

PD-ABG-718

AGENCY FOR INTERNATIONAL DEVELOPMENT PROJECT DATA SHEET		1. TRANSACTION CODE <input type="checkbox"/> A = Add <input type="checkbox"/> C = Change <input type="checkbox"/> D = Delete	84282 Amendment Number	DOCUMENT CODE 3
2. COUNTRY/ENTITY Kenya		3. PROJECT NUMBER 615-0266		
4. BUREAU/OFFICE AFR		5. PROJECT TITLE (maximum 40 characters) Strengthening Democracy and Governance in Kenya		
6. PROJECT ASSISTANCE COMPLETION DATE (PACD) MM DD YY 07 31 99		7. ESTIMATED DATE OF OBLIGATION (Under 'B' below, enter 1, 2, 3, or 4) A. Initial FY 94 B. Quarter 4 C. Final FY 99		

8. COSTS (\$000 OR EQUIVALENT \$) =						
A. FUNDING SOURCE	FIRST FY			LIFE OF PROJECT		
	B. FX	C. L/C	D. Total	E. FX	F. L/C	G. Total
AID Appropriated Total						
(Grant)	(1,500)	()	(1,500)	(4,903)	(2,097)	(7,000)
(Loan)	()	()	()	()	()	()
Other U.S.						
1.						
2.						
Host Country						
Other Donor(s)						
TOTALS						

9. SCHEDULE OF AID FUNDING (\$000)									
A. APPROPRIATION	B. PRIMARY PURPOSE CODE	C. PRIMARY TECH. CODE		D. OBLIGATIONS TO DATE		E. AMOUNT APPROVED THIS ACTION		F. LIFE OF PROJECT	
		1. Grant	2. Loan	1. Grant	2. Loan	1. Grant	2. Loan	1. Grant	2. Loan
(1)									
(2)									
(3)									
(4)									
TOTALS									

10. SECONDARY TECHNICAL CODES (maximum 6 codes of 3 positions each)						11. SECONDARY PURPOSE CODE			
12. SPECIAL CONCERNS CODES (maximum 7 codes of 4 positions each)									
A. Code									
B. Amount									

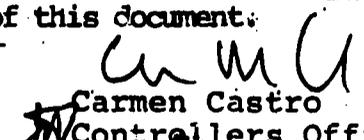
13. PROJECT PURPOSE (maximum 480 characters)

To strengthen the capacity of key democratic institutions.

14. SCHEDULED EVALUATIONS				15. SOURCE/ORIGIN OF GOODS AND SERVICES				
Interim	MM YY	MM YY	Final	MM YY	MM YY	MM YY	MM YY	
	07 97			04 99				
				<input type="checkbox"/> 000 <input type="checkbox"/> 941 <input checked="" type="checkbox"/> Local <input type="checkbox"/> Other (Specify) 935				

16. AMENDMENTS/NATURE OF CHANGE PROPOSED (This is page 1 of a _____ page PP Amendment)

I concur in the proposed methods of implementation and financing for this project as summarized in Section VI.B.5 of this document.


 Carmen Castro
 Controllers Office

17. APPROVED BY	Signature	18. DATE DOCUMENT RECEIVED IN AID/W, OR FOR AID/W DOCUMENTS, DATE OF DISTRIBUTION	
	 Title: Mission Director USAID/Kenya	Date Signed	MM DD YY
		06 30 99	

ACTION MEMORANDUM FOR THE MISSION DIRECTOR

Date: June 21, 1994
From:  Steffi Meyer, Chief, Office of Projects
Subject: Strengthening Democracy and Governance in Kenya (615-0266) - Project Approval

Problem: Your approval is required to authorize a total of \$7 million in DFA funds to support the Strengthening Democracy and Governance in Kenya (D/G) Project. The project is authorized jointly under Section 496 and Section 116(e) of the Foreign Assistance Act (FAA).

