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# USE OF GOVERNMENT TO GOVERNMENT (G2G) FIXED AMOUNT REIMBURSEMENT (FAR) IN CONSTRUCTION PROJECTS: AN ECCM TRAINING DOCUMENT



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# **Use of Government To Government (G2G) Fixed Amount Reimbursement (FAR) in Construction Projects: An ECCM Training Document**

# FOREWORD

Core Engineering and Construction Contracting Management (ECCM) training program resources have been made available as helpful resource documents for planning, preparing solicitations, and implementing and managing construction projects.

## ECCM TRAINING COURSES

The ECCM 201 course was initiated through a task order awarded under the Bureau for Economic Growth, Education, and Environment's (E3's) Architectural and Engineering (A&E) Global IQC and transferred to M/OAA/PDT to complete course development and management. Subsequent to the task order transfer ECCM 211 - Local Systems (LS) was created. ECCM curricula were produced based on adult learning principles and are available for all USAID staff. The program is designed primarily to improve USAID's Acquisition Workforce (AWF)<sup>1</sup> contractual knowledge about and access to A&E and construction services, best practices, lessons learned, and reference materials when undertaking construction projects in the development context. The ECCM training program will assist the USAID AWF to achieve the ultimate objective of a successful construction project - completion according to specifications, within budget, while meeting industry quality standards, notwithstanding all construction challenges. Missions may desire, as appropriate, request technical engineering support services from the E3, Office of Energy and Infrastructure Programs (E&I) or USAID regional missions.

ECCM curricula are intended to emphasize U.S. Government rules and regulations, and USAID operational guidance and policies when implementing construction projects in partner countries. ECCM curricula combine lecture-style presentations with interactive discussions and group activities to provide participants immediate operational skills and knowledge. Course materials include presentation slides, group exercises and discussions, checklists, and many short videos and supporting reference and resource materials.

M/OAA/PDT and E3 sponsored training classes for over 300 USAID AWF members primarily through the two courses -- ECCM 201 and ECCM 211 - LS. All interested USAID staff are strongly encouraged to enroll in ECCM courses through USAID University. Below are brief descriptions of the ECCM 201 and ECCM 211-LS and a list of additional "Supplementary Training Resource Documents":

### ECCM 201

The overall goal of ECCM 201 is to provide the USAID AWF with basic operational skills and competencies related to procurement and management of construction projects. This course covers many ECCM contracting subject matter areas including alternative procurement instruments and financing options, the construction program life cycle and its phases, and sequencing relationships including planning, design, procurement, construction, oversight, post construction, operation and maintenance (O&M), and sustainability.

### ECCM 211- LS

The ECCM 211- LS course curriculum was designed as a follow-on course to ECCM 201. The overall goal is to provide USAID AWF with additional and higher-level knowledge, skills, and competencies for

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<sup>1</sup> Acquisition Workforce is defined as Contracting/Assistance Specialists, Contracting/Assistance Officer Representatives, Purchasing Series staff, Executive Officers Foreign National Procurement Staff and Personal Services Contractors employed as procurement staff.

complex construction project situations, choice of implementation instruments and financing options when using direct contract, assistance, host country contracting (HCC), and government-to-government (G2G) instruments. ECCM 211-LS makes extensive use of example documents as learning guides to provide the USAID AWF “real-time” exposure to common procurement, implementation, and management issues.

### **ECCM SUPPLEMENTARY TRAINING DOCUMENTS**

Supplementary training documents were drafted by former senior USAID engineers and funded by M/OAA for the ECCM training program and include updated USAID guidelines and procedures. These training documents have been tailored to support the AWF’s understanding of selected ECCM processes. We anticipate that USAID’s AWF and other staff will find these documents useful and are welcome to read and download them as needed from the M/OAA/PDT web page. The ECCM supplementary training documents completed to date include:

1. Reference for Construction Management and Contracting Processes: An ECCM Training Document prepared by Fred Zobrist, 2017
2. Construction Management, Contracting, and Oversight Principles: An ECCM Training Document prepared by Moenes Youannis, 2017
3. Construction Tendering And Contracting Guidelines: An ECCM Training Document prepared by Michael Gould, 2017
4. A Basic Reference for Architectural and Engineering (A-E) Contracting: An ECCM Training Document prepared by Michael Gould, 2017
5. Use of Government to Government (G2G) Fixed Amount Reimbursement (FAR) in Construction Projects: An ECCM Training Document prepared by Moenes Youannis, 2017
6. Use of Host Country Contracting in Construction Projects: An ECCM Training Document prepared by Moenes, 2017

With my compliments,

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# ACRONYMS

A-E	Architecture and Engineering
ADS	Automated Directive Systems
AUPGS	Approval for the Use of Partner Government Systems
CA	Cooperative Agreements
CPFF	Cost Reimbursable plus Fixed Fee
CO	Contracting Officer
COR	Contracting Officer Representative
FAR	Federal Acquisition Regulations
FARA	Fixed Amount Reimbursement Agreement
FIDIC	Fédération Internationale des Ingénieurs Conseils (International Federation of Consulting Engineers)
G2G	Government to Government Assistance
HC	Host Country
HCC	Host Country Contracting
HCIU	Host Country Implementation Unit
IL	Implementation Letter
O&M	Operation and Maintenance
PAD	Project Appraisal Document
PFM	Public Financial Management
PFMRAF	Public Financial Management Risk Assessment Framework
PG	Partner Government
PGIE	Partner Government Implementation Entity
PGS	Partner Government Systems
PIO	Public International Organization
PM	Program Management
SOW	Statement of work
USAID	United States Agency for International Development
USG	United States Government
VO	Variation Order

# I. EXECUTIVE SUMMARY

USAID has invested billions of dollars in infrastructure construction projects to support its development programs in many countries. To respond to specific countries' needs, USAID has funded different types of construction projects in various sectors. Some of these projects were “stand-alone” infrastructure programs, others were embedded as construction components under agriculture, health, education, and other sector projects and programs.

Construction services are complex, include technical specifications that vary from one project to another, and involve a number of parties and stakeholders.

USAID has implemented its infrastructure programs through several procurement vehicles including: Direct Contracts, Cooperative Agreements (CAs), Host Country Contracts (HCC), grants to Public International Organizations (PIOs), and Government to Government (G2G) assistance. Under G2G programs, USAID has mostly used Fixed Amount Reimbursement method of finance, referred to as FARA or FAR- IL. The capacity of the Host Country implementing partners and contractors, and USAID Missions to undertake construction activities varied considerably from one project to another.

USAID selection of the contracting mechanism has always been a subject of discussion. Under Direct Contracts, USAID maintains full control of the contracting process and implementation.

Alternatively, under HCC for construction, USAID finances goods and services provided under a contract between the Host Country



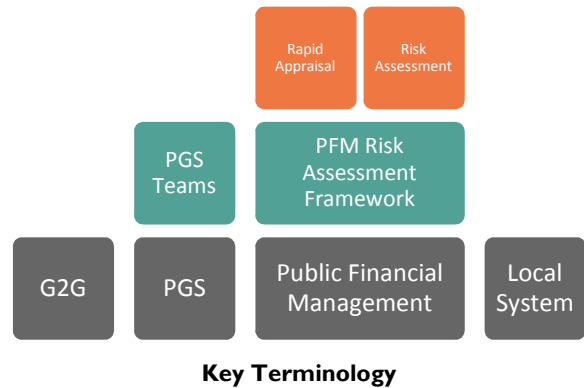
Implementation Unit (HCIU) and the construction contractor. While USAID is not a party to this contractual relationship, USAID must ensure that both parties to the contract are qualified and possess the required technical, management, and financial capabilities and systems that are essential for the successful completion of the construction project. USAID must ensure that the procurement process complies with applicable U.S. Government (USG) regulations. To address these concerns, USAID reserves the right to approve key elements of the HCC procurement steps.

Under G2G assistance programs, USAID reimburses the Partner Government Implementation Entity (PGIE) through two main methods of finance: Cost Reimbursement based on actual costs of inputs necessary to implement a project or project activity, or FARA/FAR-IL based on achievement of outputs or associated milestones. Under the FARA method, USAID reimburses a fixed amount to the PGIE upon completion of outputs or associated milestones. The payment is based on a reasonable estimate of the costs to produce or achieve objectively verifiable useful outputs or associated milestones.

This supplementary training document provides USAID engineering and non-engineering development professionals with a one-stop reference for using G2G Fixed Amount Reimbursement method of finance for implementation of USAID infrastructure programs. It provides definitions, contracting and implementation guidelines, a discussion of USAID experience in construction projects, the challenges and constraints faced and those to be expected, and finally, a synopsis of the important lessons learned and best practices.

