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A.I.D. Project No. 492-0439

PROJECT
GRANT AGREEMENT
BETWEEN THE
REPUBLIC OF THE PHILIPPINES
AND THE
UNITED STATES OF AMERICA
FOR THE
DEVELOPMENT TRAINING PROJECT

Date: September 29, 1989

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TABLE OF CONTENTS
PROJECT GRANT AGREEMENT

	<u>Page</u>
Article 1: The Agreement	
Article 2: The Project	
Section 2.1. Definition of Project	1
Section 2.2. Incremental Nature of Project	2
Article 3: Financing	
Section 3.1. The Grant	2
Section 3.2. Grantee Resources for the Project	2
Section 3.3. Project Assistance Completion Date	3
Article 4: Conditions Precedent to Disbursement	
Section 4.1. First Disbursement	4
Section 4.2. Additional Disbursement	4
Section 4.3. Notification	5
Section 4.4. Terminal Dates for Conditions Precedent	5
Article 5: Special Covenants	
Section 5.1. Consultation on the Private Sector Component	5
Section 5.2. Project Evaluation	5
Article 6: Procurement Source	
Section 6.1. Foreign Exchange Costs	6
Section 6.2. Local Currency Costs	6
Article 7: Disbursements	
Section 7.1. Disbursement for Foreign Exchange Costs	6
Section 7.2. Disbursement for Local Currency Costs	7
Section 7.3. Other Forms of Disbursement	8
Section 7.4. Rate of Exchange	8
Article 8: Miscellaneous	
Section 8.1. Communications	8
Section 8.2. Representatives	9
Section 8.3. Standard Provisions Annex	9

x

2

Table of Contents

Page

ANNEX I - DESCRIPTION OF PROJECT

ANNEX II - PROJECT GRANT STANDARD PROVISIONS ANNEX

Article A: Project Implementation Letters

Article B: General Covenants

Section B.1.	Consultation	1
Section B.2.	Execution of Project	1
Section B.3.	Utilization of Goods and Services	2
Section B.4.	Taxation	2
Section B.5.	Reports, Records, Inspections, Audit	2
Section B.6.	Completeness of Information	3
Section B.7.	Other Payments	3
Section B.8.	Information and Marking	3

Article C: Procurement Provisions

Section C.1.	Special Rules	3
Section C.2.	Eligibility Date	3
Section C.3.	Plans, Specifications and Contracts	4
Section C.4.	Reasonable Price	4
Section C.5.	Notification to Potential Suppliers	4
Section C.6.	Shipping	5
Section C.7.	Insurance	6
Section C.8.	U.S. Government-Owned Excess Property	6

Article D: Termination; Remedies

Section D.1.	Termination	6
Section D.2.	Refunds	7
Section D.3.	Nonwaiver of Remedies	7
Section D.4.	Assignment	8

PROJECT GRANT AGREEMENT

Dated: September 29, 1989

Between the Republic of the Philippines ("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 I to this Agreement, will consist of strengthening the human resource base of the Philippines through academic, managerial and technical training for selected private and public sector employees, particularly in rural areas. Annex I, 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 I may be changed by written agreement of the authorized representatives of the Parties named in Section 8.2, without formal amendment of this Agreement.

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4

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. 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, agrees to grant the Grantee under the terms of this Agreement not to exceed Four Hundred and Fifty Thousand United States ("U.S.") Dollars (\$450,000.00) ("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.

(a) 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.

(b) The resources provided by Grantee for the Project will be not less than the equivalent of U.S. \$1,782,000, including costs borne on an "in-kind" basis.

Section 3.3. Project Assistance Completion Date.

(a) The Project Assistance Completion Date ("PACD"), which is September 30, 1994, 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.

61

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, furnish to A.I.D. in form and substance satisfactory to A.I.D.:

(a) An opinion of the person holding or acting in the Office of the Secretary of the Grantee's Department of Justice that this Agreement has been duly authorized or ratified by and executed on behalf of the Grantee and that it constitutes a valid and legally binding obligation of the Grantee in accordance with all of its terms;

(b) 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

(c) Agreement in writing to a Project Implementation Order/Technical Services (PIO/T) for the long-term services of a general contractor to assist with the implementation of the private-sector component of the Project.