Background: In December 1992, Kenya held its first multiparty parliamentary elections in 26 years and its first ever multiparty presidential elections. Despite the many flaws in the electoral process lasting over a year, the elections were a watershed for Kenyans seeking transformation of the country's political system. The result is that the current Kenya polity is very different from the one of late 1990 and early 1991. Kenyans generally enjoy greater openness and tolerance than was the case two years ago, although problems continue. Kenya's human rights activists generally acknowledge that there is still one "political prisoner" and the Attorney General has publicly committed the Government of Kenya (GOK) to a review and overhaul of obsolete laws such as the Public Security Law. Freedoms of the press, assembly, and association are still seriously curtailed but are defended by the opposition in an outspoken manner. Serious concerns, however, remain about lack of GOK commitment in stopping the ethnic clashes and settling the displaced persons and punishing those inciting the clashes.

Although there is no indication that corruption has declined appreciably in the last two years, the GOK has made progress in reducing its role in the economic affairs of the country through liberalization of foreign exchange, grain markets, import licensing and export compensation. Recently, some action has been taken against the perpetrators of large scale corruption such as a prominent banking scandal. However, the KANU government has on several occasions raised doubts as to its commitment to the economic reforms undertaken thus far. Given this scenario, there are many socio-political and economic challenges which urgently need to be addressed to help sustain, reinforce and deepen democratization and good governance in Kenya. The overriding challenge is how to maintain political will, support and commitment to political pluralism as limited political will could reverse progress. There is need to increase the acceptability of legitimate opposition so that freedom of association for all Kenyans is enhanced. On the governance side, there is need for ensuring adequate government accountability to ensure appropriate and efficient use of economic resources.

Project Description: The goal of this seven-year Project is to promote a more tolerant and accommodating democratic culture in Kenya. The purpose is to strengthen the capacity of key democratic institutions. The end-of-project status (EOPS) indicators of achievement of purpose will be: a) improved parliamentary ability to modify or redraft legislation; b) improved quality of parliamentary debate on major public policy issues; c) reduced variation

between actual spending and budget allocation; and d) increased tax revenue complemented by a more transparent budget monitoring system.

The project consists of four major components, namely, Legislative Performance, Policy Analysis, Civil Society, Accountability and Governance. The Project will assist Kenya's legislature by enhancing the skills of Members of Parliament (MPs) to deal with issues before the house, as well as enhancing the skills of the staff of the Office of the Clerk. Support to the Institute for Policy Analysis and Research (IPAR) will consist of grants to support the establishment and functioning of IPAR as an independent organization involved in intensive analysis on the impact of existing and proposed policies. Under the Civil Society component, USAID will support the strengthening of non-governmental organizations committed to advancing democracy and good governance in Kenya. To enhance accountability and governance on the part of the GOK, support will be given to the Ministry of Finance, including the Controller and Auditor General and two parliamentary committees, the Public Investment Committee and the Public Accounts Committee, which are charged with reviewing and making recommendations on Government accountability.

All project funds will be obligated through a project agreement with the GOK. However, the Project Agreement (ProAg) will provide USAID with authority to unilaterally commit and earmark funds. The Legislative Performance component will be implemented through a Cooperative Agreement with a U.S. PVO with expertise in legislative affairs. IPAR will receive grants through a HB 13 (grant/cooperative agreement) mechanism. The Civil Society component will be administered directly by USAID and the possibilities of administration under an umbrella mechanism with a PVO will be explored. The Accountability and Governance component will be implemented either through a direct technical assistance contract or through a HB 13 grant with the UNDP.

