

POBBW702

A.I.D Project No. ~~0120~~

PROJECT
GRANT AGREEMENT
BETWEEN
THE REPUBLIC OF GHANA
AND
THE UNITED STATES OF AMERICA
FOR
PRIMARY EDUCATION

Dated: July 18, 1990

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Project Grant Agreement

Dated July 18, 1990

Between

The Republic of Ghana ("Grantee")

And

The United States of America, acting through the Agency for International Development ("A.I.D.").

Article 1: The Agreement

The purpose of this Agreement is to set out the understandings of the parties named above ("Parties") with respect to the undertaking by the Grantee of the Project described below, and with respect to the financing of the Project by the Parties.

Article 2: The Project

SECTION 2.1. Definition of Project. The project, which is further described in Annex 1, will consist of assistance to support the implementation and monitoring of the Primary Education Program (641-0119) (the "Program"), of which this project is an integral part. The Project will finance technical assistance, training, studies, evaluations, audits and financial management reviews for the Program. Annex 1, attached, amplifies the above definition of the Project. Within the limits of the above definition of the Project, elements of the amplified description stated in Annex 1 may be changed by written agreement of the authorized representatives of the Parties named in Section 8.2, without formal amendment of this Agreement.

SECTION 2.2. Incremental Nature of Project.

(a) A.I.D.'s contribution to the Project will be provided in increments, the initial one being made available in accordance with Section 3.1 of this Agreement. It is planned that over the life of the Project, A.I.D. will contribute \$3,000,000 under this Agreement. However, subsequent increments

will be subject to availability of funds to A.I.D. for this purpose, and to the mutual agreement of the Parties, at the time of a subsequent increment, to proceed.

(b) Within the overall Project Assistance Completion Date stated in this Agreement, A.I.D., based upon consultation with the Grantee, may specify in Project Implementation Letters appropriate time periods for the utilization of funds granted by A.I.D. under an individual increment of assistance.

Article 3: Financing

SECTION 3.1. The Grant. To assist the Grantee to meet the costs of carrying out the Project, A.I.D., pursuant to the Foreign Assistance Act of 1961, as amended and foreign operations, export financing and related programs Appropriation Act of 1990, agrees to grant the Grantee under the terms of this Agreement not to exceed one million three hundred sixty-one thousand United States ("U.S.") dollars (\$1,361,000) ("Grant").

The Grant may be used to finance foreign exchange costs, as defined in Section 6.1, and local currency costs, as defined in Section 6.2, of goods and services required for the Project.

SECTION 3.2. Grantee Resources for the Project. The Grantee agrees to provide or cause to be provided for the Project all funds, in addition to the Grant, and all other resources required to carry out the Project effectively and in a timely manner.

SECTION 3.3. Project Assistance Completion Date.

(a) The Project Assistance Completion Date ("PACD"), which is July 17, 1995, or such other date as the Parties may agree to in writing, is the date by which the Parties estimate that all services financed under the Grant will have been performed and all goods financed under the Grant will have been furnished for the Project as contemplated in this Agreement.

(b) Except as A.I.D. may otherwise agree in writing, A.I.D. will not issue or approve documentation which would authorize disbursement of the Grant for services performed subsequent to the PACD or for goods furnished for the project, as contemplated in this Agreement, subsequent to the PACD.

(c) Requests for disbursement, accompanied by necessary supporting documentation prescribed in Project Implementation Letters are to be received by A.I.D. or any bank described in Section 7.1 no later than nine (9) months following the PACD, or such other period as A.I.D. agrees to in writing. After such period, A.I.D. giving notice in writing to the Grantee, may at

any time or times reduce the amount of the Grant by all or any part thereof for which requests for disbursement, accompanied by necessary supporting documentation prescribed in Project Implementation Letters, were not received before the expiration of said period.

Article 4: Conditions Precedent to Disbursement

SECTION 4.1. First Disbursement. Prior to the first disbursement under the Grant, or to the issuance by A.I.D. of documentation pursuant to which disbursement will be made, the Grantee will, except as the Parties may otherwise agree in writing:

(a) furnish to A.I.D. in form and substance satisfactory to A.I.D., a statement of the name of the person holding or acting in the office of the Grantee specified in Section 8.2., and of any additional representatives, together with a specimen signature of each person specified in such statement and

(b) execute the Program Agreement for the Ghana Primary Education Program, (641-0119).

