

PL-117-020

A.I.D. PROJECT NO 497-0365

PL 11777

PROJECT
GRANT AGREEMENT
BETWEEN
THE REPUBLIC OF INDONESIA
AND THE
UNITED STATES OF AMERICA
FOR
MUNICIPAL FINANCE PROJECT

Dated: August 31, 1988

Loan and Grant Agreements
FM/LMD (if Loan) ✓
FM/PAPD
FM/CAD
GC/ANE
ANE Desk
ANE/TA Officer
ANE, PD Officer & File
PPC/CDIE/DI

PROJECT GRANT AGREEMENT

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PROJECT GRANT AGREEMENT

Dated: August 31, 1988

Between the REPUBLIC OF INDONESIA ("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, will support the Government of Indonesia's efforts to improve the shelter conditions of below-median income families by assisting the Government of Indonesia (GOI) in further developing its system of municipal finance. This will be accomplished in part by enabling local governments to assume an increasing share of the financial responsibility for urban, shelter-related infrastructure, and creating conditions favorable to the participation of the private sector in urban investment finance and service provision. Technical

assistance, training and other support provided under this Agreement will enable the GOI to analyze and implement policies which promote expansion of and improved efficiencies in the municipal finance system; and provide for the monitoring and evaluation of physical infrastructure produced in relation to the proposed A.I.D. Housing Guaranty Program.

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.

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. It is anticipated, subject to the provisions of this section, that the total amount of A.I.D.'s Grant contribution to the Project will be up to Five Million United States Dollars (\$5,000,000).

(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 to the Grantee under the terms of this Agreement not to exceed Three Million United States Dollars (\$3,000,000) ("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.

(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 the Grantee for the Project will be not less than the equivalent of U.S. \$1,800,000, 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.

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) 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) Evidence that the Grantee has agreed to the terms of the Housing Guaranty Program Implementation Agreement which is to be supported by the assistance financed under the Grant.

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 in writing.

SECTION 4.3. Terminal Date for Conditions Precedent. (a) If the condition specified in Section 4.1.(a) has 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 the Grantee.

(b) If the condition specified in Section 4.1.(b) has not been met within one year 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 the 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 Project objectives; (b) identification and evaluation of problem

areas or constraints which may inhibit such attainment; (c) assessment of how to help overcome such problems; and (d) evaluation, to the degree feasible, of the overall development impact of the Project.

SECTION 5.2. Yearly Implementation Plans. The Grantee agrees to develop a yearly implementation plan for the project which will describe the sequence of activities to be undertaken in each fiscal year supporting the overall policy action plan described in detail in the Housing Guaranty Program Implementation Agreement. Unless otherwise agreed by A.I.D., the implementation plan for each year will be submitted to A.I.D. for review prior to the start of the year covered by the plan.

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 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 and 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 the flag registry of the United States, except as A.I.D. may otherwise agree in writing.

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 their source and, except as A.I.D. may otherwise agree in writing, their origin in the Republic of Indonesia ("Local Currency Costs"). To the extent provided for under this Agreement, "Local Currency Costs" may also include the provision of local currency resources required for the Project.

Article 7. Disbursements.

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 on the 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 and services.

(b) Any 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 disbursement 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. requesting the Grantee to make available the local currency for such costs, and thereafter reimbursing an amount of U.S. Dollars equal to the amount of local currency made available by the Grantee.

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. If funds provided under the Grant are introduced into Indonesia 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 currency of the Republic of Indonesia at the highest rate of exchange which, at the time the conversion is made, is not unlawful in Indonesia.

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: Departemen Keuangan
Jl. Lapangan Banteng Timur 4
Jakarta 12950, Indonesia

To A.I.D.:

Mail Address: U.S. Agency for International Development
American Embassy
Jl. Medan Merdeka Selatan 5
Jakarta, Indonesia

Alternate address for telegrams: USAID AMEMB JAKARTA

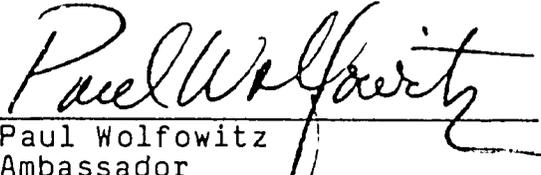
All such communications will be in English, unless the Parties otherwise agree in writing. Other addresses may be substituted for the above upon the giving of notice.

