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EXECUTIVE OFFICE OF THE PRESIDENT

BUREAU OF THE BUDGET

WASHINGTON, D.C. 20503

MAY 22 1964

MEMORANDUM FOR MR. BILL MOYERS

Subject: AID Engineering and Construction Services Procurement

My staff has reviewed the letter to you from Mr. Wm. S. Gaud on AID engineering and construction services procurement and the two unsigned letters on the same subject. The issues raised are complex and have been under almost continuous review by AID and its predecessor agencies. The major issues are first, the responsibility and involvement of AID for borrower/grantee executed contracts and second, AID internal organization for administration and supervision of contract activities.

AID involvement in contracting

The first issue came sharply into focus when the International Cooperation Administration (ICA) and Development Loan Fund (DLF) were abolished and AID was created in 1961. ICA usually contracted directly for engineering and construction services to be provided to the aid recipient country. Under DLF procedures the borrower country itself was responsible for contractor selection and contract negotiation. One of the first problems facing AID was to eliminate the differences between the policy and procedures it had inherited from ICA and DLF.

AID decided to accept the DLF procedure for contracting on capital projects, whether the funds were provided to the country on a loan or a grant basis. In June, 1962, AID issued Policy Directive # 5 announcing that it would henceforth "administer all capital projects by controlling and monitoring the use of AID funds rather than by direct involvement in the contracting, procurement, and construction, regardless of the method of financing." Some congressmen and even some AID staff expressed concern that this new policy would hinder AID's ability to exercise sufficient supervision over the use of economic assistance funds. But after further consideration, AID reissued this policy as part of its regular internal manual order system. Three of these, M. O. 1201.1, 1443.1 and 1443.2, are attached to this memorandum.

The two letters which you passed on to me are once more questioning AID's policy as well as many of the procedures used by AID to carry out its policy. The letters suggest that AID become involved, as much as possible, in all elements of contract negotiations, particularly with contractor selection and closer review of final contracts. The arguments usually given for reversing the policy are that if AID contracts and if AID pre-selects contractors for borrower/grantee consideration, then more U. S. firms will receive foreign assistance funded contracts and AID will have better control over the use of foreign assistance money.

The policy, for example, of maximizing use of U. S. firms on capital projects is already adequately expressed in Section 601(b)(6) of the Foreign Assistance Act. At the present time, approximately 85% of the dollar value of engineering and construction contracts entered into by borrower/grantees are with U. S. firms. It appears that the policy of maximizing use of U. S. firms is being accomplished without reverting to direct AID contracting.

With respect to control of funds, Section 112 of the 1964 Appropriation Act and the AID manual orders, cited above, require U. S. approval of the terms of all contracts and of all firms providing engineering, procurement and construction services on capital projects financed by the United States. If the contractor is unacceptable to AID, or if the borrower/grantee has not satisfied AID standards and criteria in negotiating the contract, AID can always disapprove the contract and not finance it. Bureau staff feel the existing authorities provide AID with sufficient control over foreign assistance funds.

Pre-selecting and pre-clearing of contractors would certainly give AID more control over contract activity. However, AID argues that such additional administrative control would inhibit the accomplishment of AID's basic purpose to develop skills and self-reliance in less developed countries. AID wants a developing country to establish skills in this specialized area of contract relations and to develop its own channels of communication and methods of operation. AID wants the aid receiving country itself to feel and be responsible for the contractors it selects. If the borrower/grantee negotiates with a firm already pre-selected or pre-approved by AID, the borrower/grantee would feel some pressure to conclude the contract with this firm and have less incentive for hard bargaining. The current AID policy and procedure is the same used by the Export-Import Bank, the World Bank, and the Inter-American Development Bank.

Furthermore, pre-selection of contractors probably would result in delays in project implementation, would require a substantially increased AID staff and would reverse the trend of AID becoming a financing rather than an implementing agency.

Bureau staff feel that to reverse the present procedures would be contrary to the lessons of past experience. In our opinion, there are not significant enough weaknesses in current AID policy or procedure to justify any of the suggested basic changes.