SECTION 4.2. Notification. When A.I.D. has determined that the conditions precedent specified in Section 4.1 have been met, it will promptly notify the Grantee.

SECTION 4.3. Terminal Dates for Conditions Precedent. If all of the conditions specified in Section 4.1. have not been met within 90 days from the date of this Agreement, or such later date as A.I.D. may agree to in writing, A.I.D., at its option, may terminate this Agreement by written notice to Grantee.

Article 5: Special Covenants

SECTION 5.1. Project Evaluation. The Parties agree to establish an evaluation program as part of the Project. Except as the Parties otherwise agree in writing, the program will include, during the implementation of the Project and at one or more points thereafter:

(a) evaluation of progress toward attainment of the objectives of the Project;

(b) identification and evaluation of problem areas of constraints which may inhibit such attainment;

(c) assessment of how such information may be used to help overcome such problems; and

(d) evaluation, to the degree feasible, of the overall development impact of the Project.

Article 6: Procurement Source

SECTION 6.1. Foreign Exchange Costs. Disbursements pursuant to Section 7.1 will be used exclusively to finance the costs of goods and services required for the Project having, with respect to goods, their source and origin, and with respect to services their nationality in countries included in Code 935 of the A.I.D. Geographic Code Book as in effect at the time orders are placed or contracts entered into for such goods or services ("Foreign Exchange Costs"), except as A.I.D. may otherwise agree in writing, and except as provided in the Project Grant Standard Provisions Annex, Section C.1(b) with respect to marine insurance. Ocean transportation costs will be financed under the grant only on vessels under flag registry of countries included in Code 935, except as A.I.D. may otherwise agree in writing.

SECTION 6.2. Local Currency Costs. Disbursement pursuant to Section 7.2. will be used exclusively to finance the costs of goods and services required for the Project having their source and, except as A.I.D. may otherwise agree in writing, their origin in the Republic of Ghana ("Local Currency Costs").

Article 7: Disbursement

SECTION 7.1. Disbursement for Foreign Exchange Costs.

(a) After satisfaction of conditions precedent, the Grantee may obtain disbursements of funds under the Grant for the Foreign Exchange Costs of goods or services required for the Project in accordance with the terms of this Agreement, by such of the following methods as may be mutually agree upon:

(1) by submitting to A.I.D., with necessary supporting documentation as prescribed in Project Implementation Letters, (A) requests for reimbursement for such goods or services, or, (B) requests for A.I.D. to procure commodities or services in Grantee's behalf for the Project; or,

(2) by requesting A.I.D. to issue Letters of Commitment for specified amounts (A) to one or more U.S. banks, satisfactory to A.I.D., committing A.I.D. to reimburse such bank or banks for payments made by them to contractors or suppliers, under Letters of Credit or otherwise, for such goods or services, or (B) directly to one or more contractors or suppliers, committing A.I.D. to pay such contractors or suppliers for such goods or services.

(b) Banking charges incurred by Grantee in connection with Letters of Commitment and Letters of Credit will be

financed under the Grant unless Grantee instructs A.I.D. to the contrary. Such other charges as the Parties may agree to, may also be financed under the Grant.

SECTION 7.2. Disbursement for Local Currency Costs.

(a) After satisfaction of conditions precedent, the Grantee may obtain disbursements of funds under the Grant for Local Currency Costs required for the Project in accordance with the terms of this Agreement, by submitting to A.I.D., with necessary supporting documentation as prescribed in Project Implementation Letters, requests to finance such costs.

(b) The local currency needed for such disbursements may be obtained:

(1) by acquisition by A.I.D. with U.S. Dollars by purchase or from local currency already owned by the U.S. Government; or

(2) by A.I.D. (A) requesting the Grantee to make available the local currency for such costs, and (B) thereafter making available to the Grantee, through the opening or amendment by A.I.D. of Special Letters of Credit in favor of the Grantee or its designee, an amount of U.S. Dollars equivalent to the amount of local currency made available by the Grantee, which dollars will be utilized for procurement from the United States under appropriate procedures described in Project Implementation Letters.