Section 4.2. Additional Disbursement. Prior to disbursement under the Grant, or to issuance by A.I.D. of documentation pursuant to which disbursement will be made for new public sector training activities after March 31, 1990, the Grantee will, except as the Parties may otherwise agree in writing, furnish to A.I.D. in form and substance satisfactory to A.I.D., an executed contract for services in support of public sector training.

7

Section 4.3. Notification. When A.I.D. has determined that the conditions precedent specified in Sections 4.1 and 4.2 have been met, it will promptly notify the Grantee.

Section 4.4. Terminal Dates for Conditions Precedent.

(a) If all of the conditions specified in Section 4.1 have not been met within 60 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.

(b) If the condition specified in Section 4.2 has not been met before March 31, 1990, or such later date as A.I.D. may agree to in writing, A.I.D., at its option, may cancel the undisbursed portion of the Grant, to the extent not irrevocably committed to third parties, relating to public sector training.

Article 5: Special Covenants.

Section 5.1. Consultation on the Private Sector Component.

The Parties agree to consult periodically on progress of the private sector component of the Project, and may, upon mutual agreement, take any action necessary to ensure effective implementation of the said component.

Section 5.2. 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 or constraints which may inhibit such attainment;

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4

(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. Disbursement 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 the United States (Code 000 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 shall be financed under the Grant only on vessels under flag registry of the United States.

Section 6.2. Local Currency Costs. Disbursements pursuant to Section 7.2 will be used exclusively to finance the costs of goods and services required for the Project having, with respect to services, their nationality and, with respect to goods, their source and, except as A.I.D. may otherwise agree in writing, their origin in the Republic of the Philippines ("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 agreed 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 (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 the Grantee in connection with Letters of Commitment and Letters of Credit will be financed under the Grant unless the 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 purchased by A.I.D. with U.S. Dollars. The U.S. Dollar equivalent of the local currency made available hereunder will be the amount of U.S. Dollars required by A.I.D. to obtain the local currency.

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 the Philippines by A.I.D. or any public or private agency for purposes 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 Philippine currency at the highest rate of exchange which, at the time the conversion is made, is not unlawful in the Republic of the Philippines.

Article 8: Miscellaneous.

Section 8.1. Communications. Any notice, request, document, or other communication submitted by either Party to the other under this Agreement will be in writing or by telegram or cable, and will be deemed duly given or sent when delivered to such Party at the following addresses:

To the Grantee:

Mail Address: National Economic and Development Authority
P.O. Box 419, Greenhills, Metro Manila
Philippines

Alternate address for cables: NEDAPHIL

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To A.I.D.:

Mail Address: United States Agency for International
Development
c/o The American Embassy
Manila, Philippines

Alternate address for cables: USAID/AMEMB MANILA

All such communications will be in English, unless the Parties otherwise agree in writing. Other addresses may be substituted for the above upon the giving of notice.

Section 8.2. Representatives. For all purposes relevant to this Agreement, the Grantee will be represented by the individual holding or acting in the office of the Director-General, National Economic and Development Authority and A.I.D. will be represented by the individual holding or acting in the office of the Director, United States A.I.D. Mission to the Philippines, each of whom, by written notice, may designate additional representatives for all purposes other than exercising the power under Section 2.1 to revise elements of the amplified description in Annex I. The names of the representatives of the Grantee, with specimen signatures, will be provided to A.I.D., which may accept as duly authorized any instrument signed by such representatives in implementation of this Agreement, until receipt of written notice of revocation of their authority.

Section 8.3. Standard Provisions Annex. A "Project Grant Standard Provisions Annex" (Annex II) is attached to and forms part of this Agreement.

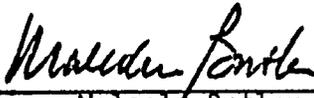
IN WITNESS WHEREOF, the Grantee and the United States of America, each acting through its duly authorized representatives, have caused this Agreement to be signed in their names and delivered as of the day and year first above written.