AID internal organizational responsibility

The organizational issue has also been a subject for constant review by AID and its predecessor agencies. The files are thick with studies on this problem of centralized technical services organization as opposed to geographic bureau operations. The contract operation has come in for particular attention. In 1961, AID was deliberately organized to emphasize a country orientation rather than technical specialty or service orientation. The central technical staff offices were made responsible for setting policy and establishing guidelines. The geographic bureaus were made responsible for nearly all operations including technical service operations. Recommendations of a 1961 task force on foreign assistance contracting also led to decentralization of AID contracting activities to each of the geographic bureaus. AID is now going even further in its decentralizing effort by devolving authority to field mission directors to negotiate and sign contracts for up to $25,000 and for larger amounts on a case-by-case basis.

While AID is still working out many of the formal and informal details of its newly decentralized organizational arrangement, the two letters you gave me suggest that this arrangement be abandoned altogether because an efficient procurement operation cannot be run "unless it is centralized with firm direction, control and standards" and that "the major concerns of the building industry ... could be largely overcome if engineering and procurement within the Agency were centralized."

A good case might be made that a centralized operation would be more easily understood by the building industry, would permit the development of more specialized contract officials, probably require less personnel, be more conducive to uniform policies, procedures, contracts and records, lead to more expeditiously negotiated contracts, and make it easier to develop effective systems for evaluating contract performance and results. However, the experience of AID predecessor agencies indicates that these benefits of centralization do not in fact occur.

The centralized contract operation in a centralized agency which existed in ICA for 5 years never worked well and acquired a bad reputation, even among the staff directly responsible for making and supervising contracts. The ICA regional directors felt shunted aside and complained that they had little control over the major contract decisions for programs in their countries. Mission directors complained of the failure of contract provisions to meet program needs. Mission directors as well as contractors complained about the unexplainable delay in completing contract negotiation.

The major complaints can be summarized as the separation of responsibility for results from control over the means to achieve the results. The central contract office tended more and more to try to negotiate the "perfect contract" and drifted increasingly away from program requirements. It was because of complaints such as the above, not only in contracting but with regard to all central services, that AID, when it was created, emphasized the role of the country oriented geographic Bureau and downplayed the role of central staff offices.

Mr. Bell and Mr. Gaud are aware of the procedural and administrative problems resulting from AID's new organizational approach. AID's new Procurement Policy Staff and Office of Management Planning are continuing to review these issues and to bring up problems for the Administrator's decision. He has recently reaffirmed the existing AID policy in a number of issues raised above. Bureau of the Budget Staff do not feel that the issue of centralized technical services operation is any more important in the area of contracting and contacts with the engineering and construction industry than for contacts with agricultural institutions, universities, health organizations, or other specialty areas.

We do not believe that the organizational arrangements made in 1961 should be changed at this time. No minor realignment is involved - the change proposed would be radical surgery. As Mr. Ball's committee (on which I sat) concluded last winter, our AID program has suffered notably by being subjected to frequent fundamental reorganizations and needs more than almost anything else to be spared further such turmoil.

Attachments

Kermit Gordon

Kermit Gordon
Director

I. Introduction

This introductory manual order for Chapter 1200 sets forth the policies and procedures for Capital Assistance. It defines Capital Assistance, and summarizes the basic steps involved in the planning, review, approval and implementation of Capital Assistance Activities.

Successive manual orders in this section describe the statutory and policy requirements applicable to Capital Assistance (M.O.s 1202.1 and 1203.1).

Section 1210 discusses the approach to be followed in identifying capital activities which may merit external financial assistance.

Section 1220 summarizes AID engineering and construction requirements and policies to be taken into account in developing a capital activity, and the technical requirements relating to the operation and maintenance of capital projects.

Section 1230 provides guidance on the role of Missions and the responsibilities of the applicant in preparing an application for capital assistance, including the content of the application.