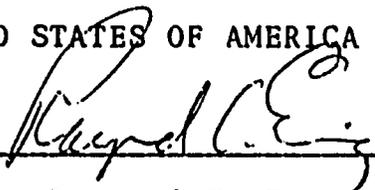
The U.S. dollar equivalent of the local currency made available hereunder will be, in the case of subsection (b)(1) above, the amount of U.S. dollars required by A.I.D. to obtain the local currency, and in the case of subsection (b)(2) above, an amount calculated at the rate of exchange specified in the applicable Special Letter of Credit Implementation Memorandum hereunder as of the date of the opening or amendment of the applicable Special Letter of Credit.

SECTION 7.3. Other Forms of Disbursement. Disbursements of the Grant may also be made through such other means as the Parties may agree to in writing.

SECTION 7.4. Rate of Exchange. Except as may be more specifically provided under Section 7.2, if funds provided under the Grant are introduced into the Republic of Ghana by A.I.D. or any public or private agency for purpose of carrying out obligations of A.I.D. hereunder, the Grantee will make such arrangements as may be necessary so that such funds may be converted into currency of the Republic of Ghana at the highest

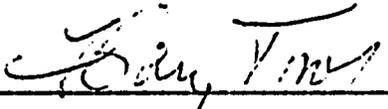
IN WITNESS THEREOF, the Grantee and the United States of America, each acting through its duly authorized representative, have caused this Agreement to be signed in their names and delivered as of the day and year first above written.

UNITED STATES OF AMERICA

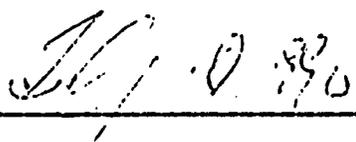
By: 

Name: Raymond C. Ewing
Title: United States
Ambassador
Accra, Ghana

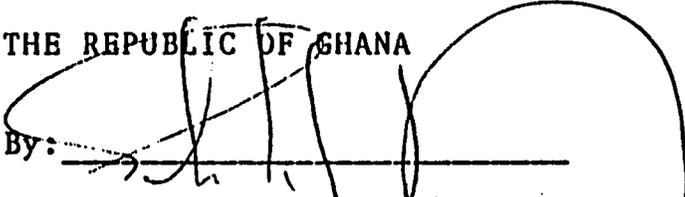
Date: _____

By: 

Name: F. Gary Towery
Title: A.I.D. Representative
Accra, Ghana

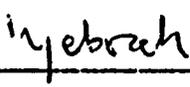
Date: 

THE REPUBLIC OF GHANA

By: 

Name: Dr. Kwesi Botchwey
Title: ~~PNDC Secretary~~
Ministry of Finance
and Economic Planning
Accra, Ghana

Date: _____

By: 

Name: Mrs. Vida Yeboah
Title: PNDC Deputy Secretary
(School Education)
Ministry of Education
Accra, Ghana

Date: _____

Annex 1

Amplified Project Description

Primary Education Project (641-0120)

I. GENERAL PROJECT DESCRIPTION

A. Goal, Purpose and Objectives. The Project provides technical assistance, training, studies, evaluations, financial assessments and financial management reviews in support of the Primary Education Program (the "Program"), of which this Project is an integral part. The overall Program is designed to significantly strengthen the policy and institutional framework required to establish a quality, accessible, equitable and financially sustainable Ghanaian primary education system by the year 2000. The Program includes a planned \$32,000,000 nonproject assistance sector grant (under a separate program agreement) that will support Ghana's Economic Recovery Program by making foreign exchange available through auction. The Government of Ghana will be required to deposit an amount of local currency equivalent to A.I.D. disbursements under the Program grant. The objective of the Program is to improve Ghana's primary education system by addressing key economic, financial, institutional and social constraints to improving Ghana's primary education system as follows:

(1) By supporting policy and institutional reform through conditionality on disbursement of \$32,000,000 in Program funds.

(2) By programming Grantee-contributed local currency to support urgent short-term sectoral needs of the Primary Education System (Grades 1-6). For example teaching materials; training of educators; institutional planning, management and supervision functions; implementation of the sector reforms; studies and technical assistance; and an equity improvement program.

Four key characteristics of the Ghanaian primary education system are targeted by the Program:

1. Quality, as measured by student achievement scores;
2. Accessibility, as measured by national enrollment rates;
3. Equity, as measured by the enrollment and retention rates of currently underrepresented groups of children; and

4. Financial sustainability, as measured by the Ministry of Education's ability to fund a sound primary education from its own financial resources.

