracting NGOs for other health services; and

> An introduction to the operational aspects of contracting NGOs, with recommendations for tailoring contracting to HIV/AIDS.

1.1 Background

HIV/AIDS is a major threat to development. Rising infection rates have undermined previous successes in improving health indicators in many countries. The global incidence of HIV/AIDS is growing exponentially with an estimated 17 million people having died of the disease and more than 32 million persons currently living with HIV/AIDS. In 1999 the international community became increasingly vocal regarding the threat of HIV/AIDS to the continued development of countries worldwide. Governments and international agencies such as United States Agency for International Development (USAID) and the World Bank recognized the need to allocate more resources towards combating the disease. In January of 2000 the U.S. National Security Council declared HIV/AIDS a threat to national security. Recently, USAID funding allocated for the prevention and treatment of HIV/AIDS has doubled. As increased financial resources are being directed towards fighting the disease, decision makers in governments and international agencies are faced with the choice of where and how to channel funds in ways that will expand the coverage, quality of and access to HIV/AIDS services.

In parallel with the growing HIV/AIDS epidemic has been the sustained response of NGOs to deliver services, programs, and support to those at risk and already living with the disease. In many countries, NGOs responded before governments and donors. Today there is a wide consensus that NGOs must continue to be part of the response to HIV/AIDS because of their ability to reach high risk and underserved populations, their commitment and creativity, and the quality and cost-

effectiveness of their work. USAID, the Joint United Nations Programme on HIV/AIDS (UNAIDS), the World Bank, and many other multi-lateral and bilateral organizations as well as local governments partner extensively with NGOs for HIV/AIDS services.

In light of these two trends – increasing funding for HIV/AIDS and the reliance on NGOs to deliver services – the Partnerships for Health Reform (PHR) Project was asked by the HIV/AIDS Division of USAID/Washington to evaluate NGO contracting as a mechanism to increase the scale, coverage, and quality of HIV/AIDS services. In addition, while there is a growing literature on contracting out health services in developing countries and partnering with NGOs on HIV/AIDS and other health issues (see Bibliography), there has been little documentation of contracting NGOs to deliver HIV/AIDS services.

To evaluate this type of contracting, the PHR Special Initiative on HIV/AIDS conducted case studies on experiences in Guatemala and Brazil. These two countries were selected because of their current and previous experience operating large-scale NGO contracting programs, and because the differences in their structure and operation offered an opportunity to compare different approaches.

Brazil conducted NGO contracting primarily under the AIDS I and AIDS II Projects co-financed by the Government of Brazil and the World Bank. With a special unit established within the Ministry of Health (MOH) to oversee and manage all NGO contracting, 800 contracts over six years, web-based proposal submissions and dissemination, and integration with federal, state, and municipal health authorities, contracting in Brazil could be considered a relatively sophisticated model of NGO contracting. In Guatemala contracting for HIV/AIDS services takes place between international agencies that are members of the United Nations Expanded Theme Group, and Guatemalan NGOs. The government is not a direct party to the contracts, but guides the entire process through its national HIV/AIDS strategic plan. In both countries a wide variety of HIV/AIDS services and functions are contracted out, including:

Information, education, and communication for prevention programs that range from mass media and telephone hotlines to small group sessions to community outreach and door-to-door education;

> Psycho-social services and counseling for people living with AIDS

> Legal assistance (e.g., for someone who lost his/her job or was evicted from his/her home)

> Training of health and other professionals;

> Condom distribution;

> Voluntary Testing and Counseling (VTC),

> Day hospitals, palliative care; and

> Advocacy with local health authorities and elected officials to provide HIV/AIDS services at public facilities, or to commit funds to HIV/AIDS services.

This report synthesizes the lessons learned from the two case studies as well as drawing from other sources to present contracting NGOs as a mechanism to deliver HIV/AIDS services and programs in developing counties.

1.2   Methods

The PHR case studies sought to document and evaluate the experiences in each country and to distill lessons learned. Separate case study reports for each country were prepared, guided by the following research questions:

> How well were the contracts designed, how well did the selection and award processes work, and how can this be improved?

> How well did the contracting entity monitor and evaluate the performance of recipients? How could monitoring and evaluation be improved?

> How well did contracting encourage "good performance" of NGOs in the delivery of HIV/AIDS services? How well did contracting respond to the objectives of the government, donors, NGO recipients and the target population? How could this be improved?

> How does the underlying environment affect the success of contracting between governments and NGOs for the delivery of HIV/AIDS services? How can this be strengthened?

> What lessons learned from these two country cases can be used to help other governments in their efforts to contract out the delivery of HIV/AIDS services?

The features of contracting that PHR chose to focus on were drawn from previous work on contracting (Mills, 1998). In Mills' work, six individual contracts for the delivery of clinical and non-clinical services from five countries were studied using a framework that identified the key features of contract design, implementation and context that were most likely to influence the outcome of the contracts (McPake and Hongoro, 1993). The contracts were then evaluated based on these key features:

1. Rationale for the contracts;
2. Contract design;
3. The process of contract implementation;
4. The cost and quality of direct public provision of service versus the cost of contracting out the service (including transaction costs) and the resulting quality level;
5. Implications for public sector workers who fear losing their jobs;
6. Aspects of the general environment likely to influence the contracting process, such as the characteristics of the private sector.

The PHR case studies focused on the same features, except for the fourth and fifth. Analysis of the fourth feature, comparing the cost and quality of direct public provision versus contracting private providers, was not documented due to insufficient data on costs and quality in both Brazil and Guatemala. PHR recommended that contracting agents in both countries improve the collection of cost and quality data in order to make this critical comparison. Regarding the fifth feature, it presupposed that the type of services contracted out were already being provided by the government and that contracting out may result in a loss of public sector jobs. Contracting for HIV/AIDS in the case study countries was considerably different because NGO provision of HIV services had generally preceded both public provision and formal contracting agreements between the government

and NGOs. So there were no public jobs at risk. In the case of Brazil, the AIDS I and II projects actually helped create a new HIV/AIDS division in the MOH (and with it new jobs) that were filled by people from both the public and NGO sectors.

The methodology used to gather information for the case studies and this synthesis report included:

> Review of national HIV/AIDS strategy, contracting strategy, bidding documents, NGO contracts, procedures, monitoring and evaluation plans and reports, NGO reporting, and many other written materials;

> Interviews with key informants;

> Site visits in both Brazil and Guatemala to view facilities, meet clientele, and conduct interviews; and

> Formal survey of a geographically diverse sample of 20 NGOs in Brazil.

1.3   Key Terms and Concepts

Contracting with NGOs for HIV/AIDS is still a relatively new phenomenon. Key concepts and some of the terms as they are used and understood in this report, are therefore defined below.

Contract: A legally binding agreement between a purchaser (e.g., the government) and a contractor (e.g., the NGO) to acquire services or property for the direct benefit or use of the purchaser in exchange for payment to the contractor. Unlike a grant, the objective of a contract is to acquire something, not to provide assistance. The contract may have more than two parties. For example, a donor may be responsible for making contract payments and a government agency may be identified as the recipient of the services and responsible for judging the adequacy of the services. The contract should include the following elements: each party's role and responsibilities, what the contractor is expected to do or deliver (i.e., Terms of Reference or Scope of Work), payment terms, what insurance the contractor should have, limitations on the purchaser's liability, which party owns any non-expendable equipment purchased through the contract, and how non-compliance with the terms of the contract will be resolved.

Competitive Bidding: A competitive process used by the purchaser to select the contractor(s) using technical and cost criteria. The process entails announcing the contract opportunity (could be open to all or an invitation to a select number of NGOs), issuing the request for proposals (also known as the bidding or tender documents), scoring the technical and cost proposals according to the technical and cost criteria, and selecting the winner(s). Contrast with a non-competitive selection process, sole sourcing, below.

Grant: An agreement between a donor and a recipient to transfer money, property, services, or anything of value to the recipient in order to accomplish a public purpose. The purpose of a grant is assistance. The recipient is to have substantial freedom to pursue its stated program. A grant may not be legally binding. Comparable arrangements include Memorandums of Understanding or Cooperative Agreements.

International Agencies: Multi-lateral and bilateral donors, international projects, any international institution that might be in a position to contract local NGOs.