REPUBLIC OF THE PHILIPPINES

UNITED STATES OF AMERICA

By: 

Florian A. Albyro

By: 

Malcolm Butler

Title: Acting Director-General
National Economic and
Development Authority

Title: Mission Director
United States Agency for
International Development

ANNEX I

DEVELOPMENT TRAINING PROJECT PROJECT DESCRIPTION

I. GENERAL PROJECT DESCRIPTION

The goal of the Development Training Project is to strengthen the public and private sector human resource base of the Philippines. Achievement of this goal will contribute to technical and operational improvements in the participating public agencies and rural non-farm enterprise.

The purpose of the Project is to build a core of highly trained employees in the private and public sectors by providing academic and technical training for an estimated 2,200 individuals in priority development, technical and management fields. The Project will also facilitate the development of a decentralized system of screening and implementation of training for public sector employees.

The Project will provide assistance for training as described below:

A. Public Sector Training

Under the public sector component of the Project, priority will be given to local government personnel to develop needed technical and management skills to support the Government of the Philippines (GOP) decentralization reform. Over the life of the Project, 60 percent of the funds for this component will be provided for employees at the local level. The remaining funds will be allocated for training for personnel working at the central or regional levels of national government agencies and departments.

Training will be provided in high priority sectors, including economic policy and planning, banking and finance, agriculture, natural resource conservation, public finance, public health, engineering, and public

management specialities. Training in policy analysis and formulation and development planning fields that cut across sectors will be financed.

However, the level of specialization and particular emphasis of training will depend upon the functions and requirements of targeted agencies. Training will take place in the Philippines, third countries and the United States, depending upon the specialization and availability of appropriate training programs.

An estimated 570 individuals will receive academic or technical training under this component. The project will not finance doctoral degree programs but will support master's level programs provided that the sponsoring agency requires that level of skills. Proposed training for which funds are already available under existing A.I.D.-financed projects will not be supported.

Selection criteria for public sector training will include the following:

- Involvement of agency in priority development sector or local government operations;
- Priority field of study;
- Training objective and the potential contribution of the proposed training to improved operations of the sponsoring agency for a specified period of time;
- Assurance of nominating agency that the official will serve in a position that will utilize skills or knowledge gained;
- Potential for extension of acquired information and skills to others;
- Cost effectiveness of proposed training;

- Educational background and professional experience necessary to handle proposed training;
- English skills for U.S. and third country training; and
- Other applicable criteria established by GOP for public sector participants.

The public sector component will emphasize training for local-level employees and officials with an initial focus on regions V, VI and XI, where training would be complementary to other A.I.D. project activities, with the possibility of expansion to additional regions. A decision on whether to expand the effort to additional regions will be made on the basis of information acquired from the mid-term evaluation and the availability of funds for the expansion.

Most of the training for local-level employees will be concentrated in the designated regions for impact and ease of administration. On a case-by-case basis, the Project may also finance a limited number of priority training programs that include participants from other regions. Such programs might include executive training in financial management and accounting, and taxation, and training to support decentralization.

B. Private Sector Training

Training under this component will be provided for an estimated 1,630 employees of selected rural non-farm enterprises outside of the National Capital Region (NCR) to address constraints to productivity and profitability. The Project will not provide training to micro- or cottage businesses, but will provide training for small- to medium-sized enterprise with assets from about ₱0.5 million to about ₱20.0 million and with under 200 employees. While these businesses will be the principal target group, the

16

selection of participating firms will be flexible to ensure that firms most likely to benefit from project training will be eligible to participate. Generally, the Project will not finance training for multi-national or very large companies. However, exceptions on a case-by-case basis may be considered if a company were to agree to: (a) pay for transportation and other selected costs; and (b) serve as an observation or training site for other enterprises.

The Project will emphasize training for the manufacturing sector because of its greatest potential to contribute to rural economic growth. However, other sectors may be included in cases where training would contribute to rural economic growth. Illustrative sectors to be included are: electronics, furniture and wood products, metal products and machinery, ceramics, housewares, financial, computer services, construction, mining, quarrying, transport, storage, and services incidental to transport.

The Project will not finance training in the following industrial fields:

- Production/processing/marketing of weaponry and materials for explosives;
- Pesticides;
- Abortion or sterilization equipment manufacturing;
- Textile, apparel or footwear; and
- Agricultural product processing such as palm oil, citrus fruits, and sugar.