B. Program Outputs. The Program has seven major outputs:

1. To ensure that Program funds are allocated and expended for the purposes for which they are programmed and to obtain the data needed to ensure sustainable budgeting and expenditures for primary education, the Program will require that the Ministry of Education disaggregate data on primary education budgets and expenditures.

2. To ensure adequate financial resources for the base of the education pyramid, the Program will require that the share of the Ministry of Education's recurrent budget going to primary education remain at 1989 levels.

3. Because of the importance of basic teaching materials to education quality, the Program will require that the Ministry of Education increase the proportion of its recurrent budget spent on primary education materials to six per cent.

4. Because decentralization of Ministry of Education financial and managerial responsibilities to the district level is fundamental to development of an effective and quality primary educational system, the Program supports Ministry of Education decentralization by requiring an approved Ministry of Education decentralization policy and implementation of a decentralization plan.

5. Because upgrading of primary school staff through training will significantly relieve a key constraint to the quality of primary teaching in Ghana, the Program will require implementation of a staff development program.

6. To improve current equity imbalances in the primary education system, the Program will require implementation of an equity improvement program to obtain the information necessary to develop and implement an Ministry of Education equity improvement policy.

7. Given the fundamental importance of improving the quality of primary education and motivating student learning, the Program will require development and implementation of a student achievement testing program that will measure changes in system quality resulting from Program implementation.

C. End-of-Program Status and Program Indicators in the Year 2000. Assessing the impact of the Program through the end of the Program (EOP) in 1995 and beyond to the year 2000 will be a function institutionalized within the Ministry of Education. With technical assistance funded under the Project, the Project Management Unit (PMU) of the Ministry of Education will collect and analyze the statistical and other information required to objectively establish changes in target indicators and to link those changes to the impact of the Program. All appropriate data collected and analyzed will be gender- and geographically-disaggregated.

Objectively verifiable indicators that the purpose of the Program has been attained by 1995 include: (1) adequate proportional expenditures for primary education funded entirely from Ministry of Education's own recurrent budget; (2) a Ministry of Education policy for increasing primary school expenditures on teaching materials, and materials expenditures at least at six per cent of the Ministry of Education recurrent budget; (3) a Ministry of Education decentralization policy, and greater Ministry of Education financial, managerial and operational authority resting at the field level; (4) ninety per cent of primary schools with qualified teachers and basic teaching materials; (5) significantly strengthened system planning, management and supervision; (6) a Ministry of Education equity improvement policy and implemented equity improvement program; and (7) an institutionalized student achievement testing program producing reliable, valid results.

Objectively verifiable indicators that the goal of the Program has been attained in the year 2000 are: (1) eighty per cent of eligible children nationwide attending primary school; (2) eighty per cent of primary school children completing grade 6; (3) eighty per cent of children completing grade 6 meeting achievement criteria established in reading, writing and arithmetic; (4) a fifty per cent increase in enrollment of all children, including girls, and a twenty-five per cent increase in retention of all children, including girls, in areas targeted by the equity improvement program; (5) a primary school student-to-teacher ratio of 40:1; and (6) funding all primary education costs out of the Ministry of Education's own recurrent budget.

II. IMPLEMENTATION PLAN

A. Grantee. The Program will be implemented on behalf of the Grantee by the Ministry of Finance and Economic Planning ("MFEP") and the Ministry of Education ("MOE"). The MOE Project Management Unit will have primary responsibility for implementing the Program on the behalf of the MOE. The MOE

will submit annual Primary Education local currency budgets to the MFEP and A.I.D., disburse local currency funds, report to the MFEP on the use of local currency, procure all Program-related goods and services funded with local currency, meet conditions precedent to disbursement of Program and Project funds, and restructure and expand the Project Management Unit to meet the needs of Program implementation. The Project Management Unit will be responsible for all planning, management, supervision, implementation monitoring, impact assessment, commodity and service procurement, and implementation functions that fall under MOE responsibility. Responsibility for Program-related policy reforms will rest with the Provisional National Defence Council Secretary for Education, who will receive advice from the Deputy Secretary for School Education, the National Planning Committee for the School Reform, the Ghana Education Service and A.I.D.

B. A.I.D. A.I.D. will contract with appropriate individuals or firms to provide long- and short-term technical assistance and training; manage the provision of short-term technical assistance to the Grantee through the Advancing Basic Education and Literacy Project; contract for the external midterm and end-of-Program evaluations; contract for financial assessments and financial management reviews; monitor the Program; and engage in policy dialogue with the Grantee.