The project will be funded under the Development Fund for Africa (DFA) with joint authorization under Section 116(e) of the Foreign Assistance Act of 1961, as amended. Over the proposed seven-year life-of-project (LOP), the total estimated cost will be US \$9.5 million, of which USAID will contribute \$7 million (74%), while \$2.5 million (26%) will be made up of counterpart contributions. The table below summarizes USAID and counterpart contributions:

<u>Budget Item/Amount (\$000)</u>	<u>AID</u>		<u>TOTAL AID</u>	<u>Cntrp</u>	<u>TOTAL</u>
	<u>FX</u>	<u>LC</u>		<u>LC</u>	
1. Legislative Performance	826	350	1,176	300	1,476
2. Policy Analysis	1,050	450	1,500	0	1,500
3. Civil Society	1,050	450	1,500	300	1,800
4. Accountability/Governance	997	427	1,424	1,900	3,324
5. Project Management	700	300	1,000	0	1,000
6. Evaluations/Audits	210	90	300	0	300
7. Contingency	70	30	100	0	100
TOTAL	4,903	2,097	7,000	2,500	9,500

Discussion: The Mission Review of the Project Paper (PP) was held on May 20, 1994. The results of discussion of major issues raised at the meeting are provided below (see issues paper, attachment no. 3).

1. Project Rationale: It was agreed that since the PP is both an implementing as well as a negotiating document, its tone must be acceptable to the GOK for the purposes of getting the GOK to sign a Project Agreement (ProAg). Also, it was noted that D/G is an end in itself as well as a means to promoting sustainable development, but sustainable development is a result of economic progress which results from an environment conducive to mobilization of resources. Therefore, the rationale for the project has focused on economic factors as well. Insofar as the project focuses on governance, selected interventions are expected to further democratic development as well. In this regard, an earlier version of the PP (March 2) would be kept as an internal document as a record of our thinking on the D/G subject.

2. Relationship with the GOK: It was agreed that the preferred method of obligation would be a ProAg following some discussion about the desirability of obligating at the strategic objective level through some mechanism other than a bilateral ProAg (should that be possible under Agency re-engineering). Although one ProAg covering all Project components is preferable, it was agreed that the Civil Society and IPAR components could be implemented much as 116(e) grants have been, namely, unilateral obligations with notification of obligation to the GOK, should a global ProAg not be possible.

3. Project Components:

Institute for Policy Analysis and Research (IPAR): Regarding the issue of whether IPAR will maintain its non-partisan stature, it was decided that IPAR produce a research agenda that reflects its intent to analyze both political and economic issues before it gets funded by USAID. However, the research agenda should respond to Kenya's research needs, not that of USAID. The committee noted that the USAID grant to IPAR constitutes a small fraction of the IPAR budget compared to contributions from other donors such as ACBF. However, if the budget allocation for Kenya increases, support for IPAR might be increased in future years. Some concerns were raised about whether IPAR would duplicate the functions of the Institute for Economic Affairs and whether donors can afford two think tanks. It was observed that more research institutes could create competition and better results. In addition, the ACBF, the lead donor for IPAR, will be funding Kenya Institute for Public Policy Research and Analysis (KIPPRA), the GOK policy analysis institute. The GOK has registered IPAR, thereby granting it the legal basis for operating and indicating an acceptance of such institutions.

Controller and Auditor General: It was observed that the weaknesses of the Office of the Controller and Auditor General need clarification to justify providing support under the project. Although the PP states that the project will provide assistance to enhance the skills of the staff of the office of the Controller and Auditor General, it was agreed that an assessment must first be undertaken in order to determine the critical needs of this office prior to implementation of specific interventions.

4. Project Management: It was noted that project management needs will intensify due to the number of proposed interventions, especially under civil society. However, the meeting observed that parliament and IPAR grants will be implemented as single, discrete actions and should require less USAID involvement. It was agreed that the project be managed directly by USAID to the maximum extent practicable.

A sectoral assessment was reviewed in the Mission as a Project Identification Document (PID)-like document and approved on August 18, 1993. The Mission was delegated approval authority for this project in STATE 230361. The budget allowance has been received (STATE 077769, STATE 357629) and the Congressional Notification requirement for an initial obligation of up to \$1,500,000 in grant funds was met (STATE 084110) and expired on April 9, 1994 (STATE 098531).

Recommendation: That you sign (1) below indicating your approval, (2) on the Project Data Sheet (facesheet) of the attached Project Paper and (3) the Project Authorization.