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 Minister of Finance, and A.I.D. will be represented by the individual holding or acting in the office of Mission Director, A.I.D. Mission to Indonesia, 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.

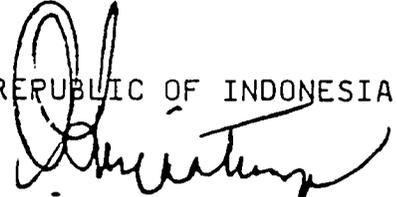
SECTION 8.3. Standard Provisions Annex. A "Project Grant Standard Provisions Annex" (Annex II) is attached to and forms part of this Agreement.

IN WITNESS WHEREOF, the Republic of Indonesia 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


Paul Wolfowitz
Ambassador
Embassy of The United States
of America

REPUBLIC OF INDONESIA


Drs. Oscar Surjaatmadja MA.MSc.
Director General for
Monetary Affairs
Department of Finance

ANNEX I

AMPLIFIED PROJECT DESCRIPTION MUNICIPAL FINANCE PROJECT TECHNICAL ASSISTANCE AND TRAINING GRANT

1. Project Purpose

The purpose of this project is to provide assistance to the Government of Indonesia (GOI) in further developing its municipal finance system by expanding and enhancing the management of its financial resources. Changes in the municipal finance system will enable Indonesian municipalities to assume an increasing share of the financial responsibility for urban infrastructure and services, and create conditions favorable to private sector involvement in urban investment finance and service provision. This Grant is to be implemented in conjunction with a Housing Guaranty (HG) Loan Program. Agreement of the GOI to the terms of the Program Implementation Agreement for that program is a condition precedent to commitment of funds for technical assistance and training activities. This Program Implementation Agreement is expected to be executed within 3 to 12 months from the date of this Grant Agreement.

2. Project Outputs

The following four outputs comprise the physical infrastructure to be provided under a Housing Guaranty (HG) Investment Program (IP) and the framework of the Policy Action Plan (PAP) which will be used to guide policy implementation throughout the life of project. Achieving these outputs is dependent on a combined effort which utilizes planned GOI inputs and HG loan resources, in addition to the technical assistance and training inputs financed under this Grant which are described herein.

Output 1: Shelter-related urban infrastructure valued at the equivalent of \$100 million, which benefits below-median income families, is provided.

This output would be the rupiah expenditures for urban shelter-related infrastructure as defined by the HG Investment Program. It is proposed that these expenditures will be for the Kampung Improvement Program (KIP), water supply, solid waste collection and disposal, sewerage, drainage, urban roads providing access to kampung, and shelter-upgrading for the urban poor.

Output 2: Continued improvement in the role of the central government in funding urban infrastructure and services affordable to low-income households through the development of a system of grants and loans that encourages local resource mobilization.

A. Link the central government's systems of grants and loans and direct the construction of shelter-related infrastructure to produce a unified approach to municipal finance.

B. Use the central grant/loan system to limit subsidies to manageable levels and better focus them to the benefit of low income families.

C. Use the central grant/loan system to provide uniform incentives for the improvement of municipal financial management (both expenditure control and revenue generation).

D. Establish a central government lending mechanism to finance urban infrastructure and services on terms that permit adequate mobilization of investment resources.

Output 3: Strengthened capacity of the local governments' (Level I and Level II) finance system to mobilize and manage resources.

A. Strengthen financial management capacity (revenue mobilization and expenditure control) at the local level.

B. Develop guidelines specifying the acceptable level of borrowing and the acceptable sources of loans.

Output 4: Foundation established for increased private sector participation in the provision and financing of urban infrastructure and services.

A. Find ways to improve the conditions for private sector (private firms, non-governmental organizations, voluntary associations) participation in the design, implementation, provision, operations and financing of urban infrastructure and services.

B. Develop cost recovery strategies for appropriate urban services that reflect the cost of urban services to private sector beneficiaries.

3. Project Inputs

A.I.D. inputs aimed at achieving the project purpose (and realizing the outputs indicated above) will consist of a combination of three mutually supportive modes of assistance. First, the Policy Action Plan (PAP) developed jointly with the GOI will constitute a menu of possible actions expected to further the objectives of the GOI's urban development policies. Second, under the Housing Guaranty (HG) Program, rupiah (Rp) investments will be made for urban shelter-related infrastructure equivalent to the U.S. dollar value of the loan to improve the shelter conditions of the urban poor. Third, technical assistance (TA) and training will be provided in support of both the monitoring and

evaluation of the HG physical outputs and the GOI's urban development policy agenda, guided by the mutually agreed upon policy action plan. Technical assistance and training inputs which will be provided under the Grant Agreement of which this Annex is a part, are herewith further described.