Training opportunities will be made available in a variety of technical and management specialties, including, but not limited to:

- Quality control systems and procedures;
- Product standard setting;
- Technology development (new techniques with higher productivity or efficiency);
- Productivity improvement;
- Skills training and upgrading;
- Technology information; and
- Packaging and labeling.

The Project will focus initially on regions where training to be provided can have maximum impact through the participation of firms most able to take advantage of upgraded skills. Regions for initial focus include Regions III and IV in Luzon, Regions VI and VII in the Visayas and Regions X and XI (plus Iligan City) in Mindanao. Meritorious requests from other regions may be considered. Additional regions may be included in project activities, depending upon the findings of the mid-term evaluation and availability of funds.

Firms and/or trainees will be expected to finance training costs to the extent possible. At a minimum, it is expected that firms will cover salary and transportation costs.

The private sector component will finance technical but not academic degree programs. Most training will take place in the Philippines, with some in third countries or the United States. Training in the Philippines will include the upgrading of basic technical skills, managerial training and product specialist-supervised training. For the latter, local, third country or U.S. specialists will participate as appropriate. Training in third countries will be provided where training in the type and level of technology

14

is more appropriately conducted in third countries. Training in advanced technology specialties may be provided in the United States through formal or observational training activities.

Criteria for participation in private sector training include:

- Employee to be trained is a Philippine citizen;
- Reputation of firm--that is, an established firm in existence for at least two years and recognized as a good standing member of the business community;
- Specified training objectives (such as improved management, research and development capacity and logistics) and potential contribution of training to specific identifiable business lines of the firm;
- Agreement of participant to return to sponsoring enterprise;
- Appropriate sectoral line;
- Sufficient professional experience and education to ensure understanding of training material; and
- English skills for training in U.S. or third countries.

II. RESPONSIBILITIES OF THE PARTICIPANTS

NEDA is the principal counterpart agency for the project; the NEDA Scholarship Affairs Secretariat (NEDA/SAS) will act as the Project Management Office (PMO). The PMO will be responsible for the day-to-day implementation of the public sector training component, including, inter alia, publicizing training opportunities, the development of training plans for the national/regional level, screening of national/regional candidates, placement and administration of trainees, and monitoring of training programs. During

the initial implementation phase, NEDA/SAS will procure the services of a contractor to establish procedures for initiating activities in the three regions.

Prior to the execution of the contract, USAID may review and approve priority training applications from NEDA/SAS on a case-by-case basis. For the training for national and regional level personnel, NEDA/SAS will submit annual training plans for USAID approval.

Training for officials at the local level will be decentralized to the extent possible. Accordingly, provinces and cities will identify training needs, rank proposed training, and submit applications to the NEDA Regional office. Municipalities and province-based national department personnel nominations can be submitted through the provinces.

Under NEDA/SAS direction, the contractor will publicize training opportunities in each of the participating regions, screen applications jointly with the NEDA Regional Office using agreed-to criteria, and prepare a training plan for local level training for submission to USAID and NEDA/SAS. Upon USAID review and approval of the training plan, the contractor will place, administer, monitor, and conduct periodic follow-up for training activities in the Philippines.

NEDA/SAS will further screen public sector nominations for U.S. and third-country training to ensure compliance with GOP requirements. USAID will process Project Implementation Order/Participants (PIO/Ps) for U.S. and third-country participants for NEDA/SAS approval.

Direct participation of the private sector in the implementation of the private sector component will be important for success. Therefore, a contractor having substantial experience and links with the private sector

207

will be responsible for day-to-day implementation and monitoring tasks. NEDA/SAS will approve the scope of work for the contractor, in connection with meeting the initial conditions precedent in the Agreement. USAID will then enter into a direct contract for services pursuant to a Project Implementation Order/Technical Services (PIO/T) issued by A.I.D. NEDA/SAS will also receive quarterly and annual reports from the contractor on the private sector training component, and consult with A.I.D. and the contractor on general progress under this component.