The USAID Automated Directive Systems (ADS) and its Supplementary References in effect at the time of drafting this document represent the primary source of guidance discussed regarding the use of FARA in construction contracting. Relevant ADS language and clauses are quoted, or summarized throughout the document.

A range of terminologies used under FAR, International Federation of Consulting Engineers (FIDIC), and the ADS are covered



in this supplementary training document. In order to ensure clarity and a better understanding of the FARA subject matter and improve the readability of the supplementary training document, a separate section “Key Definitions” follows the Executive Summary. In addition, four appendixes to this supplementary training document provide complementary but important reference information. Further, this supplementary training document includes a brief discussion on Direct Contracting and HCC prior to presenting the detailed discussion on the subject of G2G assistance and use of FARA.



## 2. KEY DEFINITIONS

This section of the supplementary training document is dedicated to defining key terminology and definitions commonly used in the guidelines and regulations applicable to infrastructure contracting with a primary focus on G2G methods of financing. It also includes a description of FIDIC, which is frequently referenced and discussed in this supplementary training document because of its relevancy to USAID construction programs under G2G assistance.

### **Government to Government (G2G) Assistance**

Under G2G assistance USAID disburses funds directly to the Partner Government Implementing Entity (PGIE) of a bilateral foreign assistance recipient country to implement a project or project activity, including non-project assistance, using the PG's own financial management, procurement or other systems. (ADS 220, Definitions)

### **Implementation Letter (IL)**

An IL is a letter issued by USAID under an agreement with a PG that amplifies and memorializes implementing details under the agreement. An IL may or may not sub-obligate funds under the agreement (ADS 220, Definitions.)

Funds are obligated from USAID to another party based on a formal agreement (IL) through a “formal” correspondence between

the two. ILs serve several functions, including providing more detailed implementation procedures, providing details on terms of an agreement, recording the completion of conditions precedent to disbursements, and approving funding commitments and mutually agreed upon modifications to program descriptions. ILs were formerly referred to in the ADS as Project Implementation Letters (Glossary of ADS Terms.)

### **Partner Government Implementing Entity (PGIE)**

The PGIE is an office or organization at any level of a public administration system (ministry, department, agency, service, district, or municipality) of a bilateral foreign assistance recipient country that implements activities financed by or jointly programmed as a result of funds disbursed by USAID directly to the PG public financial management system (ADS 220, Definitions.)

### **Partner Government Systems (PGS)**

PGS refers to all government systems that are involved in the management of government operations regardless of function, including financial, procurement, human resources, performance monitoring, audit, disclosure, adjudication, regulation, enforcement and others. In the context of Public Financial Management Risk Assessment Framework (PFMRAF), Public Financial Management

(PFM) systems are a subset of PGS (Chapter 220, Definitions.)



### Partner Government Systems Teams (PGS Teams)

PGS Teams assist the Mission Director/Principal Officer in arranging, with PG counterparts, an assessment of the PG’s Public Financial Management systems, as well as organizing Democracy Rights and Governance reviews, as necessary. The PGS teams will be integrated into specific Project Design teams referenced in ADS 201 (ADS 220, Definitions.)

### Public Financial Management (PFM)

PFM refers to class of systems and elements involved in the management of public resources. It primarily refers to the processes, procedures and activities associated with spending public resources to include budgeting, treasury, cash management, disbursement, accounting, reporting, audit,

and control. It may include the financial management features of various government systems such as procurement and human resources, as well as the financial management aspects of transparency, governance, and public accountability. In the context of financial management and fiduciary risk identification, “procurement” may be referred to as a separate system from other systems involved in PFM for clarity and precision (ADS 220, Definitions.)

### Public Financial Management Risk Assessment Framework (PFMRAF)

PFMRAF refers to USAID’s risk management process to identify, mitigate, and manage the fiduciary risks encountered when considering G2G assistance. It focuses on fiduciary risks to which USG funds may be exposed to when administered directly by the Public Financial Management (PFM) systems of the individual

entities intended to implement G2G funded activities. PFM assessments of individual entities must include all systems that may be used in implementing an individual project (ADS 220, Definitions.)

### **Approval for the Use of Partner Government Systems (AUPGS)**

The AUPGS serves as an addendum to the Project Appraisal Document (PAD) that documents the due diligence requirements and associated fiduciary risk mitigation plan for using PGS. The AUPGS establishes USAID's and the PG's fiduciary risk management strategy and guidelines for the life of a respective project (ADS 220.)

### **Local System**

The Local System is a general term that refers to a set of interconnected actors—governments, civil society, the private sector, universities, individual citizens and others—that jointly “produce” a particular development “outcome”. The “local” in a local system refers to actors in a partner country. As these actors jointly produce an outcome, they are “local” to it. As development outcomes may occur at many levels, the scope of local systems can be national, provincial, or community level (Local Systems: A Framework for Sustained Development, ADS 220maq.)

### **PFMRAF Stages (ADS 220)**

#### **Stage 1: Rapid Appraisal**

This refers to a high-level, country-wide snapshot of PFM, governance, and public

accountability systems of the PG. It helps in making an informed decision of whether or not the Mission should move forward to undertake a more rigorous and focused assessment of each potential implementing entity.

#### **Stage 2: Risk Assessment**

This stage includes testing PFM and other systems as necessary to validate applicable and relevant systems operations and internal controls; identify performance risks; and develop risk mitigation options associated with a proposed USAID project using G2G activities.

Missions are required to complete the PFMRAF process as part of an overall project design and authorization process before obligating or sub-obligating funds for implementation of G2G project activities (ADS 220). There are PFMRAF Policy Waiver and Deviations including pilot and small scale projects which include activities implemented through PGS with a total estimated USAID funding life of project budget less than the Single Audit Act threshold (currently \$750,000). No Stage 2 Risk Assessment is required for FARA life of project obligations of less than \$10 million if made before fiscal year 2018. When using this exception, the Mission must identify, mitigate, manage, and monitor mitigation of risk (ADS 220.3.3.1.a.)

## FIDIC

FIDIC is an abbreviation for Fédération Internationale des Ingénieurs Conseils, an international professional organization that promotes and advocates the global consulting engineering industry (<http://fidic.org>). FIDIC vision is to enable the development of a sustainable world as the recognized global voice for the consulting engineering industry. FIDIC works closely with consulting engineering firms and the construction industry to improve the business climate and enable its members to contribute to making the world a better place to live in, with “Quality, Integrity and Sustainability” as its core Principles.

USAID has used the FIDIC-based conditions of contract in its host country construction programs. These conditions specify the role of the parties to the construction contract and the A-E, and lays out all the conditions related to the performance of the work under the construction contract. Conditions of particular applications are usually added to specify special requirements and to include USAID requirements and mandatory contract clauses.

FIDIC Conditions of Contract for Work of Civil Engineering Construction, Part I, General Conditions and Part II, Conditions of Particular Application are included as attachments 2R and 2S respectively to USAID HCC Handbook Chapter 2, Procurement of Construction Service, an Internal Mandatory Reference (now provided as guidance) to ADS 305.

FIDIC published a large number of publications covering the most important and needed resources for the construction industry including:

- FIDIC's selection of contracts and agreements
- Business practices information for consulting engineers on risk management, project sustainability management, environment, quality management, integrity management, dispute resolution techniques, insurance, capacity building, transfer of technology, law and other business issues
- Guides for quality based selection, procurement and tendering procedures, consultant selection, and other documents about the use of consulting engineers

FIDIC based contracts are used extensively in the construction industry in most countries. FIDIC-based contracts are used by other donors. Contractors and PG agencies are familiar with FIDIC-based contracts. FIDIC is best known for its range of Standard Conditions of Contract for Construction. FIDIC publishes the Multilateral Development Banks (MDB) Harmonized Edition of the Construction Contract that is used by MDBs the World Bank. FIDIC documents have been translated into several languages. Its contract documents are user friendly and are “living documents” that are updated regularly. FIDIC has capacity building programs and makes available to its members a number of training courses and best practice guidelines and documents.

FIDIC suite of standard conditions for construction contracts include:

Construction for building and engineering works designed by the employer (Red Book); MMDB harmonized (Pink Book); Design-Build and Turnkey (Orange Book); Mechanical and electrical (Yellow Book); EPC/turnkey (Silver Book); Design, build and operate (Gold Book); and Short form (Green Book).

# 3. INTRODUCTION

## 3.1 OBJECTIVES

The primary objective of this supplementary training document is to describe USAID's role and responsibilities in the implementation of construction programs funded through the use of Fixed Amount Reimbursement Agreement (FARA) method of finance which is commonly used by USAID under Government to Government (G2G) programs. Throughout the supplementary training document, the term FARA will be used to refer to Fixed Amount Reimbursement method of finance to avoid any confusion between this method of finance and the Federal Acquisition Regulations (FAR).

