

## **15 FAM 420 PROFESSIONAL AND TECHNICAL SERVICES**

*(CT:OBO-10; 08-24-2006)  
(Office of Origin: OBO)*

### **15 FAM 421 GENERAL**

*(CT:OBO-10; 08-24-2006)  
(Uniform State/USAID/Commerce/Agriculture/DIA)*

- a. Posts may require real estate *experts' services when preparing* acquisition proposals and other real property *acquisition documentation*. Posts must obtain approval from the Bureau of Overseas Buildings Operations (OBO) or the Overseas Management *Staff* in the Bureau for Management, USAID/Washington (USAID/W - M/OMS), before making commitments to architects or other local experts and before incurring financial obligations. For OBO *acquisitions*, the post contracting officer *cannot sign a contract for professional or technical services* until OBO *approves* the services and *allots* funds. For USAID, USAID/W (M/OMS) must approve the services.
- b. For purposes of this subchapter, "experts" include real estate consultants, brokers, agents, and appraisers; architects; engineers; surveyors; attorneys and notaries; and other persons with recognized knowledge and expertise in the real estate transactions and assessments involved.

### **15 FAM 422 SELECTION OF REAL ESTATE EXPERTS**

*(CT:OBO-10; 08-24-2006)  
(Uniform State/USAID/Commerce/Agriculture/DIA)*

In selecting real estate experts, posts must follow competitive procedures in Federal Acquisition Regulation (FAR) Parts 5 and 6 (with the exceptions noted in 15 FAM 424) and coordinate with the Bureau of Overseas Buildings Operations (OBO) and the Office of the Assistant Legal Adviser for Building and Acquisitions (L/BA) on the selection process and requirements for services. Posts must ensure that the experts have demonstrated expertise in their field, are duly licensed, have a sound business reputation and knowledge of local laws and customs, and have no related interest in the project at hand. Posts *must submit their* selection recommendations,

including fee quotes and all pertinent details, to OBO or the Overseas Management *Staff* in the Bureau for Management, USAID/Washington (USAID/W - M/OMS) for approval prior to awarding a contract. *For Department of State acquisitions, posts must also obtain funding prior to awarding a contract.*

## **15 FAM 423 SELECTION OF ARCHITECT, ENGINEER, AND RELATED TECHNICAL SERVICES**

*(CT:OBO-10; 08-24-2006)*

*(Uniform State/USAID/Commerce/Agriculture/DIA)*

Selection procedures for these professionals are included in the Federal Acquisition Regulation (FAR) Part 36 (see definition in FAR Part 36.102). Posts must coordinate *with* the Bureau of Overseas Buildings Operations (OBO) or the Overseas Management *Staff* in the Bureau for Management, USAID/Washington (USAID/W - M/OMS) *in the selection of these professionals and obtain their prior approval and funding for such services.*

## **15 FAM 424 FEES FOR EXPERT SERVICES**

*(CT:OBO-10; 08-24-2006)*

*(Uniform State/USAID/Commerce/Agriculture/DIA)*

Fees for professional real estate services must be for a fixed amount (*e.g.*, an hourly rate for a set number of hours or a flat price for a specifically defined task). *Do not base* fees on a cost-plus percentage, as this establishes a conflict of interest. The only exception to this policy is the use of a percentage fee when utilizing the services of a real estate agent/broker for the sale of U.S. Government-owned property. Fees cannot be higher than those established by local law, custom, or authority. See 15 FAM 425 for attorneys' fees.

## **15 FAM 425 SELECTION AND PAYMENT OF ATTORNEYS**

*(CT:OBO-10; 08-24-2006)*

*(Uniform State/USAID/Commerce/Agriculture/DIA)*

- a. Posts must coordinate requests for real estate-related attorney services with the Bureau of Overseas Buildings Operations (OBO) and the Office of the Assistant Legal Adviser for Building and Acquisitions (L/BA) for State and the Overseas Management *Staff* in the Bureau for Management,

USAID/Washington (USAID/W - M/OMS) for USAID. State also requires *prior funding*. Posts should identify a local attorney fluent in English and knowledgeable *about* real estate matters.

- b. Requests to OBO and L/BA for approval and funding must include the attorney's hourly fee rate and an estimate of the number of hours needed for the task. The *service contract* must include a cap in the number of hours allowed *so* it *does not violate* of the Anti-Deficiency Act. Post must obtain an estimate of the number of hours the attorney *anticipates working on the task* and request the entire amount of funds from OBO in advance. If the *attorney approaches* the dollar amount *limit*, the post must request authority to amend the contract to increase the number of hours, and must request *sufficient* funds. Post must have *the* funds before *tasking* an attorney to perform services. Post must *also* require *the attorney to submit* a monthly bill, no matter how small, to avoid the situation of the attorney running up a large bill without the post or *OBO's knowledge*, thereby putting the post and OBO at a disadvantage in reviewing the legitimacy of the hours charged.

## **15 FAM 426 THROUGH 429 UNASSIGNED**