Section 1240 describes the procedures to be followed in reviewing a capital activity proposal, and considerations to be taken into account in conducting such reviews.

Section 1250 describes procedures for authorizing and announcing approvals of Capital Assistance Activities.

Section 1260 establishes policies and describes procedures for the implementation of capital activities, including the preparation, negotiation and execution of agreements, the preparation and content of implementation letters, and the execution and monitoring of capital activities.

II. Definition of Capital Assistance

Capital Assistance is aid made available through the transfer of financial resources, whether on a loan or grant basis, to establish or expand physical facilities and financial institutions (including financing and feasibility studies for achieving these ends) that contribute to the basic economic development of cooperating countries. Specifically, a capital assistance activity is defined to include:

A. A "capital project", which, in turn, is defined as the construction, expansion, equipping, or alteration of a physical facility or facilities financed by AID dollar assistance of not less than $100,000 (including related advisory, managerial and training services) and not undertaken as part of a project of a predominantly Technical Assistance character; or

B. An AID-financed feasibility study of a specific potential capital project or of several specific potential capital projects, except such feasibility studies as may be financed as Surveys of Investment Opportunities pursuant to Section 231 of the FAA as amended;

C. AID dollar assistance and any accompanying advisory assistance, to one or more development banks or other intermediate credit institutions.

(For a detailed definition of capital assistance, including a discussion of the distinctions between capital assistance and other forms of assistance, see Annex A to this namual order.)

III. Capital Assistance Process

It is AID policy, with regard to all Capital Assistance Activities whether financed by loan or grant, to assure that the activities are soundly conceived and efficiently implemented. The appraisal, approval and implementation of a capital activity will normally bring to bear knowledge of engineering, economics, finance, law and the political, economic and social conditions prevailing in the cooperating country. The same basic methods of appraisal, approval and implementation will be applied to such activities whether they are financed on a loan or grant basis. Variations of method will be required only by the nature of the activity involved.

A. Identification of Capital Activities

The capital development process begins with the identification of those activities within a cooperating country which may merit external assistance, whether from AID or other sources. The emphasis at this stage is on identifying activities likely to offer the most economical and feasible opportunities for fostering the economic development of the cooperating country and for carrying out the assistance strategy of AID in that country. The object is to translate broad development and strategy goals and plans into specific potential activities. Within AID, the primary responsibility for this task in borne by the Missions. M.O. 1211.1 - Planning Capital Assistance: Identification of Capital Activities discusses this phase of the capital development process. M.O. 1212.1 - Planning Capital Assistance: Assistance in the Development of Capital Activities discusses methods available to AID for collaborating with the government or private sector in cooperating countries in identifying and developing capital activities.

Once activities which might merit external assistance have been identified within a cooperating country, focus is directed toward the selection of those which it would be most approproate for AID to assist. This evaluation is made in accordance with over-all statutory and administrative criteria of AID including policy regarding assistance where alternative financing is available from other Free World sources on reasonable terms (see M.O. 1213.1 and Section 1050 on Loan Policies and Procedures). M.O. 1202.1 describes the statutory framework for Capital Assistance Activities; M.O. 1203.1 discusses basic AID policies governing Capital Assistance.

B. Preparation of Applications for AID Assistance

Direct responsibility for the planning and preparation of a capital activity application for AID financing is borne by the prospective borrower/grantee. He must provide supporting data and justification sufficient to demonstrate clearly to the satisfaction of AID the eligibility of the activity for financial assistance under the Foreign Assistance Act of 1961, as amended (FA Act). While AID personnel will assist prospective applicants in the preparation of applications, the AID staff should normally avoid actual preparation of the applications or participation in the underlying planning. Any such participation should be expressly noted in the request for intensive review.

The role of the borrower/grantee in preparing applications for AID financing is discussed in Section 1230. Guidance for the preparation of applications is provided in M.O. 1232.1 (Capital Projects), M.O. 1233.1 (Intermediate Credit Institutions) and M.O. 1234.1 (Feasibility Studies).