This supplementary training document provides a detailed discussion of USAID regulations and implementation guidelines using FARA for the procurement of engineering and construction services. It follows the policies and procedures set forth in Automated Directive Systems (ADS) 220, Use and Strengthening of Reliable Partner Government Systems (PGS) for Implementation of Direct Assistance. It covers key definitions, applicable USAID construction contracting and implementation guidelines, and an overview of the challenges and constraints faced over decades of using FARAs for financing engineering and construction services. Finally, the

supplementary training document provides a brief discussion of key lessons learned over many years of USAID experience in the design and management of USAID infrastructure programs under FARA and recommended best practices. The ADS and its Supplementary References in effect at the time of drafting this supplementary training document represent the primary source of guidance discussed in this document. Relevant ADS language and clauses are quoted for ensuring accuracy, or are summarized throughout the document.

It is important to note that while USAID's Direct Contracting and Host Country Contracting (HCC) are not the subject of this supplementary training document, it provides a brief overview of the use of each and discusses the primary differences among Direct Contracting, HCC, and FARA.

FIDIC is defined in the Box presented in the previous section (Key Definition) and a brief generalized comparison between Direct Contracting (FAR-Based), HCC (FIDIC-based), and FARA (FIDIC-based) in USAID funded construction programs is included in Appendix III of this supplementary training document.

### 3.2 USAID INFRASTRUCTURE PROGRAMS

Over the past several decades, the United States Government (USG) has invested billions of dollars to finance infrastructure construction projects in many countries through programs designed and managed by USAID. These programs included: (1) developing national and regional infrastructure master plans; (2) conducting environmental and engineering studies; (3) developing engineering designs; (4) implementing construction activities including construction oversight and management services; and (5) operation and maintenance support for completed facilities. All these activities were in fact important tools for USAID programs to achieve USG's development objectives.

USAID funds have been utilized to successfully support a wide range of construction projects, which were either:

- ✓ Standalone infrastructure projects such as water treatment plants, wastewater treatment plants, roads, bridges, and power plants, or
- ✓ Components of projects in other sectors including: health, education, local development, agriculture, economic growth, and democracy and governance. Although these projects were not identified as primarily infrastructure projects, they included construction components such as hospitals, health clinics, schools, local public buildings, community service centers, roads, refrigeration and cold storage structures, potable water and irrigation systems, etc.

The size and complexity of USAID-funded construction projects, range from large projects such as power plants, water treatment plants, and wastewater treatment plants costing hundreds of millions of dollars, to small projects such as, simple one-classroom schools, rural earth renovation of gravel roads, and water stand posts in rural areas, each serving few communities.

USAID funded construction programs have varied in geographic spread, and purpose. While some of these projects were designed to improve the quantity and/or quality of services, others were carried out to respond to emergency situations, natural disasters, or crisis situations in post-conflict areas.

USAID Infrastructure programs have used different project delivery methods including:

**Design-Bid-Build (DBB)**, the traditional delivery method where engineering design and construction are sequential and contracted separately with two contracts and two contractors (FAR 36.102, Definitions).

**Design- Build (DB)** that combines design and construction in a single contract with one contractor (FAR 36.102, Definitions)

**Program Management (PM)**, a project delivery method to implement infrastructure programs efficiently with respect to time and cost when there is no clear definition up front on what specific facilities are to be planned, engineered, and constructed. Under this project delivery method, the PM firm provides planning, engineering, and construction management services on a cost-reimbursable plus fixed fee (CPFF) basis, working closely with USAID. The PM firm performs studies to define the needed infrastructure. Upon USAID's approval of the

specific infrastructure facilities, the PM firm then procures the services of subcontractors to provide technical, engineering, and construction services.

Historically, USAID missions faced the need to make many important decisions when implementing infrastructure programs, including the selection of the contracting and financing mechanisms used to implement construction activities.

The *Construction Assessment Report* (USAID 2014), states that *“In 2013, USAID conducted a survey of construction awards for the purpose of deepening our understanding of the scope, location, and parameters of the portfolio. The survey identified 758 prime awards (including 3,304 sub awards) that included construction and were active during the two-year assessment period. Together, these awards represented an estimated value of \$5.6 billion.”*

The *Construction Assessment Report* (USAID 2014) estimated that these awards were carried out through a number of award mechanisms including: Direct contracts, Cooperative Agreements (CAs), grants, Public International Organizations (PIO), G2G, HCC, and FARA.

Some of the USAID infrastructure programs included a combination of these mechanisms. For example in some infrastructure programs USAID used Direct Contracting for the procurement of engineering design and construction management services, funded HCC for the procurement of construction services, or funded construction under FARA.

USAID’s role in contracting for engineering services varied based on the contracting mechanism used. USAID role can be described as extensive, limited or very limited:

- ✓ extensive: developing the Statement of Work (SOW), selecting the A-E firm, awarding the contract, and supervising the performance in the case of direct awards
- ✓ limited: only providing guidelines for developing the SOW for engineering services, establishing the selection criteria, and developing cost estimates in the case of HCC
- ✓ very limited: only financing engineering cost as part of an overall G2G agreement

USAID’s successful infrastructure programs benefitted from experienced and qualified engineering staff, legal, and Contracting Officers, and qualified engineering firms for the design, procurement, and construction management services. While in large infrastructure programs engineering and construction services were provided mostly by U.S. based engineering firms or in consortia with local engineering subcontractors, for smaller and less complex projects the same services were generally provided by local qualified engineering consultants.

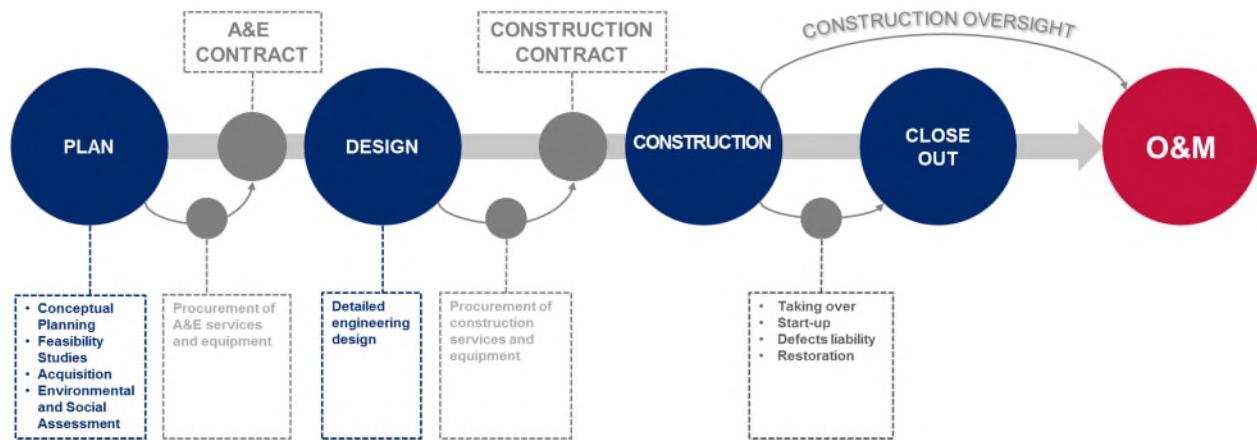
USAID played a leading role in introducing the concept of utilizing the services of an A-E firm when carrying out construction programs. The A-E firm, also referred to as the “Engineer” under FIDIC based contracts, provided USAID and the PGIEs with professional expert services and management support in a variety of technical and administrative areas during the project design, procurement, construction, and operation and maintenance.

To address the issues and controversies related to the selection of the most suitable

contracting instrument for the procurement of engineering and construction services, USAID issued “USAID Implementation of Construction Activities”, a Mandatory Reference to ADS 303 (303maw) to “state the Administrator-approved policy limiting the use of assistance awards to implement construction activities.”

As depicted in Figure 1, throughout the USAID funded infrastructure projects’ life cycle – from conceptualization to operation and maintenance, USAID has always worked

closely with the PG, the recipient and ultimate owner and operator of the facilities funded by USAID. The capabilities of the PG counterparts tasked with implementing the projects and the Partner Government Systems (PGS) varied from country to country and in many cases between different geographic locations within the same country. Similarly, the technical and financial qualifications and capabilities of the contractors and engineering firms designing and carrying out the actual construction were different as well.