Non-governmental Organization: According to the World Bank, NGOs are "private organizations that pursue activities to relieve suffering, promote the interest of the poor, protect the environment, provide basic social services, or undertake community development" (World Bank, 1997). This report uses the term NGO to include a wide variety of civil society organizations: churches, research organizations, groups that implement activities and projects, advocacy groups, religious or secular organizations, service delivery organizations, worker unions (e.g., union of commercial sex workers), professional organizations, village or neighborhood associations. Generally speaking, these organizations enjoy non-profit status. While the NGOs in Brazil and Guatemala were almost exclusively local, indigenous organizations, there may be countries that want to contract with international NGOs from developed countries as well.

Performance-based Contract: A contract in which some portion of the payment is based on the contractor's performance to achieve measurable results. For example, an NGO contracted to work with commercial sex workers to prevent the transmission of HIV/AIDS through education and distribution of male and female condoms would receive a financial reward for meeting or exceeding the number of commercial sex workers who reported using condoms regularly.

Pre-requisites: Requirements that a potential contractor must fulfill in order to be eligible for contracting. For example, documentation of the organization's legal status, compliance with tax and labor regulations, financial statements, organizational structure, composition of its board, year founded, mission statement, and other background information. If submission of pre-requisite documents is required prior to submission of a proposal it is called accreditation or pre-qualification. Alternatively, pre-requisite documents may be submitted along with the proposal.

Sole Source: A non-competitive process used by the purchaser to select the contractor(s). This may be justified when a contract is being renewed or extended, when a contractor has exclusive or predominant capability, or if the contract amount is too small to justify the expense of a competitive selection process.

2. Benefits and Challenges of Contracting with NGOs

2.1 Why Partner with NGOs for HIV/AIDS?

Before addressing why governments and international agencies would want to contract NGOs to improve or expand HIV/AIDS services, it is useful to review why these institutions want to partner with NGOs through any mechanism. The NGO community has played a critical role worldwide in response to the HIV/AIDS epidemic. In many countries NGOs were providing basic prevention, education and care for those infected with HIV/AIDS before the government acknowledged that it was a national problem. In many situations NGOs emerged to fill the gap to provide services that governments are unable or reluctant to provide. Many governments and international agencies recognize that NGOs are uniquely capable of reaching populations affected by HIV/AIDS. Reasons local governments and international agencies work with NGOs on HIV/AIDS include:

> Extend coverage to high-risk populations (i.e., NGO's have access to certain target populations like commercial sex workers and intravenous drug users who may distrust government programs);

> Extend coverage to under-served populations (e.g., NGOs were the only source of health care in some areas of Guatemala);

> Address specific gaps in capacity in the public sector (this could include the two reasons above, or, for example, an NGO may be better qualified to train health and other professionals in certain aspects of patient care);

> Improve the quality of care (e.g., an NGO day hospital for HIV/AIDS patients may be more sensitive and client-focused than a public general hospital, or the staff of an HIV/AIDS NGO may be better able to educate certain target populations on prevention because they have a better understanding of their needs);

> Deliver HIV/AIDS services at a lower cost;

> Strengthen the institutional capacity of NGOs to provide better services and scale up activities;

> Tap NGOs creativity and commitment to HIV/AIDS;

> Complement/amplify the impact of donor and government programs and services (e.g., NGOs bring people into public facilities for testing and treatment);

> Encourage competition among providers – private and public;

> Allow local government authorities to create some distance from HIV/AIDS service delivery in cases where direct provision would be politically difficult; and

> Provide flexibility to expand and improve services without the need to make changes in the public health infrastructure (hiring more civil services employees, constructing new facilities).

NGOs have their own reasons for partnering with the government and international agencies[1], including:

> Secure funding for their mission and activities;

> Improve and expand the impact of their activities;

> Receive technical assistance;

> Be part of a larger program;

> Collaborate with the MOH and/or international agencies; and

> Influence national strategy and policies.

2.2   Why Contract NGOs?

Given the many advantages listed above, it is no surprise that the major international agencies involved in HIV/AIDS (UNAIDS, USAID, World Bank, and others) as well as many developing country governments, already partner extensively with NGOs. This collaboration with NGOs has been primarily through grants, cooperative agreements, provision of technical assistance, participation in strategic planning, or simply coordination. Contracting is less common. Since the design and implementation of a contracting program takes time and resources, what can be gained by moving to contracting with NGOs?

First, contracting gives the purchaser more influence in the definition of the activities to be delivered by the NGO. This may be advantageous if the purchaser is trying to ensure that contracting contributes to a national HIV/AIDS strategy. This influence can also help the purchaser coordinate the activities of a large number of organizations into a coherent, synergistic effort. The purchaser can exercise this influence through instructions in the bidding documents[2], by specifying concrete activities and outputs in the contract, and through the monitoring system. For example in Guatemala, the members of the United Nations Theme Group would coordinate who was contracting for which activities to better ensure that NGO activities were in line with the National Strategic Plan for HIV/AIDS. In Brazil, the request for proposals inviting NGOs to bid on contracts included instructions that defined target groups and activities that NGO proposals should address. In contrast, under a grant, the recipient of the grant is to "have substantial freedom to pursue its stated program," and substantial involvement of the grantor is not anticipated.

The influence available under contracting, however, should not be interpreted as an invitation to micro-manage NGOs. The purchaser should be specific about the outputs, but give the contracted NGOs managerial autonomy to determine how to achieve those outputs. Also, because the purchaser

---

[1] Based on a survey of 20 contracted NGOs in Brazil.
[2] "Bidding documents" are also known as the invitation letter and request for proposals (RFP).

can have greater influence, it is important to involve the NGO community in strategic planning and design of the contracting program so their unique knowledge of community needs is incorporated.

Second, a contract is legally binding which may give both the purchaser and the NGO more security that each side will fulfill its responsibilities. This may be important for the purchaser that is working with NGOs for the first time or needs to disburse larger amounts of funds for broader, more demanding activities than previously done through NGOs. A legally enforceable contract may be important for the NGO that is far less powerful than the purchaser (the government or international entity) and relies on the purchaser to make timely payments.

Third, the disincentive for non-performance is far greater with a contract than with other mechanisms. The contract can stipulate both financial and legal penalties. Under a grant, the disincentive for non-performance by a NGO is no future funding. Under a contract, the disincentive for non-performance is that the NGO may not get reimbursed for costs already incurred. Clearly, this advantage mostly accrues to the purchaser, not the NGO, though the contract could include penalties for the purchaser in the case non-performance (e.g., late payment).

Fourth, the contracting process typically calls for NGOs to meet certain pre-requisites in order to be eligible for contracting[3]. These pre-requisites typically include documentation of the organization's legal status, compliance with tax and labor regulations, financial statements, organizational structure, composition of its board, year founded, mission statement, and other background information. While these pre-requisites appear bureaucratic, they can be advantageous when the purchaser is seeking to work with organizations that meet a minimal level of infrastructure and capacity that is needed to absorb larger amounts of funding and execute more demanding tasks. The disadvantage is that many grass-root organizations can be left out of the contracting program.

Fifth, contracting can make the NGOs and the purchaser more accountable for how funds are spent. Financial spending and reporting requirements can include procedures like approval by two NGO managers of any expense over a certain amount, solicitation and documentation of several price quotations for expenses over a certain amount, submission of original receipts, and the need for the NGO to get approval to spend differently than the original budget. These requirements can represent a significant burden on both the NGOs and the managing entity, but are extremely valuable in helping all parties to be accountable to funding sources.

Lastly, it may be easier and faster to introduce performance-based systems into HIV/AIDS programs through private sector contracting than through government systems. International agencies and governments that want the provision of HIV/AIDS services and programs to be more efficient and results-orientated can use performance-based contracting. Performance-based contracting rewards the contractor for meeting or exceeding measurable results (e.g., number of people at risk tested for HIV or number of pregnant women with HIV educated to prevent transmission through breastfeeding). Linking expenditures with performance may be more easily and quickly accomplished through contracting non-governmental organizations than trying to change civil service regulations (e.g., payment of MOH staff), health system budgets, or resource allocation systems in the public sector.

---

[3] Also known as accreditation, pre-qualification, and entry requirements.

2.3   Challenges of Contracting NGOs

While the advantages and benefits listed above hold much promise for strengthening the response to HIV/AIDS, there are many challenges to NGO contracting. These challenges are discussed below, along with possible solutions to address them.

