

PRM-0211-1 Grant Agreement

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A.I.D. Project Number 612-0211
A.I.D. Grant Agreement No. 84-612-G-08

PROJECT GRANT AGREEMENT
BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF MALAWI
AND
THE UNITED STATES OF AMERICA
FOR THE
HEALTH INSTITUTIONS DEVELOPMENT PROJECT

Date: August 31, 1984

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A.I.D. Project 612-0211

Project Grant Agreement

Dated August 31, 1984

Between

The Government of the Republic of Malawi ("Grantee")

And

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

Article 1: The Agreement

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

Article 2: The Project

SECTION 2.1. Definition of Project. The Project, which is further described in Annex 1, will consist of design and construction for expansion of the Lilongwe School of Health Sciences, and commodities, in support of the Howard University Activity. Annex 1, attached, amplifies the above definition of the Project. Within the limits of the above definition of the Project, elements of the amplified description stated in Annex 1 may be changed by written agreement of the authorized representatives of the Parties named in Section 8.3, without formal amendment of this Agreement. The Howard University Activity consists of support for Howard University in assisting the Government of Malawi to improve its rural health delivery services, through technical assistance, training and commodities. The Overall Program consists of this Project and the Howard University Activity.

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 that A.I.D.'s total life of project contribution to the Project will be One Million Seven Hundred Thousand United States ("U.S.") Dollars (\$1,700,000).

(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 the Grantee under the terms of this Agreement not to exceed Four Hundred Thousand U.S. Dollars (\$400,000) ("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 Overall Program.

(a) The Grantee agrees to provide or cause to be provided for the Overall Program all funds, in addition to the Grant, and all other resources required to carry out the Overall Program effectively and in a timely manner.

(b) The resources provided by Grantee for the Overall Program will be not less than the equivalent of Two Million nine Hundred Thirty-three Thousand U.S. Dollars (\$2,933,000), including costs borne on an "in-kind" basis.

SECTION 3.3. Project Assistance Completion Date.

(a) The "Project Assistance Completion Date" (PACD), which is December 31, 1989, 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 the 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 3.3, and of any additional representatives, together with a specimen signature of each person specified in such statement.

SECTION 4.2. Architect/Engineering Services. Prior to any disbursement under the Grant for architect/engineering services, or to the issuance by A.I.D. of documentation pursuant to which such 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 signed contract for such services.

SECTION 4.3. Construction Services. Prior to disbursement under the grant for construction services, or to issuance by A.I.D. of documentation pursuant to which such 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 signed contract for such services; and

(b) Evidence that seismic design appropriate to the Lilongwe area has been taken into consideration in the design of buildings to be financed under the Project.

SECTION 4.4. Notification. When A.I.D. has determined that the conditions precedent specified in Section 4.1, 4.2, and 4.3 have been met, it will promptly notify the Grantee.

SECTION 4.5. Terminal Dates for Conditions Precedent.

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

(b) If all of the conditions specified in Section 4.2 and Section 4.3 have not been met within 120 days and one year, respectively, 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 cancel the then undisbursed balance of the Grant, to the extent not irrevocably committed to third Parties, and may terminate this Agreement by written notice to the Grantee.

Article 5: Special Covenants.

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

(a) Evaluation of progress toward attainment of the objectives of the Overall Program;

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

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

(d) Evaluation, to the degree feasible, of the overall development impact of the Overall Program.

SECTION 5.2. Howard University Activity. The Grantee covenants that, except as A.I.D. may otherwise agree in writing:

(a) It recognizes that the Howard University Activity is an integral part of this Project;

(b) It approves the Howard University Activity detailed in Howard University's final proposal and the cooperative agreement dated July 31, 1984, and specifically accepts its responsibilities detailed in that proposal;

(c) It confers all the tax exemptions contained in this Project Grant Agreement upon the Howard University Activity.

SECTION 5.3. Grantee Contribution. The Grantee covenants that, except as A.I.D. may otherwise agree in writing, it will contribute the equivalent of \$2,933,000 in local currency during the life of the Overall Program for furnishings, local technical staff, teaching equipment, training, and conducting a family formation survey under the Overall Program as indicated in the Howard University proposal.

SECTION 5.4. Recurrent Costs. The Grantee covenants that, except as A.I.D. may otherwise agree in writing, it will meet the recurrent costs of the Overall Program after termination of U.S. assistance.

SECTION 5.5. Equipment and Furnishings. The Grantee covenants that, except as A.I.D. may otherwise agree in writing, it will ensure that the required materials and equipment for the buildings constructed will be supplied so as to coincide with the completion of construction.