Approved: [Signature]

Disapproved: _____

Date: 6/30/94

Attachments:

- (1) Project Paper and Facesheet
- (2) Project Authorization
- (3) Issues Paper dated May 20, 1994
- (4) STATE 230361, Delegation of Authority cable
- (5) STATE 098531, STATE 084110, cables on Congressional Notification
- (6) STATE 077769, STATE 357629, Budget Allowance cables

Clearances:

REDSO/ANA: JHarbeson [Signature] Date 6/27/94
 PRG:KToh [Signature] Date 6/27/94
 MACONT:CAAdams [Signature] Date 6/27
 REDSO/RLA:TFillinger [Signature] Date 6/29/94 by E-mail.
 REDSO/CON:RWebber [Signature] Date 6/26/94
 D/DIR:RSimmons [Signature] Date 6/29/94

[Signature]
PRJ:NGitau:NG:6/9/94 (u:\usaid\usaid.prj\docs\dg\ppapp-dg.am)

PROJECT AUTHORIZATION

COUNTRY: KENYA

PROJECT: STRENGTHENING DEMOCRACY AND GOVERNANCE PROJECT

PROJECT NO.: 615-0238

1. Pursuant to Section 496 and 116(e) of the Foreign Assistance Act of 1961, as amended, I hereby authorize the Strengthening Democracy and Governance in Kenya Project involving planned obligations not to exceed Seven Million United States Dollars (\$7,000,000) in grant funds over a seven year period from the date of authorization, subject to the availability of funds in accordance with the A.I.D. OYB/Allotment process, to help in financing foreign exchange and local currency costs for the Project. The planned Life-of-Project (LOP) is seven years.

2. The Project is designed to promote a more tolerant and accommodating culture in Kenya. Its purpose is to strengthen the capacity of key democratic institutions. The project consists of four components; namely, legislative performance to support Kenya's parliament; policy analysis which will involve support to the Institute for Policy Analysis and Research (IPAR); accountability and governance to enhance skills of staff of the Controller and Auditor General and members of the public accounts committee and the public investment committee as well as to assist the Ministry of Finance (MOF) on revenue collection and budgetary information systems; and strengthening civil society to support existing and emerging organizations committed to advancing democracy and good governance in Kenya. The Project may also support, as the situation warrants, other interventions to advance the transition to democracy in Kenya.

3. Source and Origin of Commodities, Nationality of Services.

Except as A.I.D. may otherwise agree in writing:

(a) Commodities financed by A.I.D. under the Project shall have their source and origin in countries included in A.I.D. Geographic Code 935.

(b) Except for ocean shipping, the suppliers of commodities or services financed by A.I.D. under the Project shall have countries included in A.I.D. Geographic Code 935 as their place of nationality.

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(c) Ocean shipping financed by A.I.D. under the Project shall be financed only on flag vessels of the countries included in A.I.D. Geographic Code 935 subject to the 50/50 shipping requirements under the Cargo Preference Act and the regulations promulgated thereunder.


Mission Director
USAID/Kenya
6/30/94
Date

FISCAL DATA:

APP :72-114/51014
BPC :GSS4-94-21615-KG13
RESCTLNO :
AMOUNT :\$1,500,000

Clearances:

PRJ:SMeyer SM Date 4/20
PROG:KToh KT Date 6/27/94
~~JACONT:CAAdams CA Date 6/27~~
REDSO/RLA:TFillinger Date _____
D/DIR:RSimmons RS Date 6/30/94

NG RS
Drafted:NGitau:PRJ(u:\usaid\usaid.prj\docs\dg\prj-auth.dg)

ISSUES PAPER

STRENGTHENING DEMOCRACY AND GOVERNANCE IN KENYA

Project Review
May 20, 1994

COUNTRY: Kenya

PROJECT TITLE & NUMBER: Strengthening Democracy and Governance in Kenya (615-0266)

PROPOSED OBLIGATION: \$1.5 million (FY 94)

LOP FUNDING: USAID: \$7 million over 5 years
Counterpart contribution: \$2.5 million

