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Fixed Amount Agreements to Public International Organizations

A Mandatory Reference for ADS Chapter 308

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Purpose

The purpose of this mandatory reference is to provide Agreement Officers (AOs) and Agreement Officer's Representatives (AORs) with guidance on how to draft, agreement, and administer fixed amount agreements to Public International Organizations (PIOs). The guidance should help AOs and AORs ensure the following:

- Proper assessment and mitigation of risks;
- The recipient can fulfill the objectives of the agreement; and
- USAID can close out the agreement and evaluate the results.

Use of Fixed Amount Agreement

A fixed amount agreement is a type of agreement based on the achievement of milestones; USAID pays the recipient a set amount when the recipient has satisfactorily accomplished the milestone, rather than providing funding based on the actual costs incurred by the recipient. When used appropriately, a fixed amount agreement provides several advantages for both USAID and the recipient. It focuses on outputs and results, shifts USAID's financial risk to the recipient, and requires only limited financial and management capacity on behalf of USAID. Fixed amount agreements are appropriate when the work to be performed can be priced with a reasonable degree of certainty. Samples of appropriate mechanisms to establish an appropriate price include the PIO's past experience with similar types of work for which outcomes and their costs can be reliably predicted, or the PIO can easily obtain price estimates (e.g., bids, quotes, catalog pricing) for significant cost elements. USAID has experience providing funding through the fixed amount agreement mechanism (and other types of agreements) to support the activities included in the list below. Appropriate activities to fund via fixed amount agreements include, but are not limited to:

- Conferences and workshops;
- Studies;
- Surveys;
- Policy papers;
- Disaster or humanitarian relief and assistance; and
- Technical assistance when costs can be segregated by milestone.

Development sectors that lend themselves to the use of fixed amount agreements include, but are not limited to, education, health, agricultural development, and disaster

assistance. Fixed amount agreements are not appropriate for the purchase of real property.

Due diligence in the planning and pre-agreement stages is essential to a successful activity under a fixed amount agreement.

Setting Milestones and Structuring Payments

Milestones are for a verifiable product, task, deliverable, or goal of the recipient. Milestones must be objectively verifiable regarding completion and quantity and within the recipient's span of management control to successfully complete as designed.

The milestones will generally have three parts: (1) a description of the product, task, deliverable, or goal to be accomplished; (2) a description of how the recipient will document the completion of the product, task, deliverable, or goal; and (3) the amount that USAID will pay the recipient for the deliverable. Some milestones may also have dates indicating when the milestone is expected or required to be completed. However, depending on the nature of the activities in the agreement, a milestone date may not be necessary or appropriate and/or milestone completion may or may not be sequential when dates are estimated/required.

The specifics of the milestone timing (and whether or not there is flexibility) should be detailed in the Agreement Schedule.

Examples:

Milestone	Documentation	Milestone Amount
Survey in X province	Survey Report	\$1000
Training in X province	Training materials and attendance sheets	\$1000

The agreement document should contain additional detail on what is expected for each milestone, as well as the contents of the documentation. The individual milestone payments do not necessarily have to reflect costs incurred for that milestone, but the combined total of the milestone payments must reflect the total costs expected to be incurred for performance of the agreement. In other words, the total cost of the agreement must be reasonable and in line with estimated costs. However, when the amount of the milestone payment exceeds the estimated cost of that milestone, the AO must determine the amount necessary to provide liquidity for the project throughout the life of implementation. Allocation of payments based on milestones should enable the recipient to move forward with the activity and help obtain assets needed for the next milestone. The milestones should provide an incentive for the recipient to complete activities through the end of the agreement. For example, the last milestone payment may be smaller in terms of amounts or percentages than other milestones, but still sufficient to ensure that the final milestone is completed.

The recipient must provide a budget, budget narrative, adequate cost, and historical or unit pricing data to establish a reasonable cost estimate and the assurance that the recipient will realize no substantial amounts above actual cost. Once the agreement amount is set and is allocated among the milestones, the milestone payments become the fixed amount for each milestone. Therefore, what the recipient actually spends to complete the milestone has no bearing upon the amount it is entitled to. As such, it is critical that the agreement total is thoroughly reviewed and determined reasonable before allocating specific amounts to the milestones.