SECTION 5.6. Manpower Training Plan. The Grantee covenants that, except as A.I.D. may otherwise agree in writing, by January 31, 1986, the Ministry of Health ("MOH") with Howard University's assistance, will prepare and submit to A.I.D. a plan satisfactory to A.I.D. which describes the allocation of manpower trained by the Overall Program to Malawi's primary health care programs and facilities. At a minimum, the plan shall explain procedures of the MOH in allocating trained staff resources, and the policies and guidelines which govern the use of these resources in carrying out their assigned responsibilities.

Article 6: Procurement Source

SECTION 6.1. Foreign Exchange Costs. Disbursements pursuant to Section 7.1 will be used exclusively to finance the costs of goods and services required for the Project having, with respect to goods, their source and origin, and with respect to services their nationality, in countries included in A.I.D. Geographic Code 941 as in effect at the time orders are placed or contracts entered into for such goods or services ("Foreign Exchange Costs"), except as A.I.D. may otherwise agree in writing, and except as provided in the Project Grant Standard Provisions Annex, Section C.1(B) with respect to marine insurance. Ocean transportation costs will be financed under the Grant only on vessels under flag registry of the Republic of Malawi and countries included in A.I.D. Geographic Code 941, 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 Malawi ("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: Disbursement

SECTION 7.1. Disbursement for Foreign Exchange Costs.

(a) After satisfaction of conditions precedent, the Grantee may obtain disbursement of funds under the Grant for the Foreign Exchange Costs of goods and 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 for payments made by them to contractors or suppliers, under letters of credit or otherwise, for such goods or services, or (b) directly to one or more contractors or suppliers, committing A.I.D. to pay such contractors or suppliers for such goods or services.

(b) Banking charges incurred by Grantee in connection with letters of commitment and letters of credit will be financed under the Grant unless Grantee instructs A.I.D. to the contrary. Such other charges as the Parties may agree to may also be financed under the Grant.

SECTION 7.2. Disbursement for Local Currency Costs.

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

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

(1) by acquisition by A.I.D. with U.S. dollars by purchase; or

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

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

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

SECTION 7.4. Rate of Exchange. Except as may be more specifically provided under Section 7.2, if funds provided under the Overall Program are introduced into the Republic of Malawi by A.I.D. or any public or private agency for purposes of carrying out obligations of A.I.D. hereunder or of Howard University under the Howard University Activity, the Grantee will make such arrangements as may be necessary so that such funds may be converted into currency of the Republic of Malawi at the highest rate of exchange which, at the time the conversion is made, is not unlawful in the Republic of Malawi.

Article 8: Miscellaneous

SECTION 8.1. Investment Guaranty Project Approval. Construction work to be financed under the Overall Program is agreed to be project approved by the Republic of Malawi pursuant to the Agreement between it and the United States of America on the subject of investment guaranties, and no further approval by the Republic of Malawi will be required to permit the United States to issue investment guaranties under that Agreement covering a contractor's investment in that project.

SECTION 8.2. 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 address:

To the Grantee:

Mail Address:

Secretary to the Treasury
Ministry of Finance
P.O. Box 30049
Lilongwe, Malawi

Alternate Address for Cables:

Finance-Lilongwe
Telex No. 4407

To A.I.D.:

Mail Address:

AID Representative
American Embassy
P.O. Box 30016
Lilongwe 3, Malawi

Alternate Address for Cables:

USAID
American Embassy- Lilongwe
Telex No. 4627

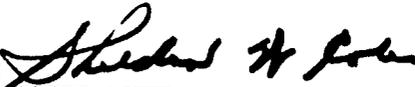
All such communications will be in English, unless the Parties otherwise agree in writing. Other addresses may be substituted for the above upon the giving of notice.

SECTION 8.3. 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 AID Representative in Malawi, 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 1. 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 8.4. Standard Provisions Annex. A "Project Grant Standard Provisions Annex" (Annex 2) 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 representative, have caused this Agreement to be signed in their names and delivered as of the day and year first above written.

UNITED STATES OF AMERICA

By: 
Title: AID Representative

THE GOVERNMENT OF THE
REPUBLIC OF MALAWI

By: 
Title: Minister of Finance

Project No.: 612-0211
Grant Agreement No.: 84-612-G-08
Appropriation: 72-1141021
BPC: GDAA-84-21612-BG13
RCN: 6400247
Res. Control Document: Nairobi 22422

ANNEX 1

AMPLIFIED PROJECT DESCRIPTION

I. GENERAL DESCRIPTION.

The goal of the Overall Program, of which this Project is an integral part, is to upgrade and expand Malawi's primary health care (PHC) program, including its child spacing efforts. The purpose of the Overall Program is to improve maternal and child health (MCH) services; expand child spacing (CS) services; and to train and retrain, and institutionalize within the Grantee's Ministry of Health (MOH) the capacity to train and retrain, mid-level health personnel in primary health care.