III. EVALUATIONS AND FINANCIAL ASSESSMENTS

It is planned that three evaluations will be conducted during the implementation of the Program. An external mid-term evaluation is scheduled for 1993 to evaluate progress towards achievement of Program output-level objectives with special emphases on policy and institutional reform, staff training, equity improvement, the impact monitoring program, and financial sustainability. An evaluation of the Equity Improvement Plan in achieving objectives will be conducted at an agreed upon time during the life of the Program. An external end-of-Program evaluation is scheduled for 1995 to evaluate progress towards achievement of Program purpose-level objectives with special emphasis on the policy

and institutional reforms accomplished during the life of the Program and the quality of data collected by and methods to ensure post-Program continuity of the monitoring and evaluation program.

Because significant financial management and financial sustainability issues are associated with the Program, four annual financial management assessments are scheduled to (1) assess MOE recurrent budget and expenditure figures for the preceding year to assess progress towards meeting financial conditions precedent to disbursement of A.I.D. funds; (2) review criteria for establishing proration of MOE budget headings and subheadings and evaluate their continued validity given previous year budgeting and expenditure figures; and (3) evaluate local currency programming, budget and expenditure data. In addition, there will be five annual financial management reviews conducted by an independent accounting firm, which will make a preliminary assessment of the Grantee's progress towards meeting the financial conditions precedent and report on the status of the programming of local currency and on budget and expenditure data.

IV. ILLUSTRATIVE FINANCIAL PLAN

A. A.I.D. Contribution. An illustrative financial plan is set forth in Table 1. The total cost of the Project, if fully funded, is estimated to be \$3,000,000, of which A.I.D. plans to contribute the entire amount over the life of the project. It is planned that A.I.D. funding will finance long- and short-term technical assistance, U.S., third-country and in-country training, annual financial management assessments, annual financial management reviews, and midterm and end-of-Program evaluations. Future A.I.D. contributions are subject to the availability of funds and mutual agreement of the parties to proceed.

B. Grantee Contribution. In addition to the local currency equivalent of \$32,000,000 in counterpart funds under the Program, the Grantee contribution will include expenditures for the salaries of Government of Ghana personnel who are not directly supported with counterpart funds during Program implementation, as well as in-kind contributions including office space and supplies.

C. Changes to Financial Plan. Changes may be made to the financial plan by representatives of the Grantee and A.I.D. named in Section 8.2 of the Agreement without formal amendment to the Agreement if such changes do not cause (1) A.I.D.'s contribution to exceed the amount specified in Section 3.1 of the Agreement, or (2) the Grantee's contribution to be less than the amount specified in Section 3.2 of the Agreement.

Table 1

A.I.D. Contribution:
(U.S. \$000s)

	Cumulative Obligations	Future Planned Obligations	Total Life of Project
Technical Assistance and Training	1,300	1,484	2,784
Evaluation, Financial Assessment and Review	61	155	216
Total	1,361	1,639	3,000
	=====	=====	=====

APPROPRIATION: 72-1101014
BUDGET PLAN CODE: GSSA-90-21641-KG13
RCN: D020030 \$1,361,000.00

FUNDS AVAILABLE
Date 07/17/90
By W. Whizzard

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Annex 2

Project Grant Standard

Provisions Annex

Definitions: As used in this Annex, the "Agreement" refers to the Project Grant Agreement to which this Annex is attached and of which this Annex forms a part. Terms used in this Annex have the same meaning or reference as in the Agreement.

Article A: Project Implementation Letters

To assist Grantee in the implementation of the Project, A.I.D., from time to time, will issue Project Implementation Letters that will furnish additional information about matters stated in this Agreement. The parties may also use jointly agreed-upon Project Implementation Letters to confirm and record their mutual understanding on aspects of the implementation of this Agreement. Project Implementation Letters will not be used to amend the text of the Agreement, but can be used to record revisions or exceptions which are permitted by the Agreement, including the revision of elements of the amplified description of the Project in Annex 1.

Article B: General Covenants

SECTION B.1. Consultation. The Parties will cooperate to assure that the purpose of this Agreement will be accomplished. To this end, the Parties, at the request of either, will exchange views on the progress of the Project, the performance of obligations under this Agreement, the performance of any consultants, contractors, or suppliers engaged on the Project, and other matters relating to the Project.