The recipient may need to procure equipment or supplies (excluding real property) for its own use or for beneficiaries of its program in order to accomplish a milestone. However, it is only when the purchase of equipment or supplies is itself the milestone and such purchase is specifically named in that milestone that the recipient must comply with USAID source and nationality rules (22 CFR 228) (see USAID policy in [ADS 310](#) and [ADS 312](#)). Otherwise, purchases of the recipient that are incidental to the recipient's completion of a milestone are not deemed "financed" by the fixed amount award notwithstanding that their costs were included in the estimate upon which the total amount of the fixed amount award was negotiated.

Even though no standard provision for restricted commodities is included within the agreement, the AO and the Activity Manager, during the negotiation of the terms of the agreement and after consultation with GC/RLO, should ensure no funding is intended to purchase restricted commodities unless a waiver is obtained.

The initial milestone may be critical for providing the recipient with financial liquidity and the ability to continue activities. Generally, it should reflect some realistic accomplishment that can be verified by the AO or AOR.

Examples of initial milestones are as follows:

<u>Milestone</u>	<u>Documentation</u>	<u>Milestone Amount</u>
Implementation Plan	Implementation Plan approved by the AOR. ¹	\$ or local currency
Setting up office	Confirmation of office set up signed by AOR following office visit.	\$ or local currency
Recruiting and training of key staff	Resumes, training sign-in sheets, and copies of training materials.	\$ or local currency

¹ The Implementation Plan outlines and specifies a time-phased course of action which includes important implementation activities progress points, and milestones over the life of the activity. The plan should also include a preliminary life-of-project schedule. The level of detail and specificity within the Implementation Plan should mirror the complexity of the activity.

The AO and AOR or Activity Manager are encouraged to work with the recipient to structure milestone payments that facilitate an initial mobilization of the agreement and provide sufficient liquidity for the recipient to achieve the next milestone. The initial milestone should be established reasonably early in the agreement period, for example, 14 days after the agreement of the agreement, and generally no later than 30 days after agreement. Subsequent milestones should be established as frequently as is reasonable for the recipient's program and the period of the agreement. Generally, milestones should be set quarterly or more frequently. Frequent milestones, such as every 30 days, reduce risk for both the recipient and USAID and allows for effective oversight of the agreement.

Advances may be authorized when providing liquidity through an initial financing milestone is not sufficient to meet implementation requirements, provided the recipient has the capacity to effectively manage U.S. Treasury advances. An initial advance, not associated with any particular milestone, may be liquidated against a single milestone or a series of several milestones on a *pro-rata* basis. Before advances may be used, Missions must thoroughly review the entity's financial position and budgetary procedures to establish the need for advances. Advances are permitted only if they are determined to be essential to the successful achievement of project activities and there are reasonable assurances that cash provided by USAID will be used to finance project activities. In general, advances are liquidated against payments for associated milestone completion.

Advances for activities financed through a fixed amount agreement may be disbursed in increments of up to 90 days based on estimated cash needs and the project implementation plan to achieve the outputs or associated milestones.

Preparing the Fixed Amount Agreement

The AO will work with the AOR or Activity Manager and the recipient to set milestones and milestone payments. The AO will then make an agreement. In preparing the budget, the recipient must provide sufficient cost, historical, or unit price data for the AO to negotiate milestones and ensure that agreement will realize no increment above actual cost. A thorough cost review of the activity is critical to the successful use of a fixed amount agreement. The Controller and AO should work closely with the PIO to include all reasonable and realistic costs the PIO can expect to incur to complete the milestones.

Activity Implementation Viability

In addition to the Organizational Capacity Review as required in ADS 308.3.2.1 to assess the PIO's capacity and capabilities for accomplishing the milestones, the AO should consider the following questions below and include a written report of such findings in the agreement file.

- a. Are the milestones appropriate to the activity?
- b. Can USAID reasonably define the accomplishments required to achieve the purpose of the agreement in the milestones?
- c. Are the milestones verifiable?
- d. Is there sufficient information available on estimated costs to price milestones such that the fixed amount agreement represents a good value to the Agency?
- e. Are the milestones priced to balance liquidity with incentives for the recipient to keep performing?