**FIGURE 1: Project Life Cycle**

In the day-to-day implementation and contractual matters, USAID worked closely with the Partner Government Implementing Entity (PGIE), the PG’s entity authorized by the recipient government (Borrower or Grantee). Roles, responsibilities, and obligations of each party were generally described in the Bilateral Agreements between USAID and the PGs and in subsequent Implementation Letters (IL). While in a few projects these PGIEs were well established authorities, capable, and with relatively sophisticated systems, in many projects they were simple local government units operating in small urban or rural areas with limited resources and few qualified personnel. It is

important to point out that many of these government units had inadequate management, procurement, or financial management systems and expertise to undertake infrastructure programs. In most of the cases, these units needed significant assistance and hand-holding throughout the design, procurement, and construction phases of USAID-funded infrastructure programs. Under these circumstances the design, procurement, construction, and construction supervision services were either carried out by major U.S. based engineering and construction contractors, or by local contractors.



USAID missions with infrastructure portfolios were different in terms of their ability to manage infrastructure programs design and implementation. Some USAID missions did not have the engineering, contracting staff, or the experience required for a successful design, procurement, and implementation of infrastructure programs.

*“Management approaches, particularly in levels of oversight, professional experience, and managing change, were found to be variable across the portfolio. This reflects not only the decentralized nature of the USAID system but also the shortage of USAID engineering expertise. Balancing risk, good development, and humanitarian outcomes will be the challenge.” Construction Assessment Report (USAID 2014)*

# 4. USAID DIRECT CONTRACTING FOR ENGINEERING AND CONSTRUCTION SERVICES

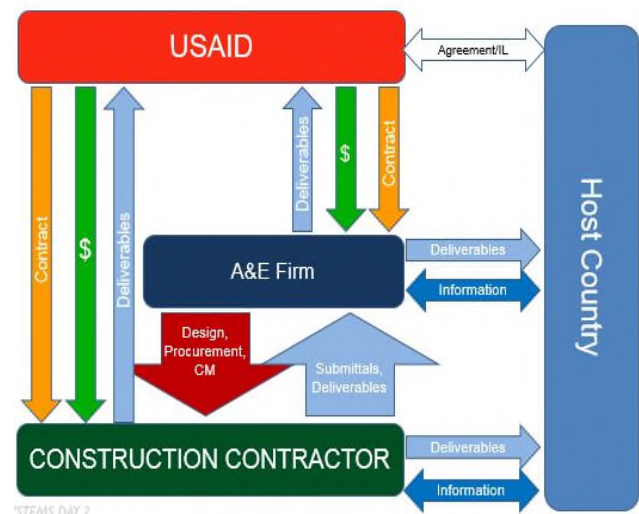
In Direct Contracting, USAID is a direct party, a signatory, in a mutually binding legal relationship that obligates the seller ("contractor") to furnish supplies or services and the buyer ("USAID") to pay for them. ADS 302 prescribes the Agency's policy directives, required procedures, and internal guidance for the procurement of goods and services through direct contracts for the purposes of implementing Agency's programs and supporting Agency's logistics.

In Direct Contracting, USAID has a clear direct contractual relationship with the contractor (Figure 2). USAID is directly involved in the procurement process and implementation.

Under this type of contracting, USAID would generally contract with the A-E firm to prepare the designs and required studies (environmental, feasibility, demographic, geotechnical, climate change resiliency, etc.),

assist with the procurement process, provide construction management services, and in some situations provide support for the operation and maintenance training and other related services. USAID would also directly contract with the construction contractor.

**FIGURE 2: USAID DIRECT A-E AND CONSTRUCTION CONTRACTS**



# 5. USAID HOST COUNTRY CONTRACTING FOR ENGINEERING AND CONSTRUCTION SERVICES

Under HCC USAID finances, but is not a party to contractual arrangements between the host country and the supplier of goods and/or services (Glossary of ADS Terms). ADS 305, Host Country Contracts, specifies the policies and procedures to follow when designing, negotiating, and implementing USAID activities using HCC.

Under HCC construction programs, USAID finances the goods and services being provided under a contractual relationship between the Host Country Implementation Unit (HCIU) and the construction contractor. Although USAID is not a party to this contractual relationship, USAID is interested in seeing this activity completed successfully in order to protect its investment and achieve its development objectives. USAID must ensure that both the HCIU and the construction contractor, the two parties to the construction contract are qualified, possess the required technical, management, and financial systems that are essential for the successful completion of the construction project, and that the procurement process and

implementation steps are in accordance with applicable U.S. Government regulations.

Under HCC, USAID, although not a party to the HCC contract with the construction contractor, reserves the right of prior approval of the most critical steps of the contracting process for any Host Country procurement in excess of \$250,000. Following are some of the steps that require USAID approval:

- ✓ Notices to prospective offerors
- ✓ Lists of prequalified offerors prior to issuance of the solicitation document
- ✓ Complete solicitation document, prior to issuance
- ✓ The contractor selection method (may be part of approval of solicitation document)
- ✓ The selected contractor
- ✓ Host Contracting Agency decision to terminate negotiations with the highest ranked offeror and to initiate

negotiations with the next ranked offeror or to reject all offers

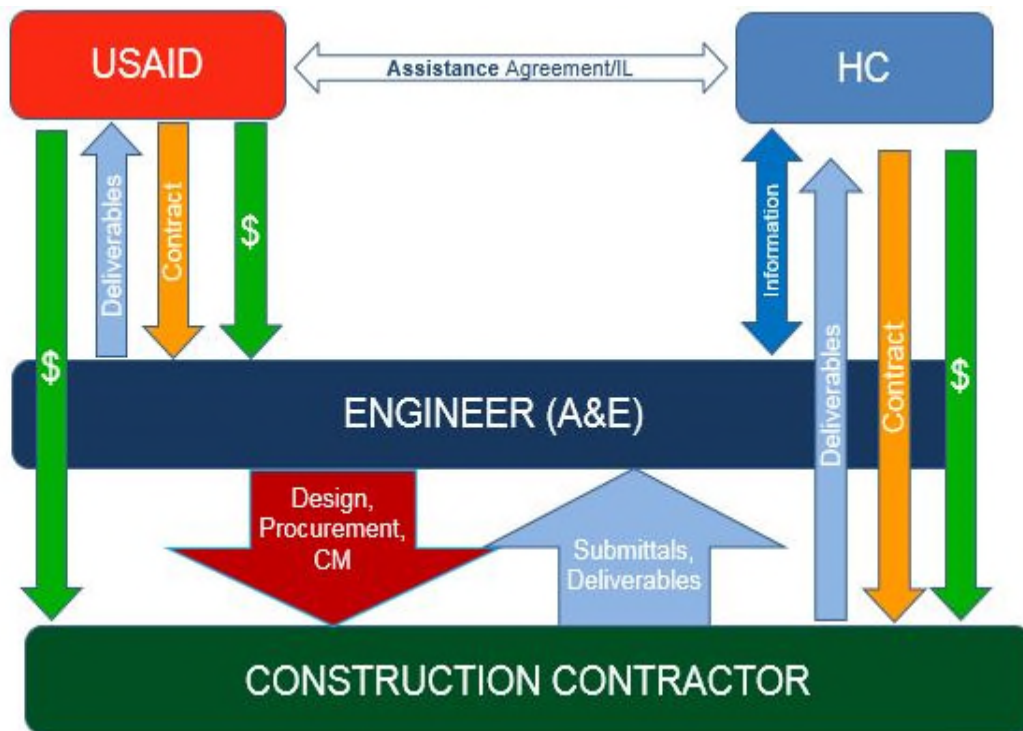
- ✓ The contract, prior to execution
- ✓ Signed contract documents, before financing
- ✓ Contract administrative actions such as subcontracts, amendments, and change orders, as determined by the Mission and stipulated in an IL

USAID approvals are not to be construed as making USAID a party to the HCC. Furthermore, USAID may require that contracts not funded by USAID but having a substantial impact on the activity be approved by USAID, and may require additional approvals for other actions taken by the Contracting Agency during the contracting process. Such additional approval requirements must be set forth in an IL.

USAID mandatory contract requirements and clauses must be included in every USAID-financed HCC.

Figure 3 illustrates the relationships between the parties under a HCC. The model used successfully by several USAID missions in implementing large and small size infrastructure programs. Under this model, USAID enters into a direct contract with the A-E firm. The HCIU contracts directly with the construction contractor using a HCC as defined in ADS 305. In other words, this model is a combination of a Direct Contract and HCC.

Please note that the HCC funding mechanism is fully covered in a separate supplementary training document titled “Use of Host Country Contracting in Construction Projects: An ECCM Training Document” updated 2017.



**FIGURE 3: USAID A-E AND HC CONSTRUCTION CONTRACTING MODEL**

# 6. G2G FIXED AMOUNT REIMBURSEMENT (FARA)

Under G2G assistance, USAID disburses funds directly to a PG entity to implement a project or project activity using the PG's own financial management, procurement or other systems.

PG agencies generally play an extremely important role under G2G assistance including: setting goals and targets, managing resources, establishing codes and standards, monitoring and evaluation of contractors' performance, providing oversight and quality control, and settling disputes.

The ADS 220 (Use and Strengthening of Reliable PGs for Implementation of Direct Assistance) specifies the USAID policies and procedures to be followed when designing, negotiating, and implementing direct funding agreements to PGs under the G2G assistance. ADS 220 guidance supplements, but does not replace, USAID policy and guidance on Programming Policy (ADS 200 series), ADS 624, Host Country-Owned Local Currency, and ADS 350, Grants to Foreign Governments. Guidance in ADS 220 incorporates and supersedes policy and guidance formerly contained in ADS 317 for FARA. ADS 220 guidance must be used, if applicable, in lieu of the guidance provided in ADS 305 HCC. However, payment directly by USAID to a PG contractor or grant recipient

for project assistance requires the use of ADS 305 procedures.

## 6.1 FINANCING G2G ACTIVITIES

USAID policy is to increase its direct assistance to PGs to achieve sustainable development results. There are two main methods of financing G2G activities:

- ✓ **Cost reimbursement based on inputs:** Under this method, USAID reimburses the PG for the costs of the inputs that are reasonable and necessary to implement an approved project or a project activity. Inputs are defined in the Project Appraisal Document (PAD) and provide the basis for the financial plan for the project or project activity
- ✓ **Fixed amount reimbursement based on achievement of outputs or associated milestones:** Under this method, USAID pays a fixed amount for the PG's completion of activity outputs or associated milestones based on a reasonable estimate of the costs likely to be incurred to produce or achieve an objectively verifiable, independently useful output or associated experience. Outputs or associated milestones must be clearly defined regarding quality standards as

measured and verified by USAID or its third-party representative for completion in accordance with the agreed upon specifications. As earlier mentioned in the document, this method of finance is referred to throughout the document as FARA to avoid confusing the term with the Federal Acquisition Regulations (FAR)

USAID's selection of the most appropriate method of financing G2G activities takes into consideration a number of factors including: (1) the type of construction and project purpose; (2) availability and accuracy of input cost data; (3) financial and operational sustainability; (4) the technical and institutional capacity of the PGIE; (5) the USAID mission's technical resources and management burdens; and (6) the positive and negative aspects of using each method of financing.

USAID and the PGIE are the parties to the FARA. It is important to emphasize that USAID is not a party to any contractual arrangement resulting from entering into a FARA. Although the PGIE is not legally required to follow USAID or FAR competition requirements, USAID should encourage the PG to maximize the use of competition subject to the PG's own legal and policy requirements and sound public procurement principles and practices.

This supplementary training document will now focus on utilizing FARA to implement USAID engineering and construction programs. Procurement under FARA must follow the requirements of ADS 220mah, G2G Implementing and Funding Mechanisms Fixed Amount Reimbursement. USAID's Source and Nationality Regulation (ADS 310

and 22 CFR 228) and Eligibility of Commodities (ADS 312) apply to PG procurements for project assistance unless such procurements are limited to local costs that are available for purchase in the partner country.

## **6.2 USAID ROLE IN PROCUREMENT AND MANAGEMENT OF INFRASTRUCTURE PROGRAMS UNDER G2G**

USAID encourages the use and strengthening of PGSSs systems during development and design of infrastructure projects. Strengthening the PGSSs can be achieved through building the human and institutional capacity of the infrastructure design; implementation; and operation and maintenance systems, and of the local actors (governments, civil society, and private sector A-E and construction contractors, material suppliers, laboratories, etc.) During the process of planning and designing a construction project, the PGIE and USAID should determine and clearly define the activities and outputs in terms of: (1) expected outcome(s) when the project is completed; (2) products or services needed to achieve the project purpose, and (3) the appropriate contracting vehicle.

USAID and the PGIE will determine how these outputs will be achieved. For example, using FARA may be suitable for building a series of standard school classrooms. USAID and the PGIE should then determine the most appropriate party to carry out the procurement, that is, the PGIE using its own systems or USAID through direct contracting.

USAID should verify that the PGIE will generate sufficient operation revenues to cover recurrent costs of the project and monitor progress, and periodically evaluate the effectiveness of the risk mitigation measures. USAID staff should approach and engage with PG personnel with the highest degree of professionalism and diplomacy to ensure that they clearly understand the project inputs, outputs, and implementation schedules. USAID staff should develop a good understanding of the cultural differences and implementation challenges. It is extremely important that USAID staff realize that there is a local system that does not necessarily match the U.S. or international systems. USAID staff should not underestimate the local knowledge.

USAID should periodically inspect the project progress during implementation as well as verify that the outputs or associated milestones have been completed to the required quality standards in accordance with the plans and specifications. USAID may use its staff or contract this function to technically qualified consultants or firms.

### **6.3 USING FARA METHOD OF FINANCING IN CONSTRUCTION PROJECTS**

Using FARA provides flexibility in implementing USAID funded construction programs. A FARA can be used to carry out programs by employing simplified rules and regulations. Programmatic risk increases for the PGIE that assumes a significant portion of the financial risk for actual costs under a FARA. The fact that USAID shifts the contracting responsibility to the Partner Government decreases the Agency's liability, workload, and staffing requirements. USAID

must assess and determine that the PGIE's management and budgetary capacity is sufficient to produce the financed outputs or associated milestones under a FARA.

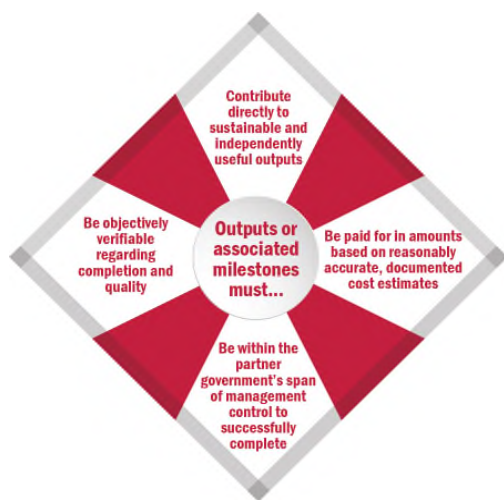
USAID and the PGIE should reach agreement on:

- ✓ Definition of the project and the expected output in terms of capacity, general specifications, and the end use
- ✓ Subprojects or stages of the project that, when completed, could be considered a quantifiable functional element of the project
- ✓ Cost estimates and expected inflation
- ✓ Time schedule
- ✓ Procurement procedures PG intends to use. These include competition, limiting the work to private sector contractors, and provisions to hire an engineering firm for design and construction management
- ✓ Applicable USAID procurement and environmental regulations
- ✓ USAID's planned financial contribution and applicable exchange rate
- ✓ Procedures for reimbursement upon satisfactory completion of the agreed-upon work

FARA's method of financing may be considered by USAID when (see Figure 4):

- ✓ The activity meets the essential requirements and definition of the FAR mechanism
- ✓ Outputs or associated milestones can be objectively verified to have met agreed quantity and quality standards

- ✓ Outputs are sustainable and independently useful in their own right
- ✓ Milestones are sub-components of outputs that are identifiable and contribute directly to sustainable and independently useful outputs
- ✓ Each payment is based on reasonably accurate cost estimates for the corresponding output or associated milestone
- ✓ Each output or associated milestone can be successfully completed by the PG as designed
- ✓ The PGIE possesses sufficient technical, financial management, procurement, monitoring, and verification capacity
- ✓ The PG understands and assumes the financial risk for cost overruns and unfinished outputs or associated milestones



**Figure 4: Outputs and Milestone**

USAID has considered its ability from a political perspective to refuse a payment for any outputs or associated milestones that are

not completed to the specified quality standards.

FARA is most suitable for use to finance the following types of activities:

- Capital outputs that their completion can be easily verified as meeting established quantity and quality standards
- Small scale construction
- Small-scale serial activities where similar units of output produced are concrete, tangible or are physical in nature such as kilometers of road built; health clinics constructed; or schools rehabilitated
- Complex outputs that may include the followings:
  - Specified number of professionals certified/licensed/trained
  - Number of service facilities (e.g., health clinics) successfully operated and supervised during a time period
  - Specified number of beneficiaries serviced
  - Milestones associated with an output: kilometers of road graded, paved, or lined
  - foundation or wall of a building constructed
  - site visits conducted

When using FARA method of finance for implementing G2G engineering and construction activities, USAID may generally use one of the two options. Figures 5 and 6

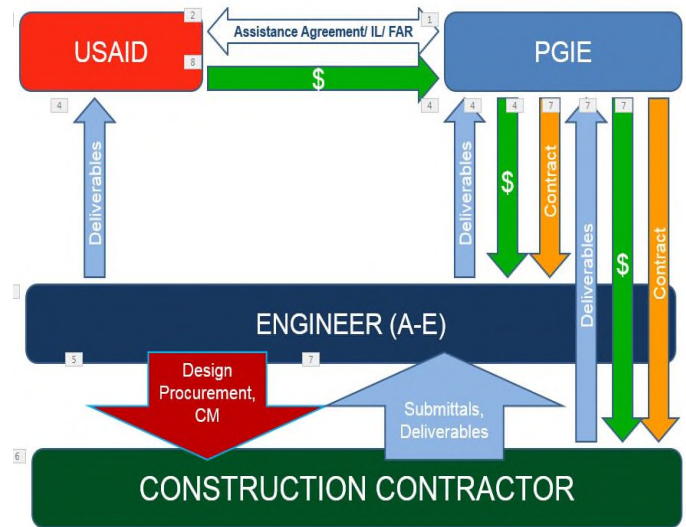


illustrate the relation between USAID, the PG, and the A-E firm (or the “Engineer” as used in FIDIC based contracts), and the construction contractor under the two FARA options described below:

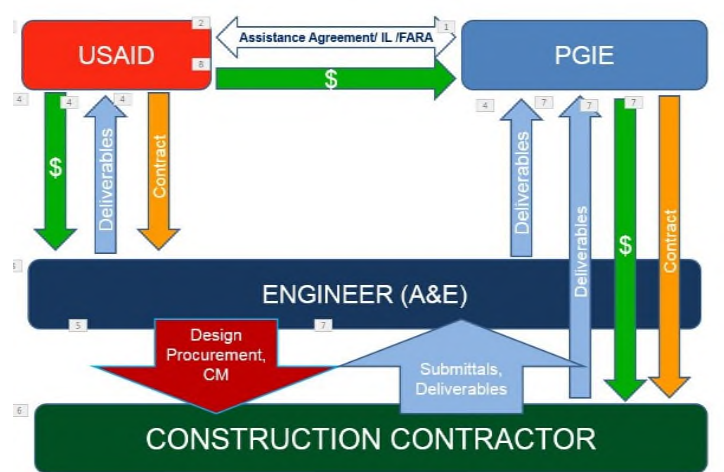
- ✓ The PG/PGIE uses its financial, procurement, contracting, and management systems to procure the A-E design and construction management services; construction services; and operation and maintenance (O&M) services (Figure 5)
- ✓ USAID, on behalf of the PG/PGIE, procures the A-E design and construction management services and PG uses its financial, procurement, contracting, and management systems to procure construction and operation and maintenance services (Figure 6)

USAID may designate an A-E firm as the USAID representative/designee to provide overall monitoring of the project process, conduct required inspections, ensure that contractors are complying with the specifications, and review reimbursement requests received by PG.

USAID’s experience in using the FARA mechanism varies from one country to the other. While a number of USAID missions have been using FARAs for many years, other missions have little or no experience with them. Because of the successful experiences some missions have had in using the FARA a number of other missions have recently expressed interest in using FARAs for upcoming infrastructure programs.



**Figure 5: G2G FARA: PGIE Contracts with both the A-E and Construction Contractors**



**Figure 6: G2G FARA USAID Contracts with A-E and PGIE contracts with Construction Contractor**

#### 6.4 FARA GUIDELINES AND PROCEDURES (ADS 220 MAH)

As discussed in the preceding sections of this supplementary training document under a FARA, USAID pays a fixed amount for the PG’s completion of activity outputs or associated milestones based on a reasonable estimate of the costs likely to be incurred to produce or achieve an objectively verifiable,

independently useful output or associated milestone. Outputs or associated milestones must be clearly defined regarding quality standards for completion in accordance with the agreed upon specifications as measured and verified by USAID or its third-party representative.

USAID reimburses a fixed amount per output or associated milestone as the PG completes each identified output or associated milestone. USAID may also agree to finance a fixed ratio. e.g., 80 percent of the estimated cost. Payment amount for each output or associated milestone is the amount agreed to and fixed in advance in the IL as a reasonable estimate of the cost to produce the output or associated milestone. Key ADS 220 guidelines that must be followed are listed below:

- Outputs or associated milestones must be objectively verifiable regarding completion and quality; be, or contribute directly to, sustainable and independently useful outputs, regardless of whether other outputs or activities are completed; be paid for in amounts based on reasonably accurate, documented cost estimates; and be within the PG's span of management control to successfully complete as designed
- Each output or associated milestone should be likely completed in less than 12 months
- Quality standards for each output or associated milestone are agreed upon in advance and must be met and verified by USAID (or its representative) prior to reimbursement
- Reimbursement procedures and documentation should be specified in the IL approving FAR financing
- Reimbursement for each output or associated milestone must be based on: detailed and reasonable estimate of its cost (or a percentage thereof); and verification by USAID of output or associated milestone completion
- The amount of reimbursement is not altered based on the PGIE's actual cost
- On an exceptional basis, as justified, USAID may provide advances under FAR, where necessary, so long as advances are liquidated based on successful completion of outputs or associated milestones rather than actual costs incurred
- Advance- associated milestone payments must be refundable if the final output is not completed
- FARA may include periodic adjustment of subsequent output or associated milestone payment amounts based on changed conditions, such as price escalation or unforeseeable inflation
- Use the Fixed Amount Reimbursement Implementation Letter Template for non-health related ILs or Fixed Amount Reimbursement Implementation Letter Template for health related ILs

USAID is required to make a determination that an output or associated milestone has been completed according to the

specifications prior to disbursement under a FARA. USAID must refuse to reimburse the PGIE if prior to disbursement under a FARA outputs or associated milestones are not accomplished in conformance with the agreed specifications. USAID should carefully consider the implications on the relationships between USAID and the PG if denying a payment. USAID may agree to a reasonable amount of additional time for the PGIE to remedy the nonconformance. Any change to the terms of the FAR Implementation Letter (IL) will require formal documentation.

Several other important considerations related to FARA are presented below:

### **Force Majeure**

In the case of force majeure events, defined to include natural disaster, man-made disasters, or other events beyond the control of the PGIE that result in nonconformance, it may be appropriate to incorporate new design parameters into the project activity as well as finance reasonable additional costs incurred as a result of the force majeure event. Such changes to the terms of the FARA would need to be documented appropriately, most likely through an IL.

### **Audits**

Activities funded via FARAs are subject to USAID audit for conformance with the agreement terms and the verification of output or associated milestone completion to established quality standards and USAID legal/policy requirements.

### **Advances**

For projects that are approved by USAID and the PG outside of the government's budget cycle (Off Budget), or when funding from the

PG is not available, USAID may consider advance funding in accordance with ADS 220maj, Advances for G2G Assistance.

Advances are provided on an exceptional basis, as justified, and where necessary, so long as they are liquidated based on successful completion of outputs or associated milestones rather than actual costs incurred. They should be approved based on Mission determination that adequate funding will become available within the PG's budget to implement the project on a reimbursement basis. USAID should conduct periodic review and a renewal process subject to USAID approval of continued funding. USAID advances must follow ADS 220maj, Advances for G2G Assistance.

### **Inflation**

FARA may include periodic adjustment of subsequent output associated milestone payment amounts based on changed conditions, such as price escalation or unforeseeable inflation. When inflation is a major problem, USAID should consider negotiating periodic increases in its fixed amount contribution (unit costs) for outputs or associated milestone. This is most applicable where USAID is financing many small outputs or associated milestones of the same type over a number of years. At the end of the first year of a project, USAID and the PGIE would review the costs during the first year, the projected cost estimates for subsequent years, and then renegotiate the fixed amount contribution. This approach allows USAID and the PG to reach agreement on a realistic fixed amount contribution periodically, thus avoiding substantial escalation costs in USAID fixed amount contribution.

## Branding and Marking

USAID's statutory and regulatory branding and marking requirements apply to projects implemented through PGSs (ADS 320). PGS Teams are encouraged to use the flexibility built into ADS 320 to ensure that branding and marking requirements are applied appropriately and in advancing the project needs and promotion of the bilateral relationship (ADS 220 mac, Key Legal Requirements for G2G Assistance.)

## Tax-Exempt Status of USAID-Funded Foreign Assistance

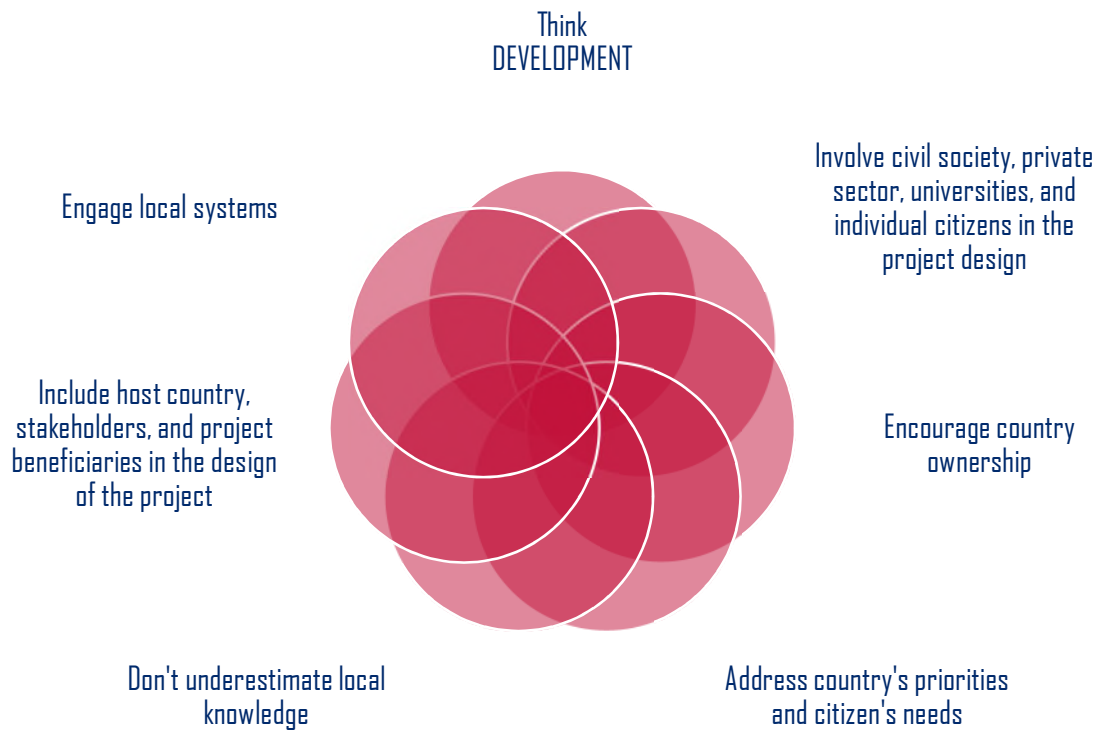
Bilateral Project Agreement must include a provision clarifying that all assistance funded by USAID and implemented through PGSs must be exempt from all taxes and related user fees, charges, etc. The USAID RLA or GC can assist to ensure that such an exemption is included in the Bilateral Project Agreement (ADS 220 mac, Key Legal Requirements for G2G Assistance.)

## Sustainability

Sustainability refers to the ability of a local system to produce desired outcomes over time. Discrete projects contribute to sustainability when they strengthen the local system's ability to produce valued results and its ability to be both resilient and adaptive in the face of changing circumstances (ADS 220maq, Local Systems: A Framework for Supporting Sustained Development.) In order to address sustainability issues, USAID staff should (see Figure 7):

- Focus on development objectives

- Engage local systems, encourage country ownerships, and do not underestimate local knowledge
- Address country's priorities and citizen's needs
- Include host country stakeholders and project beneficiaries in the design of the project
- Involve civil society, private sector, universities, and individual citizens in the project design and seek their ideas, and resources
- Work with the community and ensure their participation, e.g., generally through in-kind contributions
- Have good understanding of the relationships between all parties involved
- Have a plan to build the capacity of all parties involved (the local system) and note that building the capacity of a single actor is insufficient
- Focus on the HC systems as a whole including:
  - Identifying key systems components
  - Identifying weaknesses and potential opportunities
  - Understanding the cultural challenges
  - Understanding the interrelationships between various parts of the system
  - Working with the PGIE to strengthen the system as a whole



**Figure 7: G2G FARA: Sustainability Framework**

# 7. FARA: LESSONS LEARNED AND BEST PRACTICES

As a result of implementing different construction contracting mechanisms over several decades, USAID has gained a great deal of experience and developed a set of best practices when using FARAs. Following is a summary of key lessons learned and best practices:

- FARA is not only a method of finance to procure equipment and services, It is also a tool for development
- The PGIE is not merely a recipient of USAID funds. It is the ultimate owner of the project and a USAID partner
- USAID is not a party to the contracts between the PG and its contractors. USAID does not, and should not, have any contractual relationship with the Engineer, consultant or construction contractor
- Sustainability issues are serious and should be handled carefully. Plan for sustainability during the project planning phase
- Strengthening the PGSs is a long-term process that needs planning and tedious efforts from USAID and the PG
- Designing and reaching agreement on the terms of a G2G/FARA program, could be time consuming and complicated, USAID and the PGIE should be engaged as early as possible in the project design process
- The role of each party should be clearly defined – it is better to resolve disagreements before starting a FARA program than to deal with disputes during implementation
- Each party should stick to its role: doing less is unacceptable, doing more could be disastrous
- Interfering in the PG’s selection process should be avoided in all cases. Only make sure that agreed-upon procedures are being followed
- Ensure transparency of the procurement process. Encourage competition to the maximum extent possible
- USAID should consider exercising its right to ask the PG for a refund of the amount it has paid for work that was not completed. This may spur PG staff to make efforts to meet the project’s schedule. However, before this option is exercised, USAID should carefully evaluate the possible implications on the Agency’s relationship with the PG

- Site visits are essential. They allow USAID’s activity manager to gain a better understanding of the project’s problems and progress. Joint site visits are preferable because they allow USAID and the PG to witness progress and determine issues facing the project
- Land acquisitions and right of way should be discussed with the PG as early as possible
- The FARA should be prepared in English and local language. English language would govern in case of any disagreement. A copy in the local language would ensure better understanding of the FARA’s terms and conditions by the PG staff. Official correspondence between USAID and the PG should be in English
- The contractual documents between the PG and the provider of engineering and construction services should be in the local language. An English version could be prepared for USAID’s information only
- Success stories should be documented early, and plans should be made to have a public event when the work is completed, demonstrating successes reflects well on USAID and the PG
- Reach preliminary agreement with the PG on activities considered for funding through a FARA and on general procurement provisions. This includes developing selection criteria to prioritize proposed activities
- Reach agreement with the PG on the SOW and criteria for selecting local engineering consultants and construction contractors
- Develop or obtain preliminary cost estimates for proposed activities from a qualified source. This estimate should be reviewed, and revised after design is completed if needed
- Use ILs to document approvals, agreements, and major actions
- Use ILs to formally inform the PG of USAID regulations and requirements for developing FARAs
- USAID funds should preferably cover a percentage of the anticipated cost of engineering, environmental, and construction services. The percentage varies based on an agreement among the parties
- For construction projects, the PG should engage a local engineering firm (The Engineer) to:
  - Develop feasibility studies, conceptual designs, and final designs
  - Conduct environmental studies
  - Assess climate change resiliency
  - Perform construction management services
  - Provide overall assistance to the PG in the procurement process
  - Develop the contractors’ prequalification and construction bid documents

# APPENDICES



# APPENDIX I: FIXED AMOUNT REIMBURSEMENT IMPLEMENTATION LETTER TEMPLATE [NON-HEALTH], AN ADDITIONAL HELP FOR ADS CHAPTER 220

For a sample of a FARA Implementation Letter Template for Non Health cases, please click the link below.

<https://www.usaid.gov/ads/policy/200/220sag>

## APPENDIX II: SAMPLE SCHEDULE OF PROJECT STAGES UNDER FARA

This Appendix presents the construction stages and percentages of reimbursement amounts for a hypothetical water network or water treatment plant project. The Table below illustrates a sample of the breakdown of the total cost per each project stage as applied in a FARA. For each of the first five stages must be well defined and described, USAID would pay the PGIE a percentage of the FARA amount upon the approval and acceptance as certified by the Engineer and the PGIE of the completed and tested civil, electrical, and mechanical works (See the table below for sample allocation of funds per each stage.) In this sample for Stage 6, the final stage, USAID would pay the PGIE 10% of the FARA amount upon the approval and acceptance as certified by the Engineer and the PGIE of the successful completion of testing all the works called for under the FARA. This includes issuance by the Engineer and acceptance by the PGIE of the Certification of Commissioning for this project and submission of the “as built” drawings.

<b>Stage</b>	<b>%</b>	<b>Total Estimated Stage Amount</b>	<b>Estimated USAID Contribution</b>
1	15		
2	10		
3	45		
4	10		
5	10		
6	10		
<b>Total</b>			

# APPENDIX III: GENERAL COMPARISON BETWEEN FAR-BASED AND FIDIC-BASED CONSTRUCTION CONTRACTS' USE AND FEATURES IN USAID FUNDED PROGRAMS

Contracting Authority	FAR-Based Construction Contracts	FIDIC-Based Construction Contracts	
		Host Country Contracts (HCC)	(US) Government to (Partner) Government (G2G)
<b>Contract Owner</b>	United States Government	Host Country Implementation Unit (HCIU)	Partner Government Implementation Entity (PGIE)
<b>Appropriate Use</b>	Used in USAID Direct Contracting, ADS 302 and FAR	Used in Host Country Contracting (HCC), ADS 305	Used generally in Government to Government (G2G) Fixed Amount or Cost Reimbursement, ADS 220
<b>Statutes and Regulations and Systems Used</b>	Follow the Federal acquisition Regulations (FAR) and USAID Acquisition Regulations (AIDAR) – 48 CFR Chapter 7, A mandatory Reference for ADS 302	<p>The Host Country Implementing Unit uses its administrative and procurement systems in accordance with USAID Host Country Contracting Guidelines (ADS 305)</p> <p>Follows FIDIC Standard Conditions of Contract for Construction Projects.</p> <ul style="list-style-type: none"> <li>Based on the <i>FIDIC Conditions of Contract for Work of Civil Engineering Construction, Part I General Conditions</i>, a guidance provided as attachment 2R to USAID Country Contracting Handbook Chapter 2, procurement of Construction Service, an Internal Mandatory Reference to ADS305,</li> </ul>	The PGIE uses its own systems (Financial, procurement, contracting, etc.) and may use FIDIC Standard Conditions of Contract or the PGIE's own contract documents, which may be based on FIDIC or similar in most aspects in countries where USAID has implemented construction programs using Host Country Contracts.

Contracting Authority	FAR-Based Construction Contracts	FIDIC-Based Construction Contracts	
		Host Country Contracts (HCC)	(US) Government to (Partner) Government (G2G)
		and Part II, Conditions of Particular Application, Attachment 2S under the same.	
<b>Contract Owner's Title</b>	USAID	Employer (Host Government)	Employer (Partner Government)
<b>Issued By</b>	USAID Procurement Office	Host Country Implementing Unit	Partner Government Implementing Entity
<b>USAID Technical Representative</b>	Contracting Officer Representative (COR)	USAID Activity Manager	USAID Activity Manager
<b>Engineer or Construction Contract Manager</b>	A-E Firm under authority of the Contracting Officer	Engineer	Engineer or Consultant Engineer
<b>Contractual Vehicle used for requesting, documenting, and authorizing construction changes</b>	Change Order	Variation Order (Variations)	Variation Order (Variations)
<b>Privity and Relationship when the Government issues the Construction Contract</b>	USAID and the Construction Contractor are the two parties to the construction contract  (USAID may award a direct contract to an A&E firm to provide general supervision for compliance with the terms of the agreement between USAID and the host country)	The Host Country Government Implementing Unit and the Construction Contractor are the two parties to the construction contract	The PGIE and the Construction Contractor are the two parties to the Construction Contract

Contracting Authority	FAR-Based Construction Contracts	FIDIC-Based Construction Contracts	
		Host Country Contracts (HCC)	(US) Government to (Partner) Government (G2G)
<b>USAID Financial Role in each of the processes</b>	USAID makes payments directly to the contractor based on contract payment provisions	USAID acts as a Financer and pays the contractor directly based on progress of the work and a request from the Host Country to make a specified payment supported by a certification from the Engineer	USAID usually reimburses the PGIE a fixed amount upon completion and acceptance by USAID of completed projects or milestones based on either estimates (Fixed Amount Reimbursement-Implementation Letter); OR for actual cost (Cost Reimbursement) for activities or meeting milestones
<b>Who conducts design and construction oversight?</b>	A&E is the firm conducting design and construction oversight management and its roles are governed by FAR 36 requirements	The term used for the firm conducting design and construction oversight management is “Engineer”. Often has much larger responsibilities representing the Employer (Owner) than what is permitted under the FAR	The term used for the firm conducting design and construction oversight management is “Engineer” when FIDIC or FIDIC based contracting is used. The “Engineer” often has much larger responsibilities representing the Employer (Owner) than what is permitted under the FAR.
<b>Who signs the contract and manages changes</b>	USAID Contracting Officer (CO) authorizes and signs the contract document and any subsequent Change Orders	The Host Country Implementation Unit signs the FIDIC- based construction contract and has the responsibility for processing any subsequent “Variation Order”  The Host Country Implementation Unit may delegate authority to the “Engineer” to issue some VOs	The PGIE signs the (often FIDIC based) construction contract and has the responsibility for processing any subsequent “Variation Order”  The PGIE may delegate authority to the “Engineer” to issue some VOs
<b>USAID’s Authority to review and approve administrative actions</b>	USAID Contracting Officer has the authority to review and approve all contract	When the total contract amount is anticipated to exceed \$250,000 in value, USAID approval is required for the following:	USAID does not interfere in the contractual relationships between the PGIE and any of its contractors, and does not review or approve Variation Orders,

Contracting Authority	FAR-Based Construction Contracts	FIDIC-Based Construction Contracts	
		Host Country Contracts (HCC)	(US) Government to (Partner) Government (G2G)
	administrative actions	<ol style="list-style-type: none"> <li>1. Notices to prospective offerors, e.g., Commerce Business Daily notices;</li> <li>2. Lists of prequalified offerors, if any, prior to issuance of the solicitation document;</li> <li>3. Complete solicitation document, prior to issuance;</li> <li>4. The contractor selection method (may be part of approval of solicitation document);</li> <li>5. The selected contractor;</li> <li>6. Any host Contracting Agency decision to terminate negotiations with the highest ranked offeror and to initiate negotiations with the next ranked offeror or to reject all offers;</li> <li>7. The contract, prior to execution;</li> <li>8. Signed contract documents, before financing; and</li> <li>9. Contract administrative actions such as subcontracts, amendments, and change orders, as determined by the Mission and stipulated in an Activity Implementation Letter. (ADS 305.3.1 USAID Approvals of Contracting Steps)</li> </ol>	or any Contract Administrative actions

# APPENDIX IV: KEY REFERENCE MATERIAL

- ADS 220, Use and Strengthening of Reliable Partner Government Systems for Implementation of Direct Assistance
- ADS 220 Mandatory references, Templates, and additional help:
  - ADS 220maa, Key Bilateral Funding Mechanisms
  - ADS 220mac, Legal Requirements for G2G Assistance
  - ADS 220mae, Public Financial Management Risk Assessment Framework Manual
  - ADS 220mag, G2G Implementing and Funding Mechanisms Cost Reimbursement Projects
  - ADS 220mah, G2G Implementing and Funding Mechanisms Fixed Amount Reimbursement
  - ADS 220maj, Advances for G2G Assistance
  - ADS 220maq, Local Systems: A Framework for Supporting Sustained Development
  - ADS 220saa, G2G Programming Lifecycle: Bilateral Project Agreement
  - ADS 220sab, G2G Programming Lifecycle: Development Objective Agreement
  - ADS 220sad, G2G Programming Lifecycle: Project Assistance Agreement
  - ADS 220sag, Fixed Amount Reimbursement Implementation Letter (non- health)
  - ADS 220sah, Fixed Amount Reimbursement Implementation Letter Template (health)
  - ADS 220sai, Sector Program Assistance Agreement Template
  - ADS 220saj, Balance of Payments/General Budget Support Assistance Agreement Template
- ADS 201, Program Cycle Operation Policy
- ADS 204, Environmental Procedures
- ADS 305, Host Country Contracts
- ADS 320, Branding and Marking
- USAID Infrastructure Assessment
- ADS 301, Responsibility for Procurement
- ADS 302, USAID Direct Contracting

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Mr. Youannis has more than 30 years of extensive management experience in the conceptualization, design, negotiations, planning, implementation, and monitoring of infrastructure programs. He served for 27 years as USAID Authorized Representative and Team Leader for programs totaling more than \$400 million in Egypt, where his responsibilities included: grant agreements, and fixed amount reimbursement agreements (FAR); liaising with other donors; and selecting and supervising US and Egyptian construction contractors and engineering teams for implementing infrastructure programs using G2G, HCC, and USAID direct contracting mechanisms. He is currently Vice President for Operations for ME&A, Inc. in Washington



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