SECTION B.2. Execution of Project. The Grantee will:

(a) carry out the Project or cause it to be carried out with due diligence and efficiency, in conformity with sound technical, financial, and management practices, and in conformity with those documents, plans, specifications, contracts, schedules or other arrangements, and with any modifications therein, approved by A.I.D. pursuant to this Agreement; and

(b) provide qualified and experienced management for, and train such staff as may be appropriate for the maintenance and operation of the Project, and, as applicable for continuing activities, cause the Project to be operated and maintained in such manner as to assure the continuing and successful achievement of the purposes of the Project.

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SECTION B.3. Utilization of Goods and Services.

(a) Any resources financed under the Grant will, unless otherwise agreed in writing by A.I.D., be devoted to the Project until the completion of the Project, and thereafter will be used so as to further the objectives sought in carrying out the Project.

(b) Goods or services financed under the Grant, except as A.I.D. may otherwise agree in writing, will not be used to promote or assist a foreign aid project or activity associated with or financed by a country not included in Code 935 of the A.I.D. Geographic Code Book as in effect at the time of such use. [See HB 18.]

SECTION B.4. Taxation.

(a) This Agreement and the Grant will be free from an taxation or fees imposed under laws in effect in the territory of the Grantee.

(b) To the extent that (1) any contractor, including any consulting firm, any personnel of such contractor financed under the Grant, and any property or transaction relating to such contracts and (2) any commodity procurement transaction financed under the Grant, are not exempt from identifiable taxes, tariffs, duties or other levies imposed under laws in effect in the territory of the Grantee, the Grantee will, as and to the extent provided in an pursuant to Project Implementation Letters, pay or reimburse the same with funds other than those provided under the Grant.

SECTION B.5. Reports, Records, Inspectors, Audit.

The Grantee will:

(a) furnished A.I.D. such information and reports relating to the Project and to this Agreement as A.I.D. may reasonably request;

(b) maintain or cause to be maintained, in accordance with generally accepted accounting principles and practices consistently applied, books and records relating to the Project and to this Agreement, adequate to show, without limitation, the receipt and use of goods and services acquired under the Grant. Such books and records will be audited regularly, in accordance with generally accepted auditing standards, and maintained for three years after the date of last disbursement by A.I.D.; such books and records will also be adequate to show the nature and extent of solicitations of prospective suppliers of goods and services acquired, the basis of award of contracts and orders, and the overall progress of the Project toward completion; and

(c) afford authorized representatives of a Party the opportunity at all reasonable times to inspect the Project, the utilization of goods and services financed by such Party, and books, records, and other documents relating to the Project and the Grant.

SECTION B.6. Completeness of Information. The Grantee confirms:

(a) that the facts and circumstances of which is has informed A.I.D., or cause A.I.D. to be informed, in the course of reaching agreement with A.I.D. on the Grant, are accurate and complete, and include all facts and circumstances that might materially affect the Project and the discharge of responsibilities under this Agreement;

(b) that it will inform A.I.D. in timely fashion of any subsequent facts and circumstances that might materially affect, or that it is reasonable to believe might so affect, the Project or the discharge of responsibilities under this Agreement.

SECTION B.7. Other Payments. Grantee affirms that no payments have been or will be received by any official of the Grantee in connection with the procurement of goods or services financed under the Grant, except fees, taxes, or similar payments legally established in the country of the Grantee.

SECTION B.8. Information and Marking. The Grantee will give appropriate publicity to the Grant and the Project as a program to which the United States has contributed, identify the Project site, and mark goods financed by A.I.D., as described in Project Implementation Letters.

Article C: Procurement Provisions

SECTION C.1. Special Rules.

(a) The source and origin of ocean and air shipping will be deemed to be the ocean vessel's or aircraft's country of registry at the time of shipment.

(b) Premiums for marine insurance placed in the territory of the Grantee will be deemed an eligible Foreign Exchange Cost, if otherwise eligible under Section C.7(a).

(c) Any motor vehicles financed under the Grant will be of United States manufacture, except as A.I.D. may otherwise agree in writing.

(d) Transportation by air, financed under the Grant, of property or persons, will be on carriers holding United States

certification, to the extent service by such carriers is available. Details on this requirement will be described in a Project Implementation Letter.

