

No. 7984

**UNITED STATES OF AMERICA
and
SAUDI ARABIA**

**Exchange of notes constituting an agreement relating to the
construction of certain military facilities. Jidda,
24 May and 5 June 1965**

Official texts : English and Arabic.

Registered by the United States of America on 30 November 1965.

**ÉTATS-UNIS D'AMÉRIQUE
et
ARABIE SAOUDITE**

**Échange de notes constituant un accord relatif à la cons-
truction de certaines installations militaires. Djedda,
24 mai et 5 juin 1965**

Textes officiels anglais et arabe.

Enregistré par les États-Unis d'Amérique le 30 novembre 1965.

No. 7984. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND SAUDI ARABIA RELATING TO THE CONSTRUCTION OF CERTAIN MILITARY FACILITIES. JIDDA, 24 MAY AND 5 JUNE 1965

I

The Saudi Arabian Deputy Minister of Foreign Affairs to the American Ambassador

No. 92/9/3/1985/2

Excellency :

I have the pleasure to acknowledge receipt of your Excellency's note 418 dated November 15, 1964,² the text of which is amended to read as follows :

"Excellency :

"I have the honor to refer to recent discussions concerning plans of the Government of the Kingdom of Saudi Arabia to undertake construction of certain military facilities, and the services which the U.S. Army Corps of Engineers is prepared to render to aid completion of this program.

"I have been instructed by my Government to confirm that, pursuant to the request of the Saudi Government and subject to the provisions hereof, the United States Government shall provide complete engineering and construction management services for design, contracting and construction of certain facilities for the military forces of the Saudi Government. The U.S. Army Corps of Engineers (hereinafter referred to as the Corps) shall carry out these responsibilities on behalf of the United States Government. The Ministry of Defense shall carry out the equivalent responsibilities on behalf of the Saudi Government.

"The scope of each project authorized for design and construction shall be established by the Saudi Government. Criteria to which projects are to be designed and standards to which they are to be constructed shall also be established by the Saudi Government. The Corps will assist the Saudi Government in determining scope, criteria and standards of construction, but the final approval of and responsibility for such scope, criteria and standards shall be with the Saudi Government. The Corps shall be responsible for the engineering soundness and adequacy for the intended purpose of all design, and for quality of construc-

¹ Came into force on 5 June 1965 by the exchange of the said notes, with retroactive effect as from 24 May 1965, in accordance with their provisions.

² Not printed by the Department of State of the United States of America.

tion of all facilities constructed by or under the supervision of the Corps from designs prepared by the Corps.

"The Division Engineer, U.S. Army Engineer Division, Mediterranean, Leghorn, Italy, or his authorized representatives, is hereby designated to act for the Corps in discharging its responsibilities hereunder. The Saudi Government will designate a liaison officer who will be the principal contact point between that Government and the Corps.

"In carrying out their responsibilities under this agreement, the Corps and the Saudi Government will be governed by the following :

"I. DESIGN

"A. The Corps will make a study of the feasibility and engineering requirements of the facilities desired in the location designated by the Saudi Government, such studies to be comprehensive in nature and covering access to the site, availability of suitable and adequate water and construction materials, climatic conditions, surface and subsurface conditions affecting layout. Construction criteria for design shall be established, and a preliminary master plan and layouts shall be prepared and submitted to the Saudi Government for approval prior to initiation of actual design.

"B. Upon receipt from the Saudi Government of authorization for design, the Corps shall proceed to accomplish design as expeditiously as possible. The Corps shall furnish the Saudi Government a schedule showing the anticipated completion dates of preliminary and final design for each authorized project. Final plans and specifications shall be approved by the Saudi Government prior to issuance of invitations to bid or requests for proposals for construction contracts. If requested, the Corps will submit preliminary plans and specifications to the Saudi Government for review and approval prior to commencement of final design.

"C. The Corps may elect to accomplish design with its own personnel or to utilize the services of architect-engineer firms under contract to the Corps. The Corps will submit the names of two or more firms, indicating its priority of rating to the Saudi Government. The Saudi Government will enjoy the right to choose the firm it prefers from the names submitted. The Corps will be responsible for negotiation of fees to be paid for engineering services, for execution and administration of architect-engineer contracts, for payments under the contracts, and for the quality of design accomplishment by architect-engineers under contract to the Corps. Architect-engineers shall receive instructions regarding work under their contracts only from the Contracting Officer of the Corps (hereinafter referred to as the Contracting Officer). During design phases, the Corps will establish an office in Saudi Arabia for supervision of field activities and liaison with the Saudi Government.

"II. CONSTRUCTION

"Upon receipt from the Saudi Government of approval of final plans and specifications, and upon receipt of authorization for construction by written communication addressed to the American Ambassador, and subject to the availability of funds, the Corps will, as expeditiously as possible, issue invitations to bid or requests for proposals for construction contracts.