3.1 Technical Assistance and Training

3.1.1 Long-Term Advisory Support

A long-term team of three resident experts is planned for the project. Timed to coincide with the beginning of the next five-year development plan (Repelita V), the resident advisory team will provide continuous technical support through the entire Repelita V period. The services of the team will total approximately fifteen person-years.

The Chief Technical Advisor, who will also serve as Chief of Party, will be an Urban Finance Policy Specialist with broad experience in both developed and developing countries. This advisor will be able to assist the GOI based on his or her wide contact with urban development and municipal and regional finance issues in a variety of different cultural, economic and political settings. His or her background should help in the consideration of alternative policies and policy implementation strategies based on knowledge of what has worked or failed in other settings.

The Urban Finance Policy Specialist will be based in the Ministry of Finance (MOF). He or she will work closely with ongoing advisory assistance funded directly by the MOF. Ongoing efforts have been focusing on the revision of the present grant system, the establishment of an RDA, and revisions in the tax system. Key technical inputs from the Municipal Finance Project will focus on programs to assist local governments to evaluate their own financial condition, forecast future financial conditions, and estimate revenue potential.

The second technical advisor, an Urban Development Specialist, should have a technical background in urban development, planning and management, with considerable experience in Indonesia, particularly relating to central/local government relationships.

The Urban Development Specialist will be based in the Ministry of Home Affairs (MHA), which is the primary implementing agency for all reforms affecting local governments. This includes both financial reforms that increase local governments' ability to generate a larger share of the financial requirements for urban development and management reforms that increase local governments' capability to manage finances and services. For local governments to increase the financial resources available for investment, the orientation of local officials toward borrowing, from public or private sources, has to change, and MHA will be the most influential ministry in enabling that change.

This specialist can, for example, assist in developing implementation strategies for dealing with the problems of urban areas which are not formal local administrative units (kotamadya or municipalities). The Urban Development Specialist also should be able to assist in the development of training programs and other forms of direct assistance to municipalities in investment project selection and feasibility analysis, as well as assist in the monitoring and evaluation of these projects.

The third technical advisor, a Finance Specialist, will also work directly with the MHA. The Finance Specialist's background should include professional training and experience in municipal finance and the finance of public enterprises, as well as an understanding of municipal indebtedness, creditworthiness and the use of municipal debt instruments. This specialist's function will be to assist MHA in the development of policy and implementation strategies for local finance, for private sector participation in urban services, and private sector participation in financing urban services.

3.1.2 Short-Term Consultancies

To supplement the work of the long-term advisory team, a variety of short term consultancies, totalling approximately 30 person-months, will be provided to add more in-depth knowledge of technical areas and to work with GOI staff on the design, conduct and analysis of special studies and additional projects. In addition, short-term advisors will collaborate with long-term advisors and GOI counterparts to develop such guidance and training materials such as budget manuals and guidelines on: identifying economic growth and employment stimulating investments, assessing project feasibility, and assessing financial conditions. Materials like these illustrate the types of specialty assistance that may be required on a short-term basis. The actual determination of the use of short-term advisory services and the need for specially focused studies and analyses will be made by the GOI and long-term advisory team, in consultation with the USAID Project Manager and members of TKPP as appropriate.

3.1.3 Training Activities

Project support will provide for two types of training assistance -- short-term overseas and local workshops and training programs -- both of which are directly related to the implementation of the policy action plan. As with the short-term TA, all or part of the training may be funded and managed under the long-term TA contract.

Short-term training opportunities will be given to GOI senior, mid and junior level staff, and to potential private sector lenders, investors, owners or managers of urban services and infrastructure to participate in short courses and policy seminars (approximately two to six weeks in duration) outside Indonesia. Approximately 40 short-term participants are anticipated over the life of this project.

GOI staff and the long- and short-term consultants also will hold training of trainer workshops to develop training materials and courses for local officials, potentially through educational institutions such as the Institute for Economic and Social Research (LPEM) of the University of Indonesia.

In addition, there will be funds available for local workshops and seminars to support the implementation of the policy action plan.

3.1.4 GOI Inputs

The GOI inputs under this Agreement will include, but not be limited to local support for the long-term technical assistance team (including in-kind contributions); funding of local demonstration projects for municipal finance; funding for international airfare for overseas trainees and partial funding of local training and workshops; and staffing for evaluations and monitoring. The estimated costing of all inputs is included in Section 7, Financial Plan.