(e) Transportation by air, financed under the Grant, of property or persons, will be on carriers holding United States certification, to the extent service by such carriers is available. Details on this requirement will be described in a Project Implementation Letter.

SECTION C.2. Eligibility Date. No goods or services may be financed under the Grant which are procured pursuant to orders or contracts firmly placed or entered into prior to the date of this Agreement, except as the Parties may otherwise agree in writing.

SECTION C.3. Plans, Specifications, and Contracts. In order for there to be mutual agreement on the following matters, and except as the Parties may otherwise agree in writing:

(a) The Grantee will furnish to A.I.D. upon preparation,

(1) any plans, specifications, procurement or construction schedules, contracts, or other documentation relating to goods or services to be financed under the Grant, including documentation relating to the prequalification and selection of contractors and to the solicitation of bids and proposals. Material modifications in such documentation will likewise be furnished A.I.D. on preparation;

(2) such documentation will also be furnished to A.I.D., upon preparation, relating to any goods or services, which, though not financed under the Grant, are deemed by A.I.D. to be of major importance to the Project. Aspects of the Project involving matters under this subsection (a)(2) will be identified in Project Implementation Letters;

(b) Documents related to the prequalification of contractors, and to the solicitation of bids or proposals for goods and services financed under the Grant will be approved by A.I.D. in writing prior to their issuance, and their terms will include United States standards and measurements;

(c) Contracts and contractors financed under the Grant for engineering and other professional services, for construction services, and for such other services, equipment or materials as may be specified in Project Implementation Letters, will be approved by A.I.D. in writing prior to execution of the contract. Material modifications in such contracts will also be approved in writing by A.I.D. prior to execution; and

(d) Consulting firms used by the Grantee for the Project but not financed under the Grant, the scope of their services and such of their personnel assigned to the Project as A.I.D. may specify, and construction contractors used by the Grantee for the Project but not financed under the Grant, shall be acceptable to A.I.D.

SECTION C.4. Reasonable Price. No more than reasonable prices will be paid for any goods or services financed, in whole or in part, under the Grant. Such items will be produced on a fair and, to the maximum extent practicable, on a competitive basis.

SECTION C.5. Notification to Potential Suppliers.¹ To permit all United States firms to have the opportunity to participate in furnishing goods and services to be financed under the Grant, the Grantee will furnish A.I.D. such information with regard thereto, and at such times, as A.I.D. may request in Project Implementation Letters.

SECTION C.6. Shipping.

(a) Goods which are to be transported to the territory of the Grantee may not be financed under the Grant if transported either: (1) on an ocean vessel or aircraft under the flag of a country which is not included in A.I.D. Geographic Code 935 as in effect at the time of shipment, or (2) on an ocean vessel which A.I.D., by written notice to the Grantee has designated as ineligible; or (3) under an ocean or air charter which has not received prior A.I.D. approval.

(b) Costs of ocean or air transportation (of goods or persons) and related delivery services may not be financed under the Grant, if such goods or persons are carried: (1) on an ocean vessel under the flag of a country not, at the time of shipment, identified under the paragraph of the Agreement entitled "Procurement Source: Foreign Exchange Costs," without prior written A.I.D. approval or on a non-U.S. flag air carrier if a U.S. flag carrier is available (in accordance with criteria which may be contained in Project Implementation Letters) without prior written A.I.D. approval; or (2) on an ocean vessel which A.I.D., by written notice to the Grantee, has designated as ineligible; or (3) under an ocean vessel or air charter which has not received prior A.I.D. approval.

(c) Unless A.I.D. determines that privately owned United States-flag commercial ocean vessels are not available at fair and reasonable rates for such vessels, (1) at least fifty percent (50%) of the gross tonnage of all goods (computed separately for dry bulk carriers, dry cargo liners and tankers) financed by A.I.D. which may be transported on ocean vessels will be transported on privately owned United States-flag commercial vessels, and (2) at least fifty percent (50%) of

the gross freight revenue generated by all shipments financed by A.I.D. and transported to the territory of the Grantee on dry cargo liners shall be paid to or for the benefit of privately owned United States-flag commercial vessels. Compliance with the requirements of (1) and (2) of this subsection must be achieved with respect to both any cargo transported from U.S. ports and any cargo transported from non-U.S. ports, computed separately.

SECTION C.7. Insurance.