The review process has two basic phases: a) preliminary review and b) intensive review. Although these two phases are not always clearly separable, it is useful to distinguish between them in controlling the flow of activities under review and in identifying problems and issues at an early stage of the review process.

C. Preliminary Review

Preliminary review of all applications for Capital Assistance is undertaken by the Mission in the cooperating country, except when the regional Assistant Administrator has determined that it is not feasible for the Mission to assume this responsibility. Such preliminary review is intended to determine whether the proposed activity warrants the commitment of the substantial staff and other Agency resources necessary for a detailed examination of the merits of the proposal. If the Mission concludes that such a detailed examination is warranted, it submits a request for intensive review (IRR) to the regional Assistant Administrator. This request form assists the regional Assistant Administrator in coordinating the review process in AID/W and the field, in determining whether intensive review shall be conducted by a Capital Assistance Committee located in the Mission or in AID/W, in assuring that all appropriate agency staffs are consulted as to the proposed activity at the earliest possible time, and in identifying policy problems and other potential difficulties at an early stage in the review process. The procedures for preliminary review, the considerations to be taken into account at this stage, and the content of the IRR are discussed in M.O. 1241.1 - Capital Assistance: Preliminary Review.

D. Intensive Review

The object of the Intensive Review process is to develop a specific recommendation that AID either provide financing or reject the proposal. The Capital Assistance Committee conducting the Intensive Review normally comprises a Capital Activity Officer, Engineer, Counsel and (a Program Officer when the IR is carried out in the Mission, or a Desk Officer when such review is carried out in AID/W). The Committee examines, in depth, the technical, economic and financial details of the proposed capital activity. In many cases, much of this work will need to be conducted in the country in which the activity, if approved, will be undertaken. The examination may be performed by individuals assigned to the Mission if necessary skills are available, or by outside staff temporarily detailed to the Mission for this purpose. The committee is composed of AID/W or field personnel, as determined by the regional Assistant Administrator or his designee.

In the course of the Intensive Review the Committee undertakes thorough, detailed examination of the proposal's acceptability in terms of the relevant statutory criteria (see M.O. 1202.1) applicable AID policies, criteria, objectives and special regional and country considerations. The manner in which these are taken into account in reviewing a particular Capital Activity Proposal is discussed in M.O. 1242.1, paragraph III.E. (see also M.O. 1202.1); M.O. 1203.1; M.O. 1211.1 - Planning Capital Assistance: Identification of Capital Activities; M.O. 1221.1 Capital Projects: Engineering and Construction Considerations and M.O. 1222.1 - Capital Projects: Managerial and Operational Considerations.

The intensive review culminates in the submission to the regional Assistant Administrator of a Capital Assistance Paper recommending that AID finance, or decline to finance, the proposed activity. The regional Assistant Administrator assures that the Capital Assistance Paper is submitted to the Office of Development Finance and Private Enterprise and the Office of Program Coordination in AID/W for comment. Copies of all Papers recommending AID loan financing in ex ess of $2.5 million are submitted to the members of the Development Loan Committee. (See M.O. 1251.1 Authorization of Capital Assistance.)

The intensive review process is discussed in M.O. 1242.1.

E. Approval of Capital Activity Financing

Capital Activities involving AID financing of less than $10 million may be approved by the responsible regional Assistant Administrator, or his designee, unless in his judgment: a) the proposal presents a policy issue not previously resolved through other AID processes; b) the proposal involves a significant deviation from established standards and criteria; or c) unless a member of the Development Loan Committee (DLC), in the case of a loan, requests formal consideration of the proposal by the Committee. In any such case, or if the requested AID financing is for $10 million, or more, approval authority is vested solely in the Administrator or his Deputy.

The DLC convenes for formal consideration of a Capital Assistance loan proposal when convened by the Administrator a) on his own notion, or b) at the request of the Assistant Administrator for the initiating regional bureau, or c) at the request of another DLC member.