4. Executing Agency and Project Management

The Ministry of Finance will be the executing ministry for the HG borrowing, on behalf of the GOI. The executing agency for the technical assistance and training component of the project will be the Badan Analisa Keuangan of the Ministry of Finance. The Ministry of Home Affairs will also be responsible for selected technical assistance team members. Technical assistance team coordination will be the responsibility of the MOF.

The Coordination Team for Urban Development (TKPP) will provide overall project management. The TKPP Executive Secretariat will be responsible for: (1) coordinating and monitoring the implementation of the Policy Action Plan (PAP); (2) compiling budget and accounting information; and (3) reporting on the investment program expenditures. The Executive Secretariat will also act as the Project Management Unit (PMU), and a Project Coordinator will be appointed by the Executive Secretariat. Specific responsibilities of the PMU will be to: (1) monitor and coordinate overall progress on the liquidation of HG advances and subsequent disbursements; (2) report quarterly to TKPP and USAID on the project's progress; (3) assess project needs and identify obstacles to progress, as well as proposing solutions, and report these to TKPP and USAID; (4) arrange for eligible expenditure budget preparation; (5) assist USAID in monitoring and tracking eligible expenditures; and (6) prepare an end-of-project report.

5. Monitoring and Evaluation

There are several aspects to project-related monitoring: (1) monitoring the development and implementation of the GOI's Policy Action Plan will be the responsibility of the PMU, in collaboration with the AID Urban Advisor, the MOF Project Manager, and other concerned GOI officials; (2) the AID Regional Housing and Urban Development Office in

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Bangkok (RHUDD) and the AID Urban Advisor will be responsible for ensuring that proposed HG assistance complies with the Beneficiary Below-Median-Income Test of Section 223 (j) of the U.S. Foreign Assistance Act (FAA); (3) and monitoring the technical assistance and training plan will be the responsibility of the AID Urban Advisor and concerned GOI entities.

Three external project evaluations are planned. The first will precede the third HG authorization, the second will precede the fourth HG authorization, and the final evaluation will be undertaken at end of project. The overall objective of the first two evaluations is to assess project progress and accomplishments, both in terms of the Policy Action Plan implementation and Investment Program expenditures, and to suggest any adjustments which would assure greater effectiveness during the remainder of the project. The final evaluation will measure project success in achieving established benchmarks and make recommendations, as appropriate, based on project experience.

6. Disbursement

Disbursement will be handled in compliance with the intent of the Joint Decree of the Minister of Finance and the Minister of State for National Development Planning/Chairman of Bappenas No. 48/KMK.012/1987 Kep.004/Ket/I/1987 dated January 27, 1987, based on details to be determined between USAID and the GOI. Disbursement procedures for various project activities, consistent with the details determined between USAID and the GOI above, will be agreed upon by PIL.

7. Financial Plan

The financial plan is illustrative only. The Parties may increase or decrease the funding used for any budget line item by up to fifteen percent (15%) of the amount shown in the Financial Plan included in this agreement without formally revising the project budget. Any reallocation of funding to or from a budget line item which would cause that line item to increase or decrease by more than 15% of the amount shown for that line item in the then agreed financial plan will require a formal revision of the financial plan by the parties. In the event the financial plan agreed to by representatives of the parties is subsequently revised by them, the adjustments in budget line items permitted above may be applied to the new financial plan in the same manner and subject to the same limitations as stated above.

MUNICIPAL FINANCE PROJECT (497-0365)

BUDGET SUMMARY

(\$000)

	AID FY 88 Obligation	Anticipated Life of Project		<u>Total</u>
		AID Grant	Host Country	
Technical Assistance	2,700	4,100*	1,500**	5,600
Training	300	900	300	1,200
TOTAL	3,000	5,000	1,800	6,800

* Includes \$500,000 for audits, monitoring, and evaluation.

** Includes \$100,000 for monitoring and evaluation.

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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 experience 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.

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.

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

The Grantee will:

(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

SECTION B.5. (b)

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 it 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.

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;

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SECTION C.3.

(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.

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.

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SECTION C.6.

(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
- (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 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.

SECTION C.7.

(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 insurances 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.,

SECTION D.2.

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 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 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 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 with A.I.D. financed in whole or in part out of funds granted by A.I.D. under this Agreement.