The Overall Program consists of two separately funded but fully integrated components. Under the first component, A.I.D. has entered into a cooperative agreement with Howard University, with an estimated completion date of July 31, 1989, to support Howard University's efforts to assist the Grantee improve its rural health delivery services through technical assistance, training and commodities (the "Howard University Activity"). The second component, funded under this Project Grant Agreement, consists of assistance for design and construction for expansion of the Lilongwe School of Health Sciences, and commodities, in support of the Howard University Activity (this "Project").

II. PROJECT INPUTS.

A. Howard University Activity. Howard University is receiving support under the cooperative agreement to assist the Grantee to train and retrain, and to institutionalize in the MOH the capacity to train and retrain, the following mid-level PHC personnel: (a) community nurse-midwives (CNM), (b) maternal child health/child spacing (MCH/CS) enrolled nurse-midwives (ENM), (c) medical assistants (MA), and (d) health assistants (HA). The cooperative agreement provides support to Howard University to plan and organize training programs; to provide training and direct supervision to faculty and tutors at the Lilongwe School of Health Sciences (LSHS); and to train MCH/CS trainers at regional and district hospitals. It is anticipated that all existing MOH assigned MCH/CS ENMs, the primary providers of MCH services, will be retrained to assume expanded functions and will work in dispersed MCH facilities which are being upgraded with World Bank resources.

The cooperative agreement also provides support for Howard University to assist the MOH in its development of job descriptions, task analyses, curriculum and teaching materials for each of these personnel categories; however, the MOH is responsible for actual completion of these tasks. To this end, the Grantee, with Howard University's assistance, shall prepare and submit to A.I.D., in form and substance satisfactory to A.I.D.:

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(a) a manpower training plan, as stated in Section 5.6 of the Agreement, by January 31, 1986;

(b) a detailed description of the training curriculum and a training plan, by September 1, 1985;

(c) a project specific manpower analysis, by September 1, 1985. This analysis should rely on a health manpower analysis for Malawi funded by the World Bank, and other existing sources of information relevant to mid-level primary health care workers; and

(d) an analysis of recurrent costs (using information from the manpower analysis and available budget data) to determine the budgetary effect of the Overall Program on the operating costs of the MOH budget, by September 1, 1985.

To carry out its technical assistance, the cooperative agreement provides support for Howard University to provide two CHH advisors (2 and 5 years), three HCH/CS advisors (2-5 years, 1-3 years), and two long-term HA/IA advisors. The MOH will assign a Project director (MOH chief medical officer), will assign an administrative assistant to the Project director, and shall provide a counterpart to each advisor. The MOH will provide adequate training sites for these activities, and suitable housing and office space for the technical assistance personnel. The MOH will also assign the students, tutors and faculty, and the deploy trainers and trained personnel, as indicated by the Project plan.

The Grantee will assume full responsibility for the operation and maintenance of the bus and truck provided by Howard University, and will expedite the entry into Malawi of goods provided by Howard.

The MOH will be responsible for provision and selection of suitable candidates, with Howard's assistance, for participant training provided under the cooperative agreement.

B. Construction. To support the technical assistance and training under the Howard University Activity, several buildings will be constructed under the Project at LSHS. It is anticipated that these will include 4 classrooms, a laboratory, 2 dormitories (capacity of about 140 students), office space for about 15 administrators, and external works. These new structures will provide space for the new and expanded training programs for CHH, HCH/CS, HA and IA personnel. The construction will permit enrollment of women students at LSHS by providing housing accommodations for them.

A.I.D. will finance architect/engineering services for final design (including preparation of bid documents), and construction services. It is anticipated that both the architect/engineering services and the construction services will be procured under competitive Handbook 11 host country contracts, open to Code 941 and Malawian firms. The Grantee's Ministry of Works and Supplies will supervise the construction, and the MOH will generally monitor the construction.

C. Contraceptives. During the fourth and fifth years, A.I.D.'s contribution will finance the procurement of contraceptives in support of the Overall Program. The provision of these commodities is necessary to ensure maximum clinical impact of the newly-trained MOH/CS ENNs. This component is essentially an extension of the current provision of contraceptives to the Grantee under another A.I.D. project. It is anticipated that that project will continue to supply contraceptives to the Grantee during the first three years of the Overall Program. It is further anticipated that the Grantee will identify its annual contraceptive needs (e.g., type, quantity), and that A.I.D. will procure them through a world-wide contraceptive procurement mechanism. The Grantee will be responsible for in-country distribution.

