

15 FAM 420 PROFESSIONAL AND TECHNICAL SERVICES

(CT:OBO-24; 01-26-2012)
(Office of Origin: OBO)

15 FAM 421 GENERAL

(CT:OBO-24; 01-26-2012)

- 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) for State Department properties, or, in the case of USAID properties, the Overseas Management Division, Office of Management Services, Bureau for Management, USAID/Washington (USAID/W-M/MS/OMD), 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/MS/OMD 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 real estate transactions and assessments.

15 FAM 422 POLICY TO VALUE REAL PROPERTY FOR ACQUISITIONS

(CT:OBO-24; 01-26-2012)

Please refer to 15 FAM 413 for policy guidance on how to value property for acquisitions.

15 FAM 423 SELECTION OF REAL ESTATE EXPERTS

(CT:OBO-24; 01-26-2012)

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 425) and coordinate with OBO and the Office of the Assistant Legal Adviser for Buildings 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 for State Department properties, or, in the case of USAID properties, to USAID/W-M/MS/OMD for approval and funding prior to awarding a contract.

15 FAM 424 SELECTION OF ARCHITECT, ENGINEER, AND RELATED TECHNICAL SERVICES

(CT:OBO-24; 01-26-2012)

Selection procedures for these professionals are included in FAR Part 36 (see definitions in FAR Part 36.102). Posts must coordinate with OBO for State Department properties, or, in the case of USAID properties, USAID/W-M/MS/OMD, in the selection of these professionals and obtain their prior approval and funding for such services.

15 FAM 425 FEES FOR EXPERT SERVICES

(CT:OBO-24; 01-26-2012)

(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). Fees may not be based 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 426 for attorneys' fees.

15 FAM 426 SELECTION AND PAYMENT OF ATTORNEYS

(CT:OBO-24; 01-26-2012)

a. Posts must coordinate requests for real estate-related attorney services

with OBO and the Office of the Assistant Legal Adviser for Buildings and Acquisitions (L/BA) for State Department properties. In the case of USAID properties, post must coordinate requests with USAID/W-M/MS/OMD. 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 on the number of hours allowed, to avoid violating 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 427 THROUGH 429 UNASSIGNED