Resources: While contracting has the potential to streamline the disbursement of funds and monitoring of NGO activities, the development and implementation of an NGO contracting program takes time, funds, and expertise. As described in "Implementation of Contracted Services", which follows, the steps include designing the contracting program, inviting NGOs to present proposals, establishing a selection process, executing the contracts, and monitoring and evaluating the contracted NGOs as they provide services. Funds are needed for staff to manage the contracting program, for technical assistance to both the government and NGOs, and for contract payments to the NGOs. Providing adequate resources is best addressed during the design stage described in "Implementation of Contracted Services".

Political resistance: Successful contracting takes a high degree of trust and collaboration between the purchaser (international agencies or government) and the NGOs. However, there may not be a good relationship between these organizations upon which to build a contractual relationship. Government officials and NGOs alike may resist the idea. However, the experiences in Brazil and Guatemala demonstrate that contracting can work to strengthen and improve these relationships. Several Brazilian NGOs were initially distrustful and skeptical that they would be treated fairly and respectfully by the MOH, but due to good program management they were ultimately very satisfied. The lesson is that trust and collaboration can be built, but this requires pro-actively engineering opportunities for collaboration, careful selection of the staff that manage the contracting program and interface with the NGOs, and emphasis on transparency and information sharing.

Lack of NGO capacity: There are two types of NGO capacity, technical and administrative. Technical capacity is the NGO's ability to deliver the service, program, or product effectively. For example, its ability to operate a day hospital or orphanage, or do community outreach to change risky behavior, or distribute condoms to intended target groups. The extensive NGO involvement in HIV/AIDS that already exists in most developing countries reflects a rich resource of technical capacity in the NGO sector. However, purchasers should assess NGO technical capacity in light of the objectives of a contracting program so decisions can be made about sole sourcing or inviting selected NGOs to participate, and what technical assistance is needed. Administrative capacity is the NGOs ability to prepare proposals and budgets, and meet reporting and accounting requirements that are more demanding under a contract than a grant. Purchasers must also assess administrative capacity so they can design a contracting program that is a realistic administrative burden for the NGOs. In situations of relatively high technical capacity but low administrative capacity, the contracting program can train NGO staff to prepare proposals, use simple bidding procedures, and rely more heavily on site visits for monitoring.

Lack of public sector capacity: Public sector capacity to manage NGO contracting – both technically and administratively – may be lacking. In this case, international agencies can provide assistance to build this capacity within the government, create a management unit inside the government that is donor-funded, or create a management unit outside the government. The first option is the most sustainable but takes longer to implement and deficiencies may be serious enough that despite external assistance contracting is not feasible (e.g., inability to pay NGOs in a timely manner, lack of transparency in the selection process). The second option can build capacity depending on how well the unit is incorporated into the government structure. However, it is less sustainable as the government may not be able to absorb the cost of the unit, especially if much higher

salaries were paid to attract quality staff. The third option does not build public sector capacity but it may be the fastest way, or in some countries the only way, to launch the contracting program. In fact, in some countries the government may prefer an external unit for political reasons.

Lack of international agency capacity: Some donors and international agencies and projects may lack expertise in how to go about designing and implementing a NGO contracting program. Or they may lack experience working directly with civil society organizations in general. International agencies have the advantage, relative to governments and NGOs, of having the most resources, which would allow them to buy or hire this expertise. A different kind of limitation may be a lack flexibility to adapt accounting policies and procedures to deal with the limited administrative capacity of developing country NGOs. Or they may be constrained by their institutional policies and regulations from entering into contracts that are tailored to the needs of the NGOs. For example, a donor's internal regulations may prohibit it from providing a contracted NGO with any assistance or equipment because a contract is just supposed to be a procurement mechanism. These inflexibilities are hard to negotiate in very large institutions but can be compensated for through the contracting program. For example, Brazilian NGOs had to comply with World Bank procurement procedures that had extensive requirements (e.g., need to get 3 written price quotations for any purchase over US$500). To compensate, the management unit provided NGOs with Portuguese language templates of all the forms they needed and was available to assist the NGOs by phone, fax, and email.

3. How Is Contracting NGOs for HIV/AIDS Services Different?

There is a growing trend for governments in developing countries to contract private organizations, both for-profit and NGOs, to deliver health services. While there is no official count, a recent study by the World Bank found 24 current examples of government contracting in the area of reproductive health alone (Rosen, 2000). In many Latin American countries (Brazil, Peru, and Chile), the government contracts with private providers on a large scale for a whole continuum of services. Is contracting NGOs for HIV/AIDS different from contracting private sector organizations for other health services? Based on the case studies in Guatemala and Brazil, it is clear that most of the operational aspects of contracting NGOs for HIV/AIDS do not differ from public sector contracting for other health services. The steps are the same: determine the contracting objectives, solicit proposals, select the "winners", execute the contracts, implement the contracts, monitor and evaluate. However, the case studies did reveal some differences.

First, the purchaser may often be a donor or other international entity, not a local government authority. Donors predominant in the response to HIV/AIDS because many developing countries have not had the money and/or political commitment to address the epidemic alone.

Second, because HIV/AIDS is a development problem not just a health problem, NGO contracting for HIV/AIDS should involve multiple stakeholders, including representatives from sectors outside health. For example, representatives from education, prisons, military, and private commercial employers could contribute their knowledge of the epidemic's impact on their sectors and hear about the services available from the NGO sector. Another example is opening up contracting to a wide variety of civil society organizations, including non-health NGOs, to cast a wide net and capture the broad range of skills and capacities needed to prevent and treat HIV/AIDS. Involving many stakeholders in NGO contracting is an appropriate extension of the involvement that they have had in other HIV/AIDS work.

Third, measuring the impact of NGO contracting for HIV/AIDS may be even more challenging than evaluating programs to contract out other health services. There are much stronger cultural taboos around HIV/AIDS since it is a fatal disease that is transmitted primarily through sexual contact and intravenous drug use. Also, there are often multiple interventions in place and it may be difficult to determine the impact of a single effort or intervention. For example, in Brazil the federal MOH sponsors mass media campaigns on safe sex, while at the same time NGOs work at the community level delivering the same message and distributing condoms. Which intervention is responsible for the falling transmission rates? Evaluation in both Brazil and Guatemala relied mainly on counting outputs (e.g., number of condoms distributed, people trained, patients admitted). Both countries identified evaluation of impact as the aspect of NGO contracting that needed the most improvement.

Fourth, contracts with NGOs for HIV/AIDS may include elements of institution building, unlike contracts with for-profit or non-profit entities to procure clinical health services, cleaning or food services. NGOs working on HIV/AIDS may have community outreach expertise, knowledge of HIV/AIDS, and commitment, but they may lack strong program and financial management, staff that can write eloquent proposals, working capital to carry them until a contract payment arrives, and computers for preparing financial and program reports. Therefore, the contract budget may include

activities to strengthen the NGO and enhance their ability to deliver services. For example, contract funds could cover equipment (telephone, computer, refrigerator, beds, generator, etc.) or travel expenses for staff to attend a training event. NGO's could receive the first payment upon execution (signing) of the contract before they incur expenses. For example, NGOs contracted in Brazil received one-third of the contract value upon signing the contract and then received the two subsequent payments after submitting a financial report accounting for at least 80 percent of the funds received to date. The contracting program should also provide technical assistance to the NGOs. For example:

> A bidding seminar where all interested NGOs could not only learn about the contracting program but be guided on how to prepare a proposal;

> Periodic workshops on key topics like quality improvement or how to gather feedback from end-users and beneficiaries where NGOs share ideas and hear from experts;

> Staff conducting financial monitoring visits should be prepared to train the financial manager at the NGO;

> Regular written communication from the national HIV/AIDS program (or whichever entity is taking a leadership role) sharing the latest epidemiological data, answers to operational questions, information about the bidding process (e.g., results from the last cycle or invitation to participate in the next cycle), and other useful information that helps the NGO feel like it supported and part of a larger effort.

Fifth, contracts with NGOs working on HIV/AIDS could be unique in the inclusion of advocacy as an activity that the NGO is contracted to perform. For example, an NGO would provide advocacy with employers to protect the jobs of people living with HIV/AIDS. NGOs in Brazil do important advocacy work with state and municipal health authorities to safeguard promised levels of public sector spending on HIV/AIDS services and medications. This advocacy work is critical given the country's decentralized health system. NGOs can also advocate with the private insurance sector so people diagnosed with HIV/AIDS do not lose their benefits, and with the blood donation market to ensure mandatory HIV testing.