F. Implementation and Monitoring

After the loan or grant is extended, the principal role of AID in project implementation is to keep the activity under surveillance to assure that physical and financial progress is a) consistent with the plans, schedules and arrangements made to carry out the project; and b) proceeding with due diligence and efficiency in conformity with sound engineering, management, and financial practices. AID also assures that the activity is being implemented in compliance with the terms of the Capital Assistance Agreement and subsidiary documents. The Agency will work directly with the borrower/grantee on any problem affecting the progress of the project. Minimum checks made by AID in monitoring the project include: a) approval of the proposed engineering firm and the contract for engineering and other professional services; b) approval of bidding documents, including plans and specifications; c) approval for award of construction contracts and of the firms to whom the awards are made; d) review of periodic progress reports submitted under the terms of the agreement to assure that implementation is proceeding satisfactorily; and e) site inspection by the Mission and AID/W personnal as appropriate. In addition, AID keeps the covenants contained in the Capital Assistance Agreement under continuing review to assure compliance with all requirements, including those which extend beyond the execution period of the activity. In the performance of these monitoring responsibilities, assumption by AID personnel of the direct implementation responsibilities of the borrower/grantee, or his consulting engineers and technicians, should be avoided. Any objections that AID may have to the manner in which the activity is performed should normally be pursued through the borrower/grantee. M.O. 1264-1 describes the role of AID in monitoring and implementing Captital Activities.

At the same time, it is the aim of AID to cooperate with the borrower/grantee in achieving the objectives of the activity. If the borrower/grantee fails to discharge its obligations, a number of remedies are available to AID. These include a) during the disbursement period, the right to suspend payment and, thereafter, b) the right to require a refund and, c) in the case of loans, the right of acceleration.

G. Contractual Relationships

The contractual relationships through which Capital Assistance Activities are implemented are between the borrower/grantee and the contractor (or the supplier, in the case of procurement of goods). Normally, AID is not a party to the contracts.

For all engineering and construction contracts, AID must approve both the contractors and the contracts, in order to assure a) that the contractors are competent, b) that the scope(s) or work and terms of the contract(s) are adequate to achieve the desired objectives and c) that the price is reasonable.

See Manual Order's 1443.1 and 1443.2 for discussion of the process and criteria for approving AID financing of engineering and construction contracts.

H. The Capital Assistance Agreement and Implementation Letters

The instruments utilized by AID to achieve the purposes for which a Capital Assistance loan or grant is made are the Capital Assistance Agreement and Implementation Letters.

1. The Agreement provides the legal foundation for a) AID's obligation to finance b) the requirements to be met by the borrower/grantee, and c) the supervisory, and monitoring rights of AID prior to disbursement and during the course of project implementation.

2. One or more Implementation Letters, based on the Agreement, provide the borrower/grantee with detailed information and instructions as to the methods and procedures to be used in carrying out the activity, including requirements or reports to AID on progress achieved and compliance with applicable requirements.

I. Provisions for Flexibility

The methods, procedures and supporting documentation described above and in succeeding manual orders in this Chapter are those to be utilized, under usual and normal circumstances, in processing and implementing Capital Assistance Activities. Where the country situation or the special circumstances of a particular capital activity make it advisable, different techniques and procedures for implementing and monitoring such activities may be adopted by the regional Bureau as deemed appropriate by the regional Assistant Administrator or his designee. Such techniques and procedures, as necessary for the success of the activity may provide for AID assumption of direct responsibility for one or more implementing actions, or phases or implementation. In such cases, the Bureau should develop in the Capital Assistance Paper a concise implementation plan which describes the technical and management competence which is required but lacking, why it cannot be obtained by the borrower/grantee and specifically the actions of, or phases of, the activity which are proposed for AID direct implementation. Following authorization of the activity for financing under the proposed implementation plan, the Capital Assistance Agreement must be appropriately drawn up to prescribe the necessary implementing arrangements and to reflect the deviations from the norm.

