

MS 739 Construction Contracts

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MS 739 Construction Contracts Procedures

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1.0 Purpose

This Manual Section establishes policies for the award and administration of construction contracts at Peace Corps posts outside the United States. The provisions of this Manual Section apply to Peace Corps construction on any overseas real property that Peace Corps leases or subleases or that is loaned or donated by host country governments, other U.S. agencies or non- government organizations. Procedures implementing this Manual Section are available on the Intranet site maintained by the Office of Contracts and Acquisition Management. See SOP 739 Construction Contracts Procedures.

2.0 Authorities

Peace Corps Act, Section 10(a) and Section 15(d)(9).

Federal Acquisition Regulation (FAR) 48 CFR, Chapter 1, Competition in Contracting Act of 1984 (P.L. 98-369), as implemented by FAR, Part 36.

3.0 Construction Contracting Definitions

Contracting Officer – A Peace Corps employee designated to enter into or administer contracts and make related determinations and findings pursuant to a written delegation of authority from the Chief Acquisitions Officer. The Contracting Officer is responsible for ensuring performance of all necessary actions in the contracting process and safeguarding the interests of the Peace Corps in its contractual relationship. The responsibility of the Contracting Officer is to assure that:

- (a) The monetary amount of the contract does not exceed the amount of procurement authority that has been delegated to the Contracting Officer.
- (b) The U.S. Government conflict of interest requirements are satisfied.
- (c) Funds for the contract are available prior to award and are properly obligated via a contract to preclude violation of the Anti-Deficiency Act, 31 U.S.C. 1341.

Chief Administrative Officer for the Respective Region - A Region's Chief Administrative Officer is the employee who oversees budget for the Region as a whole, assures that funds for a proposed construction contract are available, and provides advice for the development of the construction project.

Country Director - The Country Director manages the day-to-day operations at a post by developing and implementing overall policy, procedures, goals, and objectives for activities at the post in accordance with Peace Corps policies and procedures. The Country Director oversees the overall budget for post and has limited procurement authority to make procurements that do not exceed the Country Director's delegation of authority. Procurements exceeding this authority require an additional delegation from the Chief Acquisition Officer. The Country Director is the Peace Corps official who is primarily responsible for identifying the post space requirements and initiating the action that may result in an architect-engineer or construction contract to address those requirements.

Chief Acquisition Officer - The Chief Acquisition Officer heads the Office of Acquisitions and Contract Management and has been delegated general procurement authority, which may, under certain circumstances, be delegated on a limited basis to others. A construction contract can only be negotiated and executed by a Contracting Officer who has received the written authority from the Chief Acquisition Officer to enter into, administer, and terminate contracts and make related determinations and findings. The Chief Acquisition Officer exercises management and supervision of contracting in the Peace Corps.

Design-build – Combining design and construction in a single contract with one contractor.

Firm – in conjunction with architect-engineer services, any individual, partnership, corporation, association, or other legal entity permitted by law to practice the profession of architecture or engineering.

Final Proposal Revision - The final technical and cost proposal submitted by an offeror, addressing deficiencies and/or ambiguities in the offeror's original proposal discussed during negotiations.

Competitive Range - The competitive range includes the most highly rated proposals submitted in response to a solicitation for contract award on the basis of cost and technical merit.

Construction - Construction, alteration or repair of buildings, structures or other real property.

Plans and Specifications - Drawings, specifications and other data for and preliminary to construction.

Architect-Engineer Services - Professional services of an architectural or engineering nature associated with research, development, design, construction, alteration or repair of real property.

4.0 Policy

It is Peace Corps policy to award firm fixed-price construction contracts for the repair, alteration, expansion or upgrading of overseas property used by Peace Corps posts as office, training, residential, storage, medical or parking facilities.

Contracting Officers must determine if it is necessary to employ the services of an architect-engineer firm. If the proposed construction is expected to affect the structural integrity of a building or it is necessary to comply with local laws, the services of an architect-engineer must be procured. In these cases, the Contracting Officer must procure the services of an architect-engineer under a contract to design plans and specifications for the proposed construction project.

4.1 Architect-Engineer Services: All contracts that provide professional services of an architectural or engineering nature associated with research, development, design, construction, alteration or repair of real property must be awarded on a competitive basis. Requirements for architect-engineer services must be publicly announced and interested firms must be invited to submit bids.

Peace Corps must publicly announce all requirements for architect-engineer services and negotiate contracts for these services based on the demonstrated competence and qualifications of prospective contractors to perform the services at fair and reasonable prices.

Architect-engineer and construction contracts must be awarded on a competitive basis in compliance with this Manual Section, the Procedures, the Federal Acquisition Regulation and local law. Any Architect-engineer or construction contract over the micro-purchase threshold (\$2,000 for construction) shall be competed in accordance with normal acquisition procedures. In addition, a written quotation must be obtained when the dollar value of the contract will exceed \$2,000.

No contract for the construction of a project shall be awarded to the firm that designed the project or its subsidiaries or affiliates, except with the approval of the Peace Corps Director or an authorized representative.

Following the award of the Architect-engineer contract, the Contracting Officer may proceed with the construction contract. See PROCEDURES section 2.0.

4.2 Design-Build Construction: If an architect-engineer contract is not needed (when it does not fall under the policy above), then the Contracting Officer must utilize the two-phase design-build method to award a contract, which consists of (i) the preparation of design plans and specifications for the proposed construction project; and (ii) the actual construction of a building, facility or work. See PROCEDURES section 2.0.

5.0 Government Estimate of Construction Costs

For better internal control management, Peace Corps requires that an independent Government estimate of construction costs be prepared by Government personnel whose official duties require knowledge of the project and furnished to the Contracting Officer for construction contracts expected to exceed \$25,000. The estimate shall be prepared in as much detail as possible.

Access to information concerning the Government estimate shall be limited to those Government personnel whose official duties require knowledge of the estimate. The overall amount of the Government's estimate must not be disclosed except as permitted by agency regulations.

Disclosure of the magnitude of construction projects through advance notices and solicitations shall be described only in terms of ranges.

6.0 Effective Date

This Manual Section shall take effect on the date of issuance.