The contractor will be responsible for the development of a master plan and annual plans, publicity and promotion arrangements, screening of firms/trainees, identification of appropriate training programs, placement of trainees, administration and monitoring of in-country training, and follow-up of participants. PIO/Ps for U.S and third-country training will be issued unilaterally by USAID.

It is anticipated that USAID will establish an advisory group of key business leaders for the private sector component of the Project on a rotational and voluntary basis.

III. FINANCIAL PLAN

The financial plan in Attachment 1 includes project costs over the five-year life of project. Future increments of A.I.D. funding are subject to the availability of funds in accordance with the A.I.D./O.Y.B. allotment process and future agreement of the Parties to proceed. The GOP contribution of \$1.782 million, in cash or on an "in-kind" basis, to the Project includes personnel services, office space and logistics, and international

21

transportation, other travel support costs and salaries of public sector training participants. Changes in the financial plan may be made by mutual agreement of the Parties.

IV. FINANCIAL MECHANISM AND DISBURSEMENTS

A.I.D. will make U.S. dollar payments directly to foreign contractors and suppliers for any U.S. dollar-denominated procurement.

A.I.D. may also make direct Philippine peso payments to contractors and/or suppliers at the request of the GOP.

The reimbursement method of financing will be used for private sector contractors unless A.I.D. otherwise agrees in writing. The advance/liquidation method of financing may be used for direct payments to non-profit contractors/GOP agencies.

V. EVALUATION AND AUDIT

Mid-term and final evaluations are planned for each component. The first evaluation for the public sector component will take place about two years after the signing of the Project Agreement. For the private sector component, a mid-term evaluation will be conducted after two or three years of project implementation. One of the tasks of the evaluations will be to recommend whether the project should be expanded to additional regions, and to recommend objective criteria for consideration by A.I.D. and the GOP on selection of additional regions. The final evaluation for both components will be conducted near the end of the fifth year after Project Agreement execution. An external auditing firm may be contracted for audit purposes and

1
22

financed under the Project. In such an event, external audit services will be acquired under A.I.D. direct contracts pursuant to PIO/Ts issued unilaterally by A.I.D.

VI. SPECIAL CONSIDERATIONS

Training activities under the Project will be guided by A.I.D. Handbook 10, Participant Training, policies and requirements. In addition, selection of sectors for training must be in accordance with applicable U.S. laws and regulations. Training at the national level, preferably, will be for employees in technical, supervisory and managerial positions.

Contracting for A.I.D. direct contracts will be subject to the U.S. Federal Acquisition Regulations (FAR) and the A.I.D. Acquisition Regulations (AIDAR) and the contracting process for the host country contract will follow the rules of A.I.D. Handbook 11, Country Contracting.

ATTACHMENT 1

DEVELOPMENT TRAINING PROJECT
 FINANCIAL PLAN
 (\$000 or EQUIVALENT)

	USAID GRANT	COUNTERPART		TOTAL	FY 89 OBLIGATION
		GOV	PRIVATE SECTOR		
A. Public Sector Training	2,425	1,782	-	4,207	225
B. Private Sector Training	2,425	-	1,913	4,338	225
C. Audit and Evaluation	<u>150</u>	-	-	<u>150</u>	-
TOTAL	<u>5,000</u>	<u>1,782</u>	<u>1,913</u>	<u>8,695</u>	<u>450</u>

ANNEX II
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 I.

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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25

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.

Section B.4. Taxation.

(a) This Agreement and the Grant will be free from any 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 and pursuant to Project Implementation Letters, pay or reimburse the same with funds other than those provided under the Grant.

Grantee will: Section B.5. Reports, Records, Inspections, Audit. The

(a) Furnish 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.

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

(a) That the facts and circumstances of which it has informed A.I.D., or caused 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; and

(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.

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; and

(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 procured on a fair and, to the maximum extent practicable, on a competitive basis.

Section C.5. Notification to Potential Suppliers. 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.

28

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 approval of A.I.D.; 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.

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20

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 replacement 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 off-loaded 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 (60) 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 refunds 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 services financed under the Grant, which refund relates to 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 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 disbursed 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 which A.I.D. financed in whole or in part out of funds granted by A.I.D. under this Agreement.