In light of how NGO contracting for HIV/AIDS can be different from contracting for other health services, the next section introduces the operational aspects of contracting NGOs, with recommendations for tailoring contracting to HIV/AIDS.

4. Operational Aspects of Contracting for HIV/AIDS Services

Based on the study of Guatemala's and Brazil's experience, this section is devoted to discussing the key operational aspects of contracting NGOs for the delivery of HIV/AIDS services. Criteria were developed to determine "best practices" for each of the aspects. The criteria emphasized outcomes or desired results, with less focus on how to achieve those results since each country situation may require a unique approach. The criteria also emphasized results by giving more weight to practices that promote speed in terms of getting contracts signed, providing funding to NGOs, and delivery of services and programs, as opposed to practices that seek perfect information, or perfect systems and procedures. Alternative ways to address and accomplish each step are presented based on lessons learned from NGO contracting in Brazil and Guatemala, and numerous resources on NGO contracting and partnering.

Figure 1 is a basic illustration of the contracting process, in which each step informs and influences the next. The key steps identified in this study were the following:

> Planning the NGO contracting program, including assessment and defining objectives, institutional arrangements, and funding;

> Solicitation and selection of NGOs for contracting;

> Structure and terms of the NGO contracts;

> Implementation of the contract by the NGO; and

> Monitoring and evaluation, both financial and programmatic.

Figure 1. The NGO Contracting Process
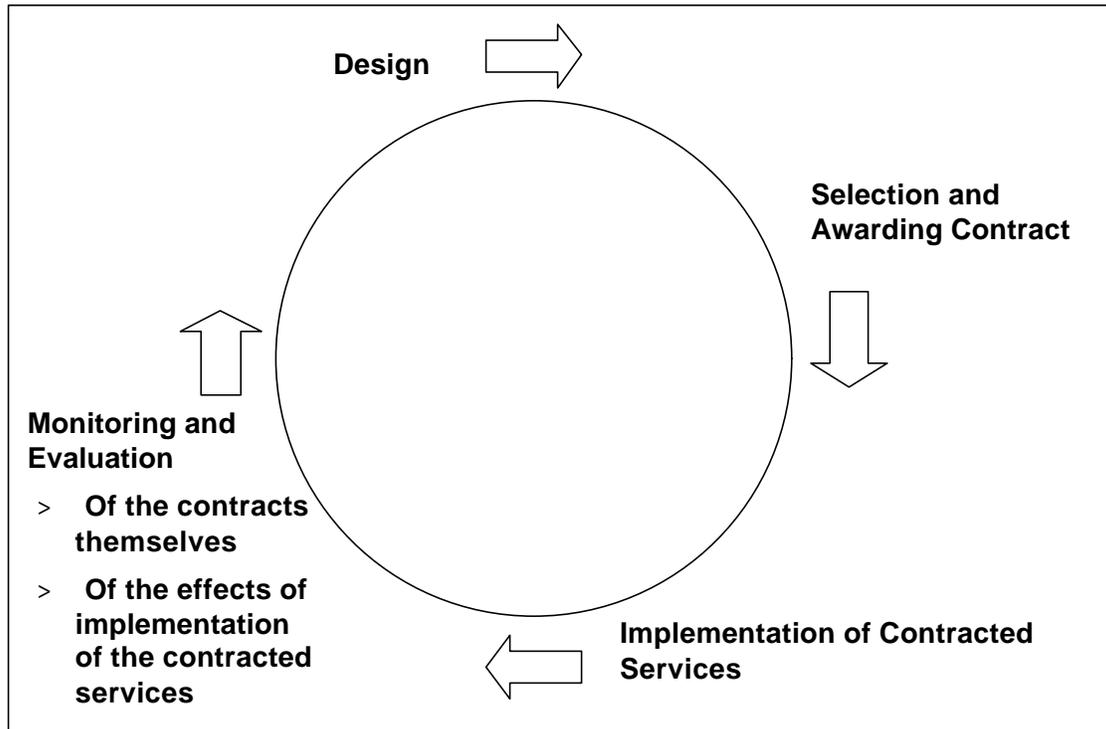
4.1 Planning

Designing an NGO contracting program for HIV/AIDS, or planning to expand and strengthen an existing program, requires definition of the objectives, assessment and data collection, determination of responsibilities (institutional arrangements) and mechanisms for funding.

4.1.1 Assessment

NGO contracting requires an understanding of the HIV/AIDS epidemic and the existing roles and capacities of the institutional players involved in HIV/AIDS in a given country. The government and principal NGOs should be contacted to see if any assessments to this end have been carried out. If not, institutional players including the government, the donors, the international NGOs or mentor NGOs[4], international HIV/AIDS programs and projects that include USAID contracts and U.N. programs, local NGOs, and other civil society groups should be included in an assessment process. The assessment should address what each player is doing in the area of HIV/AIDS; their strengths and capacities in terms of service delivery, program management, contracting, training, information, education and communication (IEC), and surveillance; and the programmatic gaps in the country's response to the epidemic. The question of what gaps the NGO community would best be suited to fill and why should also be answered.

---

[4] For the purposes of this paper "mentor NGOs" are considered to be large, predominantly northern NGOs who may have government funding to support indigenous NGOs.

This information can be obtained in a number of ways depending on who is leading the process to introduce or expand NGO contracting, how much they already know, and how much time and money they have to spend to gather information. The assessment process can serve to help build relationships and consensus among the institutions and individuals involved in HIV/AIDS and the NGO community. The assessment results should be shared with all the participants; this will further promote information sharing among NGOs and others involved in current HIV/AIDS related activities. In situations where time and money are very constrained, or participants are already familiar and knowledgeable about HIV/AIDS and the NGO sector, the assessment may be carried out along with the design of the NGO contracting program.

Different assessment approaches are presented below. The criteria for best practices are: only invest in information you really need; focus on key questions; and don't miss opportunities to build consensus. It is important to confirm that there is no current assessment available but be sure to review previous assessments, even if they are several years old.

> Survey of NGOs, Government, and Others

Provides an in-depth look at size, structure, activities, and capacity.

COMMENT: Requires extensive time and resources. Is likely to produce the most comprehensive and objective data. Dissemination of findings can contribute to greater understanding between sectors. This approach is worth undertaking if the proposed contracting program is large and no previous assessment has been done, or if significant program gaps are known.

> Focus Groups with Members of One or More of the Organizations (NGOs, government, and beneficiary population)

COMMENT: Less expensive than a survey. Produces subjective data. Begins the process of building relationships, especially across sectors, if the focus group participants represent a mix of different sectors.

> Stakeholder Analysis

Structured interviews of representatives of each organization.

COMMENT: Less expensive than surveys and focus groups. Produces subjective, but more structured data. Good way to determine preconceptions and biases.

> Working Groups

Establish a working group with representatives from some/all of the institutions to produce a plan for NGO contracting and answer assessment questions.

COMMENT: Faster, action orientated, and participatory. Less control over scope and depth of information gathered. Produces subjective data. May not be comprehensive. Effective at building relationships if working group members represent a mix of different sectors.

> Leader(s) of NGO Contracting Process Hold High-level Meetings with Stakeholders for their Input and Consultation (e.g., a steering committee)

COMMENT: Faster and action orientated. Less control over scope and depth of information gathered. Produces subjective data. May not be comprehensive. Helps build relationships and begins the process of coordination.

> Multi-Sector Workshop on NGO Contracting

Invitation for participants to share their knowledge and views, learn about and discuss the concept of NGO contracting for HIV/AIDS, fill out a brief, self-assessment survey of NGOs' institutional capacities.

COMMENT: Quick, one-shot way to gather information and build relationships. Could be high risk if organizations have a history of antipathy. Raises expectations and can be very expensive.

> Desk Study of the Country's Documented NGO Partnering Experiences (including grants, political activism, advisory groups, service delivery)

COMMENT: Usually less resource and time intensive. Doesn't contribute to relationship building or provide a good sense of NGO capabilities in most cases.

> Work with a Pre-existing Coordinating Body (e.g., the HIV/AIDS theme group) to Plan NGO Contracting Program

The participants usually are familiar with extent of the epidemic, and know each other and the NGO sector.

COMMENT: Faster. Effectiveness depends on the past effectiveness and credibility of the pre-existing body. May exclude new participants. Guatemala used this approach.