Definition of Capital Assistance

A. Capital Assistance

Capital Assistance is aid made available through the transfer of financial resources, whether on a loan or grant basis, to establish or expand physical facilities and financial institutions (including financing of feasibility studies for achieving these ends) that contribute to the basic economic development of cooperating countries. Specifically, a capital assistance activity is defined to include:

1. A Capital Project which, in turn is defined as the construction, expansion, equipping, or alteration of a physical facility or facilities financed by AID dollar assistance of not less than $100,000 (including related advisory, managerial and training services) and not undertaken as part of a project of a predominately Technical Assistance character; or

2. An AID-financed feasibility study of a specific potential capital project or of several specific potential capital projects, except such feasibility studies as may be financed as Surveys of Investment Opportunities pursuant to Section 231 of the FA Act, as amended; or

3. AID dollar assistance, and any accompanying advisory assistance, to one or more development banks or other intermediate credit institutions.

In addition to the activities clearly encompassed under paragraph A.1 above, capital equipment imports (e.g., machine tools and locomotives) in excess of $100 thousand may be properly categorized as a capital project where AID is significantly concerned with the operation of the facility, system or institution for which the imports are intended. For example, provision of road repair equipment or a fleet of trucks for a highway maintenance department should be classed as a capital project under such circumstances. In marginal cases where there is doubt as to the proper category for a proposed activity, the Mission should seek guidance from the responsible regional Assistant Administrator.

The term Capital Assistance does not include:

1. Dollar support of surveys or studies which do not meet Capital Assistance criteria for feasibility studies (item two above) (see M.O. 1301.1 - Technical Assistance Activities: Definition and Major Processes and M.O. 1523.1 - Investment Surveys); or

2. Projects financed exclusively under P.L. 480, Title I, Section 104(e) local currency (Cooley) loan and Section 104(g) economic development loans (see M.O. 1521.1 - Private Enterprise, General); or

3. Investment guarantees authorized under Title III of the FA Act, as amended (see M.O. 1522); or

4. Projects financed exclusively from counterpart funds (see M.O. 1513 - Local Currency Activities); or

5. Commodity Program assistance (see M.O. 1101 - Program Assistance, General); or

6. Advice to participating countries or other borrowers or grantees, not directly related to AID-financed capital activities, regarding procurement, engineering or management (see M.O. 1301 - Technical Assistance Activities, Definition and Major Processes).

B. Distinction Between Capital Assistance and Program Assistance

Program Assistance is any activity of a non-project nature undertaken to provide resources to a cooperating country, under circumstances where the totality of the resources made available, rather than their particular use, constitute the primary U.S. concern.

The purpose of the assistance, in the sense of the focus of agency attention and degree of U.S. control over the use of the particular resources made available, is the critical factor in distinguishing between program assistance and capital assistance.

Where, for example, the primary U.S. interest is in construction of a physical facility, even one financed mainly or wholly with local currencies, dollars made available for that purpose would not be deemed "program assistance", even though used to finance commodity imports for general consumption within the cooperating country. In such cases, the proposal for AID financing of the physical facility would be documented, reviewed and approved in accordance with the procedures prescribed in this chapter (1200). On the other hand, where the primary purpose of the assistance is to meet a cooperating country's balance of payments or budgetary needs, or to achieve indirectly a policy purpose, such dollar assistance is program assistance. It is documented, reviewed and approved in accordance with the procedures prescribed in Chapter 1100, nowithstanding the fact that the local curriencies thereby generated may ultimately be used to finance technical assistance or capital projects in the cooperating country.

Gray area cases, in which categorization will be difficult, are inevitable. AID may have a multiplicity of objectives in providing assistance, and it may be difficult to determine in a particular case whether project or program objectives, analysis and implementation processes are more appropriate. The U.S. motivation may be both to fill a balance of payments gap by providing needed commodity imports and also to channel local currency into priority projects. In these marginal cases, the categorization of assistance is determined by the responsible regional Assistant Administrator, according to the foregoing criterion and with the advice of interested staff offices and the Mission concerned. Whichever the choice, all of the relevant policies, criteria, documentation, review, approval and implementation processes prescribed for that form of assistance will apply.