1. **Project Rationale:** The PP indicates three major risks associated with this project which essentially is a democratic institutional development project. The three risk are: (i) to what extent the current Government is committed to allow the nascent democratic process to blossom; (ii) to what extent the pro-reform faction in the Government can influence and sustain whatever reforms that have been adopted so far and show the fruits of reforms so that the risk of reform backtracking can be managed; and (iii) to what extent the prevalent rent-seeking and corrupt behavior can be managed by institutional strengthening and other pressure outside the project. Given these risks,

a) what is the near-term outlook for the "enabling political environment" outside the project. What is the probability that the project can achieve its purpose?

b) with the recent utterances by the President on SAPS and price controls (especially food prices), what is the likelihood that all price controls will be removed by July? Should the PP analysis focus on the short-term political statement or on the long-term policy changes projected?

2. **Relationship with the GOK:** If the Mission has yet to engage the GOK in formal negotiation of this project, how sure are we that the GOK will be willing to sign a Project Agreement (ProAg) or even a Memorandum of Understanding (MOU)? What steps should and can be taken to ensure that project monies are obligated this FY?

3. Project Components:

Institute for Policy Analysis (IPAR)

- a) Why is IPAR the largest component of the Project and why is it important?
- b) Can the activities of the IPAR be more closely linked to other project components (e.g., parliament, civil society) to stimulate public debate on policy issues? How will IPAR be involved in the dissemination of knowledge?
- c) Will IPAR's research agenda be tied to USAID's global research and analysis agenda? Should it be?
- d) To what extent will IPAR duplicate the functions of the Naumann-funded Institute for Economic Analysis (IEA)? Should the donor community support the establishment of two think tanks?
- e) Will IPAR be able to maintain its non-partisan stature if the GOK does not agree with its policy research results? What is the negotiating status with the GOK? Is a CP on non-interference adequate?

Controller and Auditor General

The PP notes that there is an "elaborate... auditing system" and that the Controller and Auditor General (C/AG) each year issues a frank and honest report. The list of weaknesses noted in the PP in the GOK financial accounting system does not include any related to C/AG performance or the quality of the staff. It does note that the real problem with the C/AG's report is the failure of parliament to do anything with it. Given that assessment,

- a) does the C/AG need project assistance? There is no indication that there has been any consultation with the C/AG nor any specific request for assistance.
- b) is further analysis needed to better define the problem to be addressed? Might the funds currently budgeted for this component be more constructively spent on activities with the AG, the MOF and/or parliament to provide mechanisms to address the problems noted in the C/AG's reports?

4. Project Management:

- a) The Mission currently has program-funded direct management experiences with two active projects, namely, PVO Co-Fi and PED. Given the lessons learned about the management intensity of the approach, and the difficulties in providing both technical and

administrative support, should further consideration be given to the use of an institutional contractor? At this time, USAID/W approval is required prior to recruitment of PSCs. While USAID/W has indicated in cable traffic the willingness to approve PSC positions in certain categories such as D/G, should the Mission begin work on a RFP for an institutional contractor? Would placement of an institutional contractor be both more expeditious for initiation of implementation of proposed activities as well as less management-intensive? What is the likelihood of finding an individual with both the technical and administrative capabilities required? Given experience to date, should two individuals be considered to ensure appropriate attention to each area and the continued field presence considered essential for such activities?

b) What are the workload implications on USAID/K and REDSC if the Mission retains responsibility for procurement of technical materials and other services?

Clarifications:

1. Clarifications may be called for in describing the political context and background. Reviewers have noted that in some cases the paper presents a rather misleading picture of the efforts the GOK has made to improve the political environment, e.g., statements about "significant changes" to the constitution (p5), "greater freedom of the press, assembly, association" (p6), and absence of political prisoners. Although Kenyans generally enjoy greater openness and tolerance than was the case two years ago, two magazines have been killed, newspapers come under attack almost daily. M.P.s are not allowed to meet their constituents, and freedom of association is curtailed as is exemplified by the refusal by the GOK to register UASU. In addition, a political prisoner who was jailed in connection with the failed coup in 1984 remains in detention.

2. To provide a clearer understanding of USG intent in supporting project interventions, the major domestic factors leading to poor economic growth (p10) should be revised with mismanagement of the public and semi-public sector topping the list, followed by lack of fiscal discipline, expansionary monetary policy, widespread rent-seeking and the patronage system it supports, ethnic violence and associated dislocations.

3. USAID intent to sign grants with NGOs (e.g., IPAR, civil society entities) without prior GOK approval and notification procedures should be clarified.

4. The proposed mechanism for obligation of funds under the civil society component should be clarified (e.g., umbrella vs. individual grants).

5. The legislative performance component should be clarified to permit clarify how revisions will be handled (e.g., changes in original proposal submitted by the Clerk).
6. Additional information is needed on counterpart contributions.
7. The statement in executive summary about Conditions Precedent (CPs) should be revised to reflect expected CPs and covenants.
8. The role of the proposed USDH project officer should be clarified to include broad D/G sector responsibilities beyond the D/G project, e.g., D/G sector liaison, DHRF activities (cf. PVO Unit).

PRJ:NGitau:05.19.94 (prj\docs\dg\ecpr.iss)

6/30/93 PRJ

A TION AID- INFO ECON POL/RLO

Project 615-0266

VZCZCTRO283NA0703

OFFICIAL FILE

PP RUEHNR

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29-JUL-93

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CHRG: AID

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DIST: AID

FM SECSTATE WASHDC

TO AMEMBASSY NAIROBI PRIORITY 3802

BT

UNCLAS SECTION 01 OF 03 STATE 233361

ACTION COPY

Action taken: NAN

No action necessary

SM FRZ
(Initials) (Date)

AIDAC FOR MISSION AND INFO TO REDSO/ESA

E.O. 12356: N/A

TAGS:

SUBJECT: STRENGTHENING DEMOCRACY AND GOVERNANCE IN KENYA
(PROJECT NO. - 615-0266)

REF (A) NAIROBI 12399 (B) PRELIMINARY ASSESSMENT AND PROPOSALS, MAY 1993

1. AID/W AGREES WITH MISSION THAT THE DOCUMENT IS EXHAUSTIVE AND IN MANY RESPECTS EXCEEDS THE REQUIREMENTS OF A FORMAL PID. MISSION IS THEREFORE ADVISED TO TREAT REF B AS A PID-LIKE DOCUMENT AND TO PROCEED WITH PID REVIEW, AND IF APPROVED, PROCEED WITH DEVELOPMENT AND APPROVAL OF PP ACCORDING TO MISSION'S TIMEFRAME AND SCHEDULE OUTLINED IN REF A, PARA 1. NEW PROJECT DESCRIPTION (NPD) CONCURRENCE TO PROCEED WITH DEVELOPMENT OF THE SUBJECT PROJECT IS HEREBY PROVIDED. A-AA/AFR HEREBY DELEGATES AUTHORITY TO THE DIRECTOR, USAID/KENYA, OR TO THE PERSON ACTING IN THAT CAPACITY, TO APPROVE THE PID FOR THIS PROJECT IN AN APPROXIMATE AMOUNT OF DOLS 5-7 MILLION. THIS AD HOC DOA SHALL BE EXERCISED IN ACCORDANCE WITH ALL THE TERMS AND CONDITIONS OF DOA 551, EXCEPT FOR THE DOLLAR AMOUNT LIMITATION. BASED ON THIS PID APPROVAL DOA, THE MISSION MAY EXERCISE ITS DOA 551 AUTHORITY TO APPROVE THE PP.

2. AFR/ONI WOULD APPRECIATE BEING CONSULTED IN THE DRAFTING OF THE PP FOR THE PROPOSED PROJECT. IT IS PREPARED TO ASSIST THE MISSION IN DEVELOPING THE PROJECT, IF USAID REQUIRES TDY ASSISTANCE. IN THIS REGARD, AFR/ONI, STATE/HA AND GC/AFR PROVIDE THEIR COMMENTS AND ISSUES BELOW FOR MISSION CONSIDERATION. ADDITIONAL AFR/ONI AND STATE/HA COMMENTS HAVE BEEN POUCHED TO THE MISSION FOR FURTHER CONSIDERATION.

A. AFR/ONI SHARES THE ASSESSMENT TEAM'S CONCLUSIONS ABOUT THE VERY TENUOUS NATURE OF KENYA'S POLITICAL ENVIRONMENT. THE LACK OF AGREEMENT ON ELECTION RULES, ETHNIC INTOLERANCE AND SUSPICION, ELECTION-RELATED VIOLENCE, THE CONSTRAINTS PLACED ON POLITICAL PARTY CAMPAIGN ACTIVITIES AND THE PRESS, AND THE QUESTIONABLE DEGREE OF TRANSPARENCY

BEST AVAILABLE DOCUMENT

DATE RECD	
7-30	
REPLY DUE	
8-2	
ACTION OFFICE	
PRJ	
INFO	
DIR	
REDSO	T
RFMC	
RHUDC	
RIG/A	
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PROG	T
PRJ	
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DMB	
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RF	T
CHRON	T
TOTAL	6

12

IN THE CONDUCT OF THE DECEMBER ELECTIONS UNDERLIE THE FRAGILE NATURE OF THE TRANSITION PROCESS IN KENYA. THE CURRENT POLITICAL ENVIRONMENT PRESENTS THE MISSION WITH ONEROUS STRATEGIC AND PROGRAMMATIC CHOICES.

B. THE PROPOSED PROJECT PURPOSE, TO CONSOLIDATE AND IMPROVE THE FRAGILE POLITICAL GAINS MADE TO DATE AND TO IMPROVE GOVERNANCE ARE LAUDABLE BUT VERY BROAD AND OPEN ENDED OBJECTIVES. THE MISSION SHOULD CONSIDER MOVING THEM UP TO THE GOAL OR SUB-GOAL LEVEL. AT THE SAME TIME, THREE OF THE FOUR PROPOSED INTERVENTION AREAS ARE ALSO QUITE BROADLY FOCUSED. WHILE THEY REPRESENT A BOLD APPROACH TO PROMOTING POLITICAL CONSOLIDATION AND IMPROVED GOVERNANCE, THE NATURE OF THE POLITICAL ENVIRONMENT AND THE COMPLEXITY OF THE BROAD INSTITUTIONAL PROBLEMS IN MOST OF THE TARGET AREAS WHEN COMPARED TO THE LIMITED HUMAN AND BUDGET RESOURCES AVAILABLE TO THE MISSION RAISES SERIOUS QUESTIONS REGARDING THE STRATEGIC RELEVANCE AND TECHNICAL FEASIBILITY OF CERTAIN OF THE PROPOSED INTERVENTIONS. A MORE PRUDENT USE OF THE LIMITED RESOURCES MIGHT BE TO FOCUS ON ONE OR TWO OF THE PROPOSED INTERVENTIONS DURING THE FIRST PHASE OF THE PROJECT.

C. AFR/ONI WOULD PLACE STRENGTHENING CIVIL SOCIETY HIGH ON THE LIST OF PROPOSED INTERVENTIONS AND CAUTION MISSION ON INTERVENTIONS THAT ARE DIRECTLY SUPPORTIVE OF THE CURRENT GOVERNMENT. AT THE SAME TIME, AFR/ONI WOULD RECOMMEND THAT THE PROJECT FOCUS ON THOSE INTERVENTIONS FOR WHICH THE UNDERLYING LEGAL AND REGULATORY ENABLING ENVIRONMENT IS MOST FAVORABLE.

I. THE FIRST PRIORITY SHOULD BE THE STRENGTHENING OF

CIVIL SOCIETY, ESPECIALLY THOSE ASSOCIATIONS WHICH CONTRIBUTE TO IMPROVING GOVERNMENTAL ACCOUNTABILITY AND PERFORMANCE. THE STRENGTHENING OF POLITICAL PARTIES, PROVIDING IT IS DONE ON A NON-PARTISAN BASIS, SHOULD ALSO BE CONSIDERED.

II. SUPPORT FOR A FREE PRESS IS CLEARLY A HIGH PRIORITY FOR COUNTRIES IN THE INITIAL STAGES OF DEMOCRATIC TRANSITION. HOWEVER, THE ASSISTANCE CONTEMPLATED IN THIS AREA MAY NOT SUCCEED IF THE GOVERNMENT CONTINUES TO HARASS THE PRESS. MISSION NEEDS TO CAREFULLY REVIEW AGENCY REGULATIONS WHICH LIMIT ITS CAPACITY TO PROVIDE FUNDS DIRECTLY TO PRIVATE-FOR-PROFIT ORGANIZATIONS FOR AMONG OTHER THINGS SETTLING DEBTS. THE PP SHOULD SPELL OUT CLEARLY THE SEPARATE FUNCTIONS OF THE PRESS AS BOTH AN END

OF DEMOCRATIC REFORM AND AS A MEANS TOWARD ACCOMPLISHING DEMOCRATIC REFORM. STATE/HA SUGGESTS THIS IDEA SHOULD BE INCORPORATED INTO PROGRAM PLANNING.

III. ESTABLISHMENT OF AN INSTITUTE FOR POLICY ANALYSIS AND RESEARCH IS ALSO HIGH ON OUR LIST EVEN THOUGH THE PAYOFF MAY BE LONG TERM.

IV. STRENGTHENING THE NATIONAL ASSEMBLY MAY BE CRITICAL TO THE ESTABLISHMENT OF A FUNCTIONING DEMOCRACY IN KENYA, HOWEVER, IT IS NOT CLEAR THAT THE KENYA NATIONAL ASSEMBLY IS SUFFICIENTLY INDEPENDENT OF THE PRESIDENCY OR THAT THE OPPOSITION IS SUFFICIENTLY EMPOWERED WITHIN THE NATIONAL ASSEMBLY TO RENDER THE PROPOSED ASSISTANCE PRODUCTIVE. IF SUCH A CASE CAN BE MADE, THE PRIORITY ATTACHED TO THIS ACTIVITY WOULD INCREASE.

V. THE PROPOSED PROJECT COULD EMPHASIZE MORE STRONGLY THE NEED FOR A PROPERLY FUNCTIONING, INDEPENDENT JUDICIARY IN THE PROCESS OF DEMOCRATIZATION. THE ONLY JUDICIAL PROPOSAL IS AN ASSESSMENT OF THE NEEDS AND COSTS OF PROVIDING STENOGRAPHIC AND OTHER RECORDING EQUIPMENT TO THE COURT SYSTEM. SINCE NO OTHER DONOR WITH THE POSSIBLE EXCEPTION OF THE FORD FOUNDATION IS CONTEMPLATING ASSISTANCE AT THIS TIME, THIS IDEA SHOULD BE REASSESSED. THE PP SHOULD CONDUCT AN ASSESSMENT OF THE ABOVE MENTIONED EQUIPMENT TO DETERMINE WHAT ARE THE NEEDS. IN ADDITION, AN ASSESSMENT OF THE JUDICIARY SYSTEM SHOULD BE DONE (IE. THE COURT ADMINISTRATION, DELAY, PRISON CONDITIONS, COMPETENCE OF JUDGES, ETC.)

VI. AS SUGGESTED BY THE ASSESSMENT TEAM, THE MISSION SHOULD CONSIDER DELAYING ASSISTANCE TO THE ELECTORAL COMMISSION IN VOTER REGISTRATION UNTIL SUCH TIME THAT THE GOVERNMENT IS CLEAR ON ITS COMMITMENT TO DEMOCRATIC

PRINCIPLES WHICH CAN