"A. Prior to issuance of invitations to bid or requests for proposals the Corps shall submit to the Saudi Government a list of qualified construction contractors including Saudi contractors to whom it is proposed to issue invitations or requests. The list shall contain only the names of contractors who have been determined by the Corps to be qualified to accomplish the construction of the project in question, based upon previous performance on similar construction projects of comparable magnitude, their current organization and financial standing, and other factors having a bearing on their qualifications. The Saudi Government shall have the right to reject any contractor on the list submitted by the Corps. In addition it will be understood that the principal contractor shall submit to the Saudi Government a list of subcontractors and that the Saudi Government shall have the right to reject any of these.

"B. Bids or proposals from construction contractors will be opened by the Contracting Officer at a time and place designated by him. If the Saudi Government so desires, it may have a representative present at the opening. The Contracting Officer will make known to the representative of the Saudi Government the contents of all bids or proposals received, and will inform him of the Corps' evaluation of bids or proposals and the name of the contractor to whom the Corps proposes to award the contract. Award of the contract will be made by the Contracting Officer. A copy of all construction contracts shall be furnished to the Saudi Government after award.

"C. The Corps shall be entirely responsible for the administration of all construction contracts awarded under the terms of this agreement, including verification of payment estimates submitted by the contractor, approving progress schedules, directing the contractor to take actions required to complete construction in accordance with approved schedules, making payments to the contractor, and taking any other action required to assure compliance by the contractor with the terms of the contract. The contractor shall be given instructions only by the Contracting Officer.

"D. The Corps shall have the right to issue change orders to construction contracts as required by field conditions, technical and engineering considerations, construction problems encountered, availability of materials or equipment, and other similar factors affecting the prosecution of the work under the terms of the contract. Change orders which change the authorized scope of the facilities being constructed will be issued only with the concurrence of the Saudi Government. The cumulative value of the contract and change orders shall not exceed the funds authorized and furnished by the Saudi Government. A copy of all modifications to construction contracts shall be furnished to the Saudi Government.

"E. The Corps shall establish an office in Saudi Arabia for the purpose of supervising and inspecting construction accomplished under the terms of this agreement. The Corps shall furnish a sufficient number of qualified engineers, technicians and other personnel to assure that the construction meets the criteria and standards established for the facilities being constructed, and that the terms of the contracts are being complied with by the construction contractors. Construction supervision and inspection may be performed by Corps personnel, or by personnel of architect-engineer firms under contract to the Corps. The Liaison Officer will follow construction of the work and will provide his observations to the Corps which will give them

due consideration. In either case the responsibility for the quality of construction and compliance with established criteria and standards shall rest with the Corps.

"F. The Corps shall furnish to the Saudi Government monthly reports showing the progress of construction of all facilities under contract, as related to approved progress schedules.

"G. Upon final completion of a facility under any construction contract, a joint inspection of the facilities shall be made by designated representatives of the Saudi Government, the Corps and the construction contractor. Upon certification by the Corps that the facility has been satisfactorily completed according to the terms of the contract, the completed construction will be accepted by the Saudi Government.

"H. When facilities have been completed, the Corps shall furnish to the Saudi Government final approved shop drawings, and other pertinent documents, and such information on maintenance and operation of the equipment as has been furnished by the construction contractor under the terms of the contract. After transfer of any completed construction the Corps shall furnish to the Saudi Government reproducible drawings showing the facilities "as-built".

"III. FINANCING

"A. Prior to initiation of any activity under this agreement, the Corps will furnish to the Saudi Government an estimate of the costs to be incurred therefor by the Corps, exclusive of contract costs for design and construction. This estimate shall include anticipated cost of engineering studies, design by Corps personnel, supervision and inspection of construction activities, and training of designated personnel. The estimate shall cover fund requirements for a period of time (not less than semi-annual) which shall be agreed upon by the Corps and the Saudi Government. Upon receipt and approval of the estimate by the Saudi Government, the required funds shall be deposited to the credit of the Corps by the Saudi Government. Estimates for subsequent periods shall be submitted in time to permit the Saudi Government to fund the requirements to the Corps so as to prevent interruption of the program because of lack of funds.

"B. Prior to advertising for bids or requesting proposals for design or construction of any facility the Corps shall furnish the Saudi Government an estimate of the funds required for the contract(s), plus a reasonable contingency for change orders during the life of the contract. This estimate shall be furnished as early during the design stages of the project as a reasonable estimate can be developed, and shall constitute the basis for funding by the Saudi Government to the Corps. The Corps will not issue any invitations to bid or requests for proposals for any contract(s) until the required funds, including the contingency for change orders, as indicated by a cost estimate based upon completed plans and specifications, have been transferred to the Corps by the Saudi Government.

"C. The Saudi Government shall deposit in U.S. dollars in the Chase Manhattan Bank New York to the account of the Finance and Accounting Officer, U.S. Army Engineer Division, Mediterranean, in the form of an irrevocable letter of credit, all funds furnished by the Saudi Government for the accomplishment of the work under