III. IMPLEMENTATION

A. Howard University Activity. The MOH is responsible for general management and coordination of the Overall Program, and shall assume substantial responsibility for management of the Howard University Activity. The MOH shall bear responsibility for reviewing and approving Howard's annual work plans under the cooperative agreement, which shall also be subject to AID concurrence. The implementation schedule for the Howard University Activity shall be adjusted in each annual work plan.

b. Construction Schedule. The following is a schedule for implementation of the construction component, with target dates for accomplishing major actions. Adherence to this schedule of the essence, since Howard University will need the newly-constructed space to fully implement its technical assistance and training program.

<u>Target Date</u>	<u>Action</u>
October 15, 1984	RFP for A&E services issued
December 1, 1984	Proposals for A&E services received
January 1, 1985	A&E contract signed
March 1, 1985	Construction firms prequalified
April 1, 1985	Construction IFB issued
May 15, 1985	Construction bids submitted
June 15, 1985	Construction contract signed
July 15, 1985	Construction commences
January, 1987	Construction completed

C. Contracepting Procurement Schedule. During the third year of the Project, Howard and the MOH will review the actual demand for contraceptives during years 1, 2 and 3 of the Project, will agree upon the types of commodities to be procured, and will coordinate procurement.

<u>Target Date</u>	<u>Action</u>
Jan. 1986	MOH and Howard review actual demand over last 3 years for contraceptives.
Feb. 1986	Report submitted to A.I.D. specifying actual demand, and anticipated types and amounts of commodities needed in years 4 and 5 of the Project.
March 1986	A.I.D. approves procurement
April 1986	A.I.D. initiates procurement via contractor designated for procurement of supplies.
July 1986	Contraceptives required for year 4 arrive
July 1987	Contraceptives for year 5 arrive

IV. ILLUSTRATIVE FINANCIAL PLAN

A. Howard University Activity. Under the cooperative agreement, A.I.D. has obligated \$2 million to date. A.I.D. anticipates, subject to the availability of funds to A.I.D. for this purpose and to the mutual agreement of A.I.D. and Howard, at the time of a subsequent increment, to proceed, obligating an additional \$4.5 million over the life of the cooperative agreement, for an anticipated total of \$6.5 million.

The Grantee will provide, for the Overall Program, resources not less than the equivalent of \$2,933,000.

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B. Construction and Contraceptive Components. The following table provides an illustrative financial plan for A.I.D.'s contribution to the Project (construction and contraceptive components). This plan may be changed by the designated representatives of the Parties without formal amendment to the Agreement, provided that such changes do not cause (1) AID's contribution to exceed the amount set forth in Section 3.1. or (2) the Grantee's contribution to be less than the amount set forth in Section 3.2.

PROJECT FINANCIAL PLAN (Construction and Contraceptives)
A.I.D. Contribution - (\$000)

<u>Project Inputs</u>	<u>FY 1984 Obligation</u>	<u>Future Years Anticipated</u>	<u>Total</u>
1. AGE Design Services	110	-	110
2. Construction	240	790	1030
3. Other Costs	50	145	195
4. Contraceptives	-	200	200
5. Contingency and Inflation	-	165	165
TOTAL	<u>400</u>	<u>1300</u>	<u>1700</u>

V. EVALUATIONS

During the final quarter of year 2 of the Project, Howard University shall arrange (through subcontracts and/or consultants) for a mid-term external, independent, and objective evaluation to be conducted that includes all AID-funded activities under the Overall Program. Howard shall, in a like manner, arrange for an end-of-project evaluation to be conducted in the third quarter of year five. Both of these evaluations will review the roles that A.I.D., the Grantee, and Howard are playing in the implementation of the Overall Program, and they will assess progress that has been achieved towards meeting the objectives of the Overall Program and the end-of-project targets. A.I.D. reserves the right to participate in such evaluations. All subcontracts and consultant agreements for these evaluations must have the prior written approval of A.I.D..

ANNEX 2

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 record revisions or exceptions which are permitted by the Agreement, including the revision of elements of the Amplified Project Description in Annex 1.

Article B: General Covenants

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

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

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

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

Article B: General Covenants (Continued)

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 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

Article B: General Covenants (Continued)

(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 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;

(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.

ARTICLE C: Procurement Provisions (Continued)

(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;

(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

Article C: Procurement Provisions (Continued)

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

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

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

SECTION C.6. Shipping.

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

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

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

Article C: Procurement Provisions (Continued)

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 sub-section must be achieved with respect to both any cargo transported from U.S. ports and any cargo transported from non-U.S. ports, computed separately.

SECTION C.7. Insurance.

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

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

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

Article D: Termination; Remedies

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

SECTION D.2. Refunds.

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

(b) If the failure of Grantee to comply with any of its obligations under this Agreement has the result that goods or services financed under the Grant are not used effectively in accordance with this Agreement, A.I.D. may require the Grantee to refund all or any part of the amount of the disbursement 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.

Article D: Termination; Remedies

(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.

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