(a) Marine insurance on goods financed by A.I.D. which are to be transported to the territory of the Grantee may be financed as a Foreign Exchange Cost under this Agreement provided (1) such insurance is placed at the lowest available competitive rate, and (2) claims thereunder are payable in U.S. dollars or, as A.I.D. may agree in writing, in the currency in which such goods were financed or in any freely convertible currency. If the Grantee (or government of Grantee), by statute, decree, rule, regulation, or practice discriminates with respect to A.I.D.-financed procurement against any marine insurance company authorized to do business in any State of the United States, then all goods shipped to the territory of the Grantee financed by A.I.D. hereunder will be insured against marine risks and such insurance will be placed in the United States with a company or companies authorized to do a marine insurance business in a state of the United States.

(b) Except as A.I.D. may otherwise agree in writing, the Grantee will insure, or cause to be insured, goods financed under the Grant imported for the Project against risks incident to their transit to the point of their use in the Project; such insurance will be issued on terms and conditions consistent with sound commercial practice and will insure the full value of the goods. Any indemnification received by the Grantee under such insurance will be used to replace or repair any material damage or any loss of the goods insured or will be used to reimburse the Grantee for the replacement or repair of such goods. Any such replacements will be of source and origin of countries listed in A.I.D. Geographic Code 935 as in effect at the time of replacement, and, except as the Parties may agree in writing, will be otherwise subject to the provisions of the Agreement.

SECTION C.8. U.S. Government-Owned Excess Property.
The Grantee agrees that wherever practicable, United States Government-owned excess personal property, in lieu of new items financed under the Grant, should be utilized. Funds under the Grant may be used to finance the costs of obtaining such property for the Project.

Article D: Termination; Remedies.

SECTION D.1. Termination. Either Party may terminate this Agreement by giving the other Party 30 days written notice. Termination of this Agreement will terminate any obligations of the Parties to provide financial or other resources to the Project pursuant to this Agreement, except for payment which they are committed to make pursuant to noncancellable commitments entered into with third parties prior to the termination of this Agreement. In addition, upon such termination A.I.D. may, at A.I.D.'s expense, direct that title to goods financed under the Grant be transferred to A.I.D. if the goods are from a source outside Grantee's country, are in a deliverable state and have not been offloaded in ports of entry of Grantee's country.

SECTION D.2. Refunds.

(a) In the case of any disbursement which is not supported by valid documentation in accordance with this Agreement, or which is not made or used in accordance with this Agreement, or which was for goods or services not used in accordance with this Agreement, A.I.D. notwithstanding the availability or exercise of any other remedies under this Agreement, may require the Grantee to refund the amount of such disbursement in U.S. dollars to A.I.D. within sixty (60) days after receipt of a request therefor.

(b) If the failure of Grantee to comply with any of its obligations under this Agreement has the result that goods or services financed under the Grant are not used effectively in accordance with this Agreement, A.I.D. may require the Grantee to refund all or any part of the amount of the disbursements under this Agreement for such goods or services in U.S. Dollars to A.I.D. within sixty days after receipt of a request therefor.

(c) The right under subsection (a) or (b) to require a refund of a disbursement will continue, notwithstanding any other provision of this Agreement, for three years from the date of the last disbursement under this Agreement.

(d) (1) Any refund under subsection (a) or (b), or (2) any refund to A.I.D. from a contractor, supplier, bank or other third party with respect to goods or an unreasonable price for or erroneous invoicing of goods or services, or to goods that did not conform to specifications, or to services that were inadequate, will (A) be made available first for the cost of goods and services required for the Project, to the extent justified, and (B) the remainder, if any, will be applied to reduce the amount of the Grant.

(e) Any interest or other earnings on Grant funds by A.I.D. to the Grantee under this Agreement prior to the authorized use of such funds for the Project will be returned to A.I.D. in U.S. dollars by the Grantee.

SECTION D.3. Nonwaiver of Remedies. No delay in exercising any right or remedy accruing to a Party in connection with its financing under this Agreement will be construed as a waiver of such right or remedy.

SECTION D.4. Assignment. The Grantee agrees, upon request, to execute an assignment to A.I.D. of any cause of action which may accrue to the Grantee in connection with or arising out of the contractual performance or breach of performance by a party to a direct U.S. dollar contract with A.I.D. financed in whole or in part out of funds granted by A.I.D. under this Agreement.