The nature of the commodities to be financed is not the determining factor. Capital equipment may well be included in program assistance, e.g., in an equipment loan where AID is interested in supporting a sector or budget rather than in reviewing specific uses or beneficiaries. On the other hand, raw materials or operating supplies may be provided under project assistance when AID is concerned with the specific uses to which they will be put, e.g., fertilizer in support of a new irrigation or extension system.

Missions should propose whichever type of analysis they consider most appropriate to a particular proposed activity. In doubtful cases, however, they should also provide information relevant to the alternative treatment. For example, a program assistance proposal for an equipment loan should indicate what the equipment will be used for; and, a project proposal involving operating supplies should relate the requirements to the country's import financing requirements and to the budget of the ministry concerned or to the payments by the recipients.

C. Distinction Between Capital Assistance & Technical Assistance

Technical assistance is the process through which AID assists cooperating countries in developing human skills and attitudes and in the creation and support of the institutions necessary for social, economic and political growth and development.

Technical assistance usually takes the form of advisory services, including the provision of professional personnel (AID, other U.S. agencies, or contract personnel), and of training participating country nationals in the U.S. or selected third countries. For administrative purposes, technical assistance is defined to include all AID dollar supported-project activities, loan or grant, except those within the adopted definition of "capital assistance" (see above) and except certain "special activities", primarily inter-regional, (See Chapter 1500). Thus, as used in the manual orders and for purposes of AID procedures established in Chapter 1300, technical assistance includes:

1. AID dollar-financed engineering, economic or management studies or surveys, undertaken to identify future projects, including prospective capital projects, (e.g., a general survey of the transportation needs of a cooperating country);

2. AID dollar-financed contruction, expansion, equipping or alteration of a public sector physical facility (e.g., an agricultural research laboratory), in which the AID investment is less than $100,000;

3. AID dollar-financed construction, expansion, equipping or alteration of a physical facility, regardless of dollar cost where this activity, as determined by the regional Assistant Administrator, directly supports or is an integral part of a project essentially technical assistance in character.

4. AID-financed engineering or management services to a cooperating country government agency administering a non-AID-financed capital construction program (e.g., the services of a power consultant to a country ministry.)

Training, managerial and other advisory services, directed toward the realization or efficient utilization of a capital assistance activity should normally be processed, approved and administered as part of such activity rather than in accordance with the procedures prescribed for Technical Assistance in Chapter 1300.

March 20, 1964

MEMORANDUM FOR: Mr. Bill D. Moyers
The White House

SUBJECT: AID Engineering and Construction Services Procurement

Although it is correct to say that AID is predominantly a lending institution, and that AID direct procurement has fallen off, I think it should be noted that as of December 31, 1963, there were in existence 60 AID direct contracts in the architect/engineering field having a total dollar value of $37,369,104; 18 construction contracts in the amount of $57,020,075; and 95 management engineering contracts in the amount of $32,802,744 - a total of 173 contracts for a total amount of $127,191,923. These are being added to at a lesser dollar rate at this point in time, as evidenced by the Summary of FY 1963 Contract Actions (attached), but will be added to at a greater rate during the balance of this fiscal year and next.

In AID direct procurement the term "panel of AID experts" is open to question. This panel has consisted of the head of the central contract division (who is hardly an expert on anything), the engineer from the regional bureau (Africa, Latin America, etc.), and the desk officer who is neither a business nor an engineering expert. Our proposal, you will recall, constituted a panel made up of the Director of Engineering (Paul Walker), the Associate Assistant Administrator, Office of Material Resources (Bill Kelly), plus a regional bureau member. This would bring expertise, both business and engineering, to the selection process.

It is true that AID regulations do prohibit borrowers from procuring engineering and other professional services by competitive bidding. However, this is easily circumvented through a number of devices, one of which is to ask engineering firms for a cost breakdown prior to selection. In many, many instances the AID approving action on the selection of engineering firms by borrower/grantees is merely a condoning action - the deal has already been made, the contract executed, and the engineer at work.