Table 1 gives examples of the design implications of some of the program objectives listed above.

Table 1: Sample of the Design Implications of Program Objectives

Objective of NGO Contracting	Design Implications for the NGO contracting program
Improve the quality of care	Selection process designed to select only the more capable organizations
	Contract contains indicators of quality
	Technical assistance (TA) on quality provided to NGOs
	Monitoring system emphasizes quality
Deliver HIV/AIDS services at a lower cost	Selection process designed to select most efficient, low cost providers
	Contract contains incentives for efficiency
	Program includes costing study to identify most cost-effective interventions and approaches
Strengthen NGOs institutional capacity	Contracts can be awarded for institution-building activities like seminars, training
	Selection process is designed to be inclusive
	Intensive TA to NGOs both managerial and technical

Complement public sector programs and services	Require evidence of links with local health authorities as a selection criteria
	Award contracts for activities that explicitly coordinate NGO and public sector efforts (e.g., NGO outreach to get people tested at public facilities)
	Include local authorities in contract monitoring or administration

4.1.2 Institutional Arrangements

Institutional arrangements determine who should do what in the contracting program. There is no single answer to the question of which organization (donor, international NGO, MOH, other government body) should play which role (be the contracting agent, provide funds, provide technical assistance, monitor, evaluate, manage/administer the contracting process). Decisions about institutional arrangements should be resolved through a collaborative process that takes into account the capacity and willingness of each sector to get the task done right. The criteria for best practices in Institutional Arrangements are:

> Be inclusive and tap all available resources;

> Promote local leadership and ownership,

> Build local capacity; and

> Establish a strong, client-orientated administrative entity.

Table 2 presents the roles and responsibilities needed for NGO contracting and what the options are for filling those needs. In the table, "government" includes the MOH or any official government entity; "international agents" refer to multi-lateral and bilateral donors, international NGOs (also known as mentoring NGOs), and international HIV/AIDS programs and projects; "NGOs" refers to indigenous, civil society organizations that include labor unions, private non-profit health service delivery organizations, family planning organizations, religious groups, and community-based organizations. This table provides an illustrative list of steps to be taken, some of which may not be required in certain situations while other steps could be consolidated depending on the situation. Resources available may also determine which steps are implemented and which are not implemented.

Table 2: Institutional Arrangements for NGO Contracting

What needs to be done	Who can do it	
	Options	**Best Practice**
Advocate for introducing or expanding an NGO contracting program	International agents (donors, NGOs), the local NGO community, individual champions within the government	As many different individuals, organizations, and sectors as possible with a unified voice
Organize multi-sector planning and coordination meetings	Government, international agents, local NGOs	Government in the lead, with support from international agents
Be the contracting agent that signs the contract and procures the services from the NGOs	Government, international agents, local NGOs	Government
Administer/manage the contracting program	Government, international agents	Government, if administrative capacity exists or can be established quickly
Provide funding for administration of the NGO contracting program	Government, international agents	Mix of government and international agents
Provide TA to the entity administrating the NGO contracting program to develop systems and procedures, and train staff to apply and refine the systems and procedures	International agents	International agents providing TA to a government entity
Select the NGOs to be contracted	Independent committee of experts, staff of entity that is administering the contracting program, committee of representatives from a mix of institutions, local NGOs	Make the selection process fair and transparent
Provide the contract funding to the NGOs	Government, international agents through a social investment fund, donor loan funding	Mix of government and international agents funneling the funds through a single mechanism
Provide TA to the NGOs in programmatic areas (service delivery, IEC, behavior change, etc.)	Government, international agents, other NGOs	Whomever has the expertise and the best access to the NGOs
Provide TA to the NGOs in contract management (proposal writing, budgeting, compliance with accounting and reporting requirements)	Government, international agents, other NGOs	Entity that is administering the contracting program
Organize and fund dissemination/information sharing events for NGOs that focus on explaining the NGO contracting program overall, the selection process, programmatic themes, contract management, or monitoring and evaluation.	Government, international agents An NGO contracted for this purpose	Mix of government and international agents
Monitor NGO performance	Entity administering NGO contracting, government (e.g.,	Entity administering NGO contracting

Contracting Non-governmental Organizations to Combat HIV/AIDS

| | Who can do it | |
What needs to be done	Options	Best Practice
	auditors), international agents, independent group hired by either the government or international agents	
Evaluate the programmatic impact of the NGO contracting program	Entity administering NGO contracting, government, international agents, independent group (evaluation specialists) hired by either the government or international agents	Evaluation specialists reporting to a multi-sector coordinating body
Evaluate the operation of the NGO contracting program	Entity administering NGO contracting, government, international agents, independent group hired by either the government or international agents	Independent group or persons

Most of the responsibilities and roles listed above are discussed in subsequent sections. The administration/management of NGO contracting, advocacy, and coordination elements are described immediately below.

4.1.2.1 Administration/Management of NGO Contracting

One of the most important institutional roles in NGO contracting is the day-to-day management of the contracting program. The team responsible has the very difficult task of balancing the needs of the NGO community with the needs of the funding agents. Several best practices are drawn from the case studies in Brazil and Guatemala.

A Single Administrative Unit

Based on the case studies, a strong argument can be made for designating a single unit as the administrative entity for NGO contracting. This centralization promotes a single set of contracting procedures for the NGOs to deal with, and a single source to get their questions answered consistently. If there are several sources of funding for NGO contracts, most, if not all, would be funneled through this single administrative entity. This, of course, requires a high degree of collaboration among the different funding institutions, but is worth the effort in terms of simplifying the process for the NGOs.

Staffing Size of Administrative Unit

The administrative unit need not be large. In fact, a core team of just two or three people is adequate if they focus on day-to-day management. This is possible if other groups focus on other tasks, for example, an independent committee to evaluate the proposals, government auditors or staff from international NGOs to do monitoring visits, a multi-sector steering committee to determine the broader objectives and strategy of NGO contracting, a team of experts to design and execute evaluation efforts. These activities may need a separate budget to compensate those who are being asked to perform the monitoring, proposal review, evaluations, and other activities that the administrative unit should not have to perform.

Staffing Attitudes

For the NGOs, the administrative unit is the "face" of the NGO contracting program, and the administrative team must have their trust and respect. In Brazil, the head of the NGO liaison unit was herself formally a member of a HIV/AIDS NGO, which gave the unit more credibility with the NGO community. The ideal administrative staff would have a strong client or customer orientation. They would see their role as maximizing the ability of NGOs to participate in contracting while enforcing the systems and procedures that have been established. They would be willing to reexamine systems and procedures that were not working. They would expedite the steps needed to sign contracts and disburse funds to NGOs.

Institutional Home

There are many options for where to house the administrative unit including: a donor-supported organization; a new dedicated unit within or outside the MOH; an existing MOH department; staff at the local government level; or each funding source having their own administrative staff. The decision needs to consider issues of credibility, competence, expediency, and sustainability. Ideally, in the interest of credibility and sustainability, a single administrative entity would be a government unit with staff on the standard government payroll. International donors should be prepared to invest in training staff. Although the option of each funding source having an administrative unit is mentioned above, this option would complicate coordination efforts and may not be the most cost efficient. It would allow donors to have more direct oversight of funds.

4.1.2.2 Need for Advocacy/Partnership Building

In many countries, governments are not receptive to partnering with NGOs and vice versa. This reluctance appears to be greater in the case of NGOs working on HIV/AIDS programs because of the stigma associated with the disease and some of the groups (e.g., men who have sex with men, commercial sex workers, drug users) most affected by the disease. Funding activities that target groups, which may be involved in illegal activities, puts the government in an awkward position. NGOs may have had problems with the government in the past or may lose credibility in the eyes of their constituents by accepting government funding. Therefore, donors, the NGO community, and individual champions within the government must advocate for NGO contracting to make it a reality. In Guatemala, donors have taken the lead in NGO contracting with the MOH exercising a coordination role. In Brazil, political pressure from the NGO community and donor support were critical to securing government approval for the MOH to take a leadership role in HIV/AIDS generally and NGO contracting specifically.