Award and Administration of Fixed Amount Agreements

- a. **Post-agreement orientation meeting.** After signing the fixed amount agreement, the AO and AOR are encouraged to conduct a post-agreement orientation meeting with the recipient. The post-agreement orientation meeting is an essential tool to help USAID and the recipient achieve a clear and mutual understanding of the fixed amount agreement's requirements. In particular, a meeting helps PIOs with limited or no USAID experience to understand the roles and responsibilities of USAID officials administering the agreement and reduces performance risks and future problems. It is an opportunity to review, discuss, and clarify key aspects of the agreement and its administration; help the recipient meet the intended goals and outputs of the agreement; and contribute to building the recipient's institutional capacity. In addition, the pre-agreement meeting should identify those areas where the recipient may need additional help in meeting the agreement's conditions.

Items to be discussed at the meeting should include, but not be limited to, the authority of USAID personnel who administer the agreement, the specific terms and conditions of the agreement, USAID's monitoring and evaluation plans, milestones, requests for payment, voucher approval, and payment procedures.

- b. **Monitoring and Site Visits.** Because monitoring of the recipient and the agreement activities is based on fixed-cost milestones and is not tied to incurred costs, it is important that the AO and AOR conduct appropriate monitoring and oversight of the recipient as appropriate and necessary to ensure that the recipient is making satisfactory progress and meeting the milestones.
- c. **Amending Milestones.** The AO may amend milestones or increase milestone payments during the period of the agreement if conditions affecting the ability of the recipient to meet the milestone or cost assumptions change for reasons beyond the recipient's control. Such conditions may include, but are not limited to, natural causes ("force majeure") or political upheaval, but they should not be the result of reasonably foreseeable events. The amended milestones should be consistent with the original program milestones. If the AO determines that

multiple or substantial amendments indicate that the recipient is unlikely to accomplish the program and that continuing the agreement is no longer in the best interests of USAID, then the AO may terminate the agreement and consider settlement costs for partially-finished milestones.

- d. Payment.** All requests for payment must correspond to a milestone specified in the fixed amount agreement. Vouchers must list milestones, not costs, as the product, task, deliverable, or objective for which reimbursement is being made. The AOR or AO independently verifies and documents that the milestone has been completed; however, the AOR or AO may choose to rely on verification by a third party verifier. Documentation may include trip reports of site visits to verify that the recipient completed the milestone(s) (see b. above). Only the AOR or the AO may give administrative approval of recipient vouchers.

Since fixed amount agreement payments are for fixed-amount milestones, USAID should not attempt to verify that the recipient incurred the costs as estimated in making the agreement. Any actual differences between the estimated costs used to set the milestone payments and recipient's actual incurred costs cannot be used to adjust the agreed upon amount for the milestone. The documentation required for payment relates to proof that the milestone was completed in the manner of verification required in the fixed amount agreement. The specifics of required documentation or verification should be provided in the milestones themselves (see milestone examples above) and detailed in the program description.

Cash disbursed for an advance is recorded as an expenditure upon acceptance of the milestone. Completion and acceptance of the associated milestone liquidates the outstanding advance amount.

Because payment follows verification of milestone completion, the timing of verification should be planned in the agreement and conducted in the administration of the agreement in a timely manner so as to assist the recipient in receiving payment as soon after completing milestones as possible. Before administrative approval is provided on a voucher for a completed milestone, the AOR must verify that the milestone has been completed. At the time of agreement, the AOR must develop an internal verification/monitoring plan that details what is acceptable for verification purposes. Verification may, but does not always have to, include physical confirmation, or an on-site visit either by USAID or a third party for every activity under a milestone. To a limited extent, verification may be done by appropriate analysis of written documents (vouchers, training sign-up sheets), photos, videos, or other means designed to ensure activities are satisfactorily completed (and therefore mitigate USAID risk) while at the same time allowing for timely payment to the recipient. On-site monitoring should, when feasible, be timed to occur at milestone completion and thus not delay the payment process. Verification for payment purposes must be documented sufficiently for programmatic audit purposes.

Fixed amount agreements to PIOs are not subject to annual audit requirements ([ADS 591.3.2.1g](#)). However, if the AO or AOR identifies possible improper conduct on the part of the recipient, then the AO or AOR should take appropriate action, including assisting the organization in correcting its procedures and/or systems to rectify the error, notifying the Agency suspension and debarment official, or notifying the Office of the Inspector General, as appropriate.

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