Summary of FY 1963 Contract Actions

	Total	$ Amount Obligated
Architectural Engineering Contractual Documents Executed	132	7,494,924
Management Contractual Documents Executed	120	8,981,001
Construction Contractual Documents Executed	7	2,646,484
Total	259	19,122,409

Mr. Bill D. Moyers

The major concerns expressed by the building industry are accurately delineated and could be largely overcome if engineering and procurement within the Agency were centralized.

Of the possibilities listed on page 2, number one represents the proposition that Walker and I sent forward in January and which is now scheduled for a full-scale discussion with the regional assistant administrators. In my opinion, that proposition will continue to be resisted. The second possibility for pre-qualifying construction contractors is still in the discussion stage and will be resisted if we recommend that it be done by a central organization within the Agency. Standard contracting procedures for borrowers have been developed by my office. They have not been agreed to by the Agency. We are still trying to agree on standard contracting policies and procedures on AID direct contracts. It is my guess that we are not going to get agreement on standard contracting policies and procedures for our borrowers in less than another four months.

Under our present procedures it appears that we will loan the King of Ugadugu ten million dollars and really not worry a whole lot about how he contracts with it, but we will sweat the University of California over a thousand dollars in overhead to the point where relationships are nearly ruptured and delays in concluding negotiations have become thoroughly exasperating.

I don't believe you can run an efficient procurement operation unless it is centralized with firm direction, control and standards.

March 12, 1964

MEMORANDUM FOR: The Honorable William Moyers
The White House

FROM: Mr. William S. Gaud WSG
Acting Administrator, AID

SUBJECT: AID Engineering and Construction Services Procurement

AID is predominantly a lending institution and as such does not usually contract directly for engineering or construction services. The necessity for clear borrower financial responsibility and the desirability of developing borrower capabilities require that in loan programs procurement of such services be generally the responsibility of borrowers (chiefly foreign governments) subject to AID approval and AID regulations. In grant programs AID does procure directly a limited amount of engineering and construction services. In all cases AID regulations require that in the absence of a waiver these services be procured either from U.S. firms or from firms of the borrowing country.

Direct Procurement. In this limited category selection of engineering firms is made by a panel of AID experts from a roster of interested contractors on the basis of experience, past performance and value of previous contracts (lesser favored). When procured directly by AID construction services are obtained under normal government procedures, including competitive bidding.

Borrower Procured. Borrowers normally procure construction services by competitive bidding. U.S. firms are made aware of opportunities for construction work through Commerce Department publications as well as contacts with borrowers and consulting engineering firms.

AID regulations prohibit borrowers from procuring engineering and other professional services by competitive bidding. Normally borrowers and engineering concerns make their contacts outside of AID channels, the borrower selects a firm and submits it to AID for approval. If the firm selected is technically qualified and is charging a fair price for its services, AID approves the borrower's selection. Borrowers are prohibited from selecting any firm which as a general consultant recommended the project in early planning stages, but may employ firms having done feasibility studies. Although AID maintains a list of qualified firms available to borrowers on request, there is now no mechanism for advance notice to firms of engineering work.

Because of concerns expressed by the building industry, AID regulations regarding procurement of engineering and construction services are now undergoing review. The major concerns expressed by the industry have been: (1) foreign competition, (2) unethical practices by borrowers, (3) competition by U.S. Government agencies, (4) selection by some borrowers on the basis of price alone, (5) lack of advance information concerning engineering work, (6) failure of U.S. Government to adequately intervene in contract disputes, and (7) lack of uniformity in procedures followed by different borrowers.

Among possibilities now being considered by AID are: (1) a requirement that borrowers select engineers from a list of "best-qualified" U.S. firms selected by AID, (2) a requirement of advance AID approval for bidders for construction contracts and (3) standardized contracting procedures for borrowers.