4.1.2.3 Need for Coordination

The planning and organization of NGO contracting should be the fruit of coordination among the major stakeholders working on HIV/AIDS in a given country. This coordination will help avoid the establishment of duplicate or competing contracting systems, contracting that competes with grants, or the delivery of duplicate or competing interventions by NGOs, government providers, and international agencies. The ideal mechanism for creating this multi-sector coordination is the development of a national HIV/AIDS strategy that reflects a degree of consensus among all stakeholders. NGO contracting should be part of a larger national strategy in order to establish a formal link between national objectives and the role and activities of NGOs. Who leads the effort to develop and carry out a national HIV/AIDS program will depend on the willingness and abilities of each sector in a particular country. The leadership may be more diffuse or donor-driven, as is the case in Guatemala, or the MOH may take the lead, as is the case in Brazil. Ideally, a country's MOH would take a leadership role, supported technically and financially by international agencies.

Regardless of the institutional arrangements adopted, successful NGO contracting requires intense and proactive efforts to build understanding and trust among all sectors (donors, governments, and NGOs). Each sector, and even each organization within a sector, comes with its own objectives, priorities, culture, and perspectives. Ways to build consensus include multi-sector meetings using professional facilitators, working groups, clear procedures, an open and transparent contracting process, and wide dissemination of contracting procedures, activities, and results.

4.1.2.4 Institutional Arrangements in Brazil and Guatemala

In Brazil, contracting HIV/AIDS NGOs was implemented by the MOH through the AIDS I (1994-1998) and AIDS II (1998-2002) Projects, which were co-financed by the World Bank and the government of Brazil. Under AIDS I, $18.6 million was disbursed to 174 NGOs to implement 444 contracts. As of June 1999, AIDS II had disbursed approximately $7,002,394 to 241 NGOs to implement 350 contracts (Brazil, 1998b and 2000)[5]. The MOH managed all aspects of the contracting process in coordination with state and local health authorities.

In Guatemala, NGO contracting was implemented by international agencies that are members of the United Nations Expanded Theme Group. The Group includes representatives from U.N. agencies, the National AIDS Program (*Programa Nacional de Prevención y Atención de ETS/VIH/SIDA*, PNS), international donors, and the Association of HIV/AIDS NGOs (*Asociaciones Coordinadoras de Sectores de Lucha contra el SIDA,* CSLCS). The U.N. agencies and other donors contracted individual NGOs directly. The Theme Group coordinated NGO contracting with the National Strategic Plan and Theme Group members collaborated on approaches to selection, monitoring, and evaluation.

These different institutional arrangements are presented in Table 3.

---

[5] It should be noted that while NGOs (defined as a private, non-profit organization) predominated, different types of organizations were contracted under the two loan programs including labor unions, private non-profit hospitals, family planning organizations, and community-based organizations (e.g. an association of sex workers). All were indigenous, as opposed to international, organizations.

Table 3: Institutional Arrangements in Brazil and Guatemala

	Brazil	Guatemala
Who contracts the NGOs?	HIV/AIDS division of the MOH oversees contracts with NGOs. A U.N. agency contracts the NGOs to expedite disbursement of funds.	NGOs contracted directly by donor members of the U.N. Expanded Theme Group.
Who funds NGO contracts?	Funding came from the AIDS I and II Projects, which were co-financed by World Bank loans and the government of Brazil.	Funding came directly from donors that contracted with the NGO.
Objectives of the agency contracting the NGOs	The objective of contracting was to harness the particular advantages of the NGOs to realize the goals of the national program to reduce the incidence and transmission of HIV and STDs.	Members of the United Nations Expanded Theme Group recognized NGO ability to serve vulnerable populations and the need to build capacity of NGOs. Contracting was an integral component of the National Strategic Plan (PNS).
Role of the MOH in NGO contracting	MOH established the National Coordination for STD/AIDS (NC), to plan and execute the country's HIV/AIDS strategy. The NC managed all aspects of NGO contracting including written contracts.	Coordinates with the National AIDS Program, an independent government entity that executes the PNS in collaboration with the MOH, Expanded Theme Group, and other organizations.

4.1.3   Funding

How much does it cost to do NGO contracting and who should fund it? Actual costs vary widely depending on the country and the size of the program; however, the cost to establish and manage an effective NGO contracting program is not insignificant. Like many other components of a developing country's response to HIV/AIDS, external funding and technical assistance are necessary to establish and operate a NGO contracting program.

The major uses of funding are presented below. Potential funding sources for these activities include donor loans or bilateral aid, and local government funds from revenue or social investment funds. Social investment funds may be created through debt forgiveness or monetizing donated food aid or other donor support. International NGOs also provide funding, sometimes from government donors but also through private funds generated from fundraising campaigns.

Uses of funds:

> NGO contracts: Payment to the contracted NGOs according to the terms of the contract;

> NGO contract administration costs: staff salaries, office space, supplies, and equipment, local travel, email or website;

> Institution building: workshops and seminars for dissemination, information sharing, or training for either NGOs or public sector staff; basic office equipment;

> TA for NGOs: assisting the NGO with contract administration (proposal preparation, progress reports, accounting, budgeting) or with delivering the service, product, or program for which the NGO was contracted;

> TA for the staff administering the NGO contracting program: staff training, help preparing instructional or dissemination materials, setting up systems and procedures, record-keeping, setting up and/or maintaining a website; and

> Monitoring and evaluation: concept and practices of monitoring and evaluation, design of monitoring systems, indicators, data collection methods, and how to use results.

Cost efficiency can be achieved by:

> Establishing a single contracting system and administrative structure, instead of having duplicate systems;

> Maximizing the number of contracts, which leverages the fixed costs associated with program management;

> Considering longer-term contracts for larger amounts of money which decreases the frequency (and associated costs) of issuing RFPs; however need to balance this consideration with the risks and the desire to open up contracting more often to new participants. This will depend on the objectives and the strategy of the contracting program;

> Exploiting automated systems where available (e.g., wire transfers to disburse funds, email and website for management tasks).

4.2   Solicitation and Selection

The solicitation and selection process includes marketing the contracting program to NGOs, explaining the procedures for participating, soliciting proposals from NGOs, evaluating and selecting NGO proposals for contracting on a competitive or non-competitive basis, awarding the contracts to the selected NGOs, and notifying the NGOs that were not selected. How these steps are implemented depends upon the program's priorities. If the priority is to include as many NGOs as possible and use contracting for institution building as much as for procurement of HIV/AIDS services, then solicitation will be widespread. In this scenario, efforts will be made to facilitate NGO participation, and selection criteria will aim to be inclusive. If the priority is to contract with only the most capable NGOs, then solicitation may be targeted to organizations that meet minimal standards, the application process may be more in line with a standard government procurement, and selection criteria will be stringent. Even in the latter case, there may be a significant amount of TA needed to enable the NGOs to participate in the contracting process (e.g., help preparing proposals and budgets) recognizing that many NGOs are strong in terms of community access or service deliver, but are weak administratively. In any case, the criterion for best practices in solicitation and selection is: *Promote trust by being transparent*.

Solicitation
Delivering clear and consistent information widely to all potential participants will begin to build trust in the NGO community and help generate a volume of participants that justifies the cost of structuring an NGO contracting program. Due to the stigma of HIV/AIDS or previous contracting programs, NGOs and government officials may not have a trusting partnership upon which to build a

contractual relationship. Actively soliciting NGO participation and explaining the contracting program clearly will begin to build that trust. To promote participation, the agency issuing the RFP could hold a workshop to walk NGOs through the instructions and answer their questions. Many NGOs will need and want assistance in preparing their proposals and budgets. Care should be taken to make program-funded assistance available to as many organizations as are interested to avoid the reality or the appearance of favoritism that would give a few NGOs an unfair advantage. There is also a need to clearly link the work described in the RFP with the country's HIV/AIDS strategy.

Selection Process

The selection process can be competitive or non-competitive (see Abramson 2000 for a discussion of choosing between competitive and non-competitive). The basic steps in a competitive selection process for HIV/AIDS contracting are not different from standard competitive contracting. An RFP is issued which includes bidding instructions, selection criteria, possibly a list of pre-requisites, and proposal forms/templates. Interested organizations prepare and submit proposals and budgets that are reviewed and scored.

Site visits may be a valuable part of the selection process since some NGOs have the strengths needed for HIV/AIDS services (e.g., community reach, good medical or paramedical staff, training skills, highly motivated to address the epidemic), but are weak in proposal writing. Use of fill-in-the-blanks type forms for the proposals can help ensure that the same information is collected from all NGOs, which facilitates comparisons and scoring. Such forms may also be easier for the NGOs to prepare and for the selection committee to review.

The ways in which solicitation and selection were conducted in the case study countries is described in Table 4.

Table 4: Solicitation and Selection in Brazil and Guatemala

	Brazil	**Guatemala**
Competitive or sole source selection process?	Highly competitive process. MOH issued a RFP and received hundreds of bids, out of which approximately 50% were selected.	Competitive process. MOH, with collaboration from U.N. Expanded Theme Group, issued RFP.
How did NGOs find out about the opportunity to contract for HIV/AIDS?	Notification of the RFP sent by MOH by mail to NGOs registered in their database; word-of-mouth; and via the MOH website. *Initially, notification of the RFP in the NGO community was not widespread and some NGOs felt excluded.*	Notification of the RFP was published in newspapers.
How did NGOs find out the procedures for applying for a contract?	The procedures and selection criteria were explained in the RFP notification. The MOH provided a set of forms for NGO proposals on their website.	NGOs could request copies of the procedures which were established by the MOH HIV/AIDS unit and the Theme Group.
Were there any prerequisites that NGO had to comply with?	The RFP stipulated a series of prerequisites for any NGO proposal to be considered: • Organizational by-laws, tax identification number, and minutes of last meeting of partners/owners	Prerequisites varied with the contracting agency.

	Brazil	**Guatemala**
	(none of the documents could be dated after the date of the RFP); • Organizational chart specifying who is responsible for institutional administration and managing the proposed project; • Number of paid employees; • List of consultants who will work on the proposed project and their CVs; • List of national and international funding sources; • An official notice from the state or municipal health authorities certifying the existence and functions of the NGO; and • Statement of the amount of co-funding that the NGO will provide for the proposed project *In one round, 37% of the proposals were rejected for not complying with these requirements.*	
How were NGOs selected for contracting?	Proposals were reviewed by an independent committee of experts appointed by the MOH. The experts were primarily from the academic community. The committee used a scoring sheet.	Competitive process in most cases. Members of the Expanded Theme Group sat on the selection committees.
What were the selection criteria?	Compatibility of the proposal with the objectives of the AIDS project; integration with local health authorities, compatibility with target population; technical quality, managerial capacity of the NGO, consistency of the budget with proposed activities, presence of outside financing, geographic location, potential to reach areas of high incidence of HIV.	Varied with the contracting agency but largely guided by the PNS, epidemiological trends, and the capacity of the NGOs.
How were the NGOs advised if they had been selected?	The MOH sent an award letter to each NGO or, if a proposal was rejected, it was returned to the NGO with a letter explaining why it was rejected. Final results of each round were disseminated on the MOH website.	NGOs notified by official letter.

4.3   Structure and Terms of the NGO Contracts

The contract itself is a legal document that clearly delineates the rights and responsibilities of the parties. It cites any relevant regulations, contracts, or legislation that provides context to the NGO contract. Examples of this include: an MOH decree promulgating the country's HIV/AIDS program; the loan or assistance agreement between a donor and the government; and existing regulations related to public sector procurement and contracting. The contract also addresses issues such as: ownership and disposal of assets acquired through the contract; requirements that the NGO acknowledge the support received through the contract (e.g., by displaying the logo of the funding agent); types of insurance NGOs must carry; and sanctions and procedures in the case of non-compliance with contractual terms by any parties. Table 5 illustrates how these issues were addressed in the contracts in Brazil and Guatemala.

Table 5: Structure and Features of the NGO Contracts in Brazil and Guatemala

	Brazil	**Guatemala**
Contract format	Standardized format for all contracts with NGO proposal attached as the scope of work.	Format varied with the contracting agency, but all clearly delineated the responsibilities of each party.
Contract value	Majority – US$28,400 (R$50,000), which was the maximum amount.	Contracts ranged from $600 to $120,000, depending on the donor agency letting the contract.
Contract length	Majority for one year which was the maximum length. Continuation beyond one year required submission of a new proposal and budget.	Ranged from one to two years, also depending on agency letting the contract.
Basis of contract payments	Cost-based payment. Total contract amount is based on a detailed budget prepared by the NGO. Assuming disbursements are made on schedule, NGO receives payments prior to incurring costs.	Total contract amount is based on a detailed budget prepared by the NGO. Assuming disbursements are made on schedule, NGO receives payments prior to incurring costs.
Contract payments: Timing and frequency	Contract funds disbursed to the NGO in 2 to 3 payments. The first payment is made soon after the contract is signed. Subsequent payments made only after the NGO accounts for 80% of the prior payment through submission of an accounting report and original receipts.	Varied with the funding agency. Delays were a major problem.
Contract payments: Mechanisms	Direct deposit into a bank account opened for the contract.	Payment mechanisms depended upon the agency that managed the contract.
Sanctions for non-performance or non-compliance	A range of possible sanctions, from freezing the contract account to disqualifying the NGO to bid on a future contract, to civil or criminal prosecution. *No serious sanctions*	A range of possible sanctions, from withholding payments to disqualifying the NGO to bid on a future contract. . *No serious sanctions ever levied.*

	Brazil	**Guatemala**
	ever levied.	
Limited liability	The NGO releases the MOH and funding agents from any liabilities that may arise from any illicit actions or omissions on the part of the NGO.	Not applicable.
Insurance	NGO responsible for any insurance (health, accident, car).	NGO responsible for any insurance (health, accident, car).
Assets	Assets acquired through the contract are the property of the funding agent. The MOH is responsible for maintaining an inventory, receipts, and disposal of the assets. This did not preclude transfer to the NGO.	Assets acquired through the contract are the property of the NGO, but there were tight limits on the amount of funding available for non-expendable assets (e.g. computers, refridgerators, beds, etc.).
Acknowledge support	NGO must put the name and logo of the MOH HIV/AIDS program and the funding agent on any printed material produced as a result of the contract.	Same.

4.3.1 Who Bears Financial Risk?

The terms of the contract reveal how financial risk is shared, or not shared between the participating parties. For example, in the case of Brazil, the risk is shared by the MOH and the NGO. The MOH bears some risk because there are no incentives for NGO to be cost efficient, and because the contract is pre-paid, though this is mitigated by paying in installments and tight financial monitoring. The NGO bears risk because it is not compensated when costs are greater than budget, it is obliged to provide co-financing for contracted services, it is obliged to reimburse the MOH if the contract is executed for less than the budget, and it must go through a written approval process to spend funds differently than budgeted, even when a change makes economic and/or programmatic sense.

4.4   Implementation and Cross-cutting Issues

During implementation, the NGO's deliver the services and programs for which they have been contracted, and comply with financial and program monitoring requirements. The administrative unit monitors NGO performance, processes receipts and disburses payments, and generally assists the NGOs with the inevitable questions and problems that arise. Below are activities that can support and enrich the implementation of NGO contracts.

4.4.1 Need for Cost Data

All those involved in NGO contracting would benefit from a more accurate and complete picture of the total cost of services delivered by NGOs, including overhead and donated materials and labor. The values of having a better understanding of the total costs include: a) to identify more efficient approaches to delivering a particular service that could be adopted by others; b) to compare NGO

costs with public sector costs to see where the greatest savings are and to guide future contracting; c) to demonstrate the savings achieved by NGO contracting and build political support to defend its continuation/expansion; d) to form the basis for introducing appropriate cost incentives into contracts; and e) to provide a more accurate basis for NGOs to prepare their cost proposals.

4.4.2 Need to Monitor and Improve Quality of Services Provided by NGOs

NGO contracting should include efforts to measure and improve the quality of NGO services and activities. Such efforts could include: adding indicators of quality to contracts; providing incentives for quality; providing TA on quality during site visits; monitoring quality during site visits; surveying beneficiaries to collect data on quality (see below); and sponsoring training and information events on how to improve the quality of HIV/AIDS services. Additional resources should be committed to quality improvement rather than using resources allocated for program activities, otherwise program implementation activities could suffer.

4.4.3 Need for Feedback from Beneficiaries

NGO contracts should ensure that a feedback loop from the intended beneficiary population back to the NGOs exists as a part of the program design. Ideally, the NGOs would have the capacity to monitor client satisfaction, or an independent third party could collect this feedback. This information could serve various purposes: monitor the quality of services delivered; help NGOs improve and refine their services and approaches; provide quantitative or qualitative data on the impact of NGO activities; and function as a check against the self-reported data provided by the NGO on progress reports. The administrative unit should sponsor training and information sharing events for NGOs to learn how to begin or improve their own efforts to collect client information and carry out effective monitoring of project activities.

4.5   Monitoring and Evaluation

4.5.1   Financial Monitoring

Donors and international agencies' fiduciary responsibility to account for funds can result in demanding administrative procedures for contracted NGOs. Those procedures can include getting multiple bids for any purchases over a certain amount, documented salary history to justify fees charged by consultants, requiring two NGO staff to co-sign all receipts, and written receipts for all expenses. Periodic financial reports typically track actual expenditures to date against the proposed budget. Submission of complete financial reports with original receipts and other backup documentation serves as part of the basis for the release of contract payments to the NGOs.

The NGOs may need on-going technical assistance to meet the administrative and accounting requirements as they implement their contract. The administrative unit should provide TA via: phone to respond to questions; site visits to work directly with the NGO "bookkeeper"; training workshops; or questions and answer meetings. International NGOs (mentoring NGOs) may also provide this type of TA. TA will require resources, which can be provided directly to the contracted NGOs so that they can procure services or be managed centrally to be used for workshops.

Financial monitoring should be seen as a means and opportunity to refine the administrative and accounting procedures of NGOs, especially in the early stages of a contracting program. While some requirements are not negotiable, many procedures can be improved and rationalized if the administrative unit is open to listening to feedback from the NGOs and can broker solutions with the funding agents.

4.5.2 Technical Monitoring

Technical monitoring is a high priority for all participants because it measures the progress of the NGO contracting program and provides information that can build on successes or detect and highlight needed changes.

Depending on the design of the technical monitoring system and the amount of resources committed, technical monitoring can:

> Confirm that contracted NGOs are delivering the service for which they were contracted;

> Collect quantitative data on intermediate results (e.g., number of people counseled, number of brochures/condoms/syringes distributed, number of nurses trained);

> Collect qualitative data on approaches NGOs are employing to deliver services and programs;

> Compare actual and planned performance in terms of timing and intermediate results;

> Measure the quality of the services and programs delivered by the NGOs; and

> Improve the technical performance of the NGO if monitoring includes technical assistance, and especially if monitoring is done through site visits.

Good data generated from the technical monitoring can:

> Be shared within the NGO community for NGOs to recognize their contribution and learn from each other;

> Be used to generate political support for NGO contracting in the country and within the international community;

> Be used to refine the NGO contracting program;

> Serve as a way to evaluate the capacity of individual NGOs; and

> Guide the planning of technical TA for NGOs.

4.5.3 Evaluation

Evaluation implies measuring impact and results of projects, and a greater methodological rigor than monitoring. However, there are serious challenges to measuring the impact of any intervention on people's behavior, on people's quality of life, or on reducing the incidence and transmission of HIV and STDs. Impediments can include: lack of baseline data; the cost of quality research;

separating the effect of multiple interventions; and methodological difficulties involved in measuring the number of infections avoided and behavior changes such as adoption of safe sex practices.

Assuming these challenges can be met, many different questions can be answered through evaluation of the NGO contracting program. For example:

> Impact that the work of the contracted NGOs has had on the epidemic;

> Effectiveness of NGO contracting versus other means of partnering with NGOs; and

> Effectiveness of using NGOs versus the public sector.

5. Recommendations to Promote Speed and Effectiveness

NGO contracting for HIV/AIDS is of particular interest at this time because of its potential to funnel new funding quickly and effectively to "on-the-ground" interventions. With this in mind, the following table highlights some of the ways to foster speed and effectiveness in the design and implementation of NGO contracting. Speed is defined as minimizing the time it takes to move funds from their sources to implementing organizations, and the time it takes for recipient organizations to employ contract funds to conduct new and/or expanded activities. Effectiveness has two dimensions. First, programmatic effectiveness which emphasizes meeting community needs and having a real impact on the epidemic and the quality of life of those affected by the disease. Second, cost-effectiveness which suggests ways to minimize costs. Many funding agencies and governments are likely to judge NGO contracting primarily by these three criteria – speed, program effectiveness, and cost-effectiveness.

The PHR case studies on the contracting experience in Guatemala and Brazil reveal that contracting can be fast and effective. Because NGO contracting evolves differently in every country, it is impossible make specific predictions of how fast or effective contracting will be or should be in other countries. However, it is possible to identify ways to promote speed and effectiveness, which are highlighted in Table 6.

Table 6: Promoting Speed and Effectiveness of NGO Contracting

Criteria	Suggestions	Case Study Examples
Speed – minimizing the amount of time it takes to move funds from their sources to implementing organizations, and the time it takes for recipient organizations to employ contract funds to conduct new and/or expanded activities	Centralize the management of NGO contracting within a single entity (ideally within the local government but not necessary) to expedite implementation Use simple, standardized forms for proposals to facilitate their preparation and review If justified on technical grounds, sole source to selected NGOs and avoid competitive process Clearly define contract outputs and then give NGOs managerial autonomy to implement Select NGOs that have the capacity to absorb contract funds and quickly move to implementation	Management of NGO contracting was centralized within a single unit in the Brazilian MOH. Brazil used fill-in-the-blanks type forms for proposals that were available on the web. The first round of contracting under the Expanded Theme Group in Guatemala was stalled because several NGOs submitted unsatisfactory proposals. To resolve the issue TA was provided and proposals were re-submitted weeks later.

Programmatic Effectiveness – Meeting community demands in addressing HIV/AIDS issues	Develop RFP based on epidemiological data and input from community representatives Involve key stakeholders from various sectors and people living with HIV/AIDS in defining program objectives Ensure a clear and transparent selection process Select NGOs that are integrated and trusted by the community they serve Formulate and enforce policies that protect client confidentiality Collect data from beneficiaries (and potential beneficiaries) to monitor and evaluate community impact	NGOs in both countries expressed frustration that RFPs and project priorities were determined by donors and/or the central government, and lacked community input. Neither country systematically collected data from beneficiaries as part of their evaluation efforts.
Cost-Effectiveness – minimize costs while providing quality programs	Select NGOs that can deliver effective services and interventions at a lower cost than alternative providers Avoid duplicative or contradictory interventions by making contracting part of a larger HIV/AIDS strategy and ensuring that purchasers coordinate with one another Minimize the administrative burden placed on NGOs Incorporate efficiency incentives into the contract	While neither country collected hard evidence on costs, both are confident that contracting NGOs has saved resources because the NGOs were local, indigenous organizations that relied heavily on volunteer labor. NGO contracting was guided by national HIV/AIDS strategies in both countries. Contracted NGOs in both countries complained of the administrative burden and bureaucracy Contracts did not have incentives for efficiency in either country.

Annex: Bibliography

Abramson, Wendy. 1999. *Partnerships between the Public Sector and Non-governmental Organizations: Contracting for Primary Health Care Services. A State of the Practice Paper,* Bethesda, MD: Partnerships for Health Reform Project, Abt Associates Inc.

Bennett, Sara and Anne Mills. 1998. "Government capacity to contract: health sector experience and lessons." *Public Administration Development* 18:307-326.

International Center for Not-for-Profit Law. May 1997. "Handbook on Good Practices for Laws Relating to Non-Govermental Organizations." Discussion draft prepared for the World Bank.

McPake, B. and Hongoro C. 1995. "Contracting out of clinical services in Zimbabwe." *Social Science and Medicine* 41(1).

Mills, Anne. 1998. "Experiences with Contracting: An Overview of Literature." Technical Paper 31. *Macroeconomics, Health and Development Series*, No. 33.

Mills Anne. 1997. "Improving the efficiency of public health sector health services in developing countries: Bureaucratic versus market approaches. In,Colclough C (ed) *Marketizing Education and Health in Developing Countries: Miracle or Mirage?* Clarendon Press, Oxford.

Mills, Anne. 1997. "To contract or not to contract? Issues for low and middle income countries." *Health Policy and Planning* 13: 32-40.

Rosen, James E. 2000. "Contracting for Reproductive Health Care: A Guide." HNP Population and Reproductive Health Thematic Group of the World Bank.

United States Agency for International Development. June 1998. "USAID Responds to HIV/AIDS: A Strategy for the Future."

World Bank. 1997. "Confronting AIDS: Public Priorities in a Global Epidemic." A World Bank Policy Research Report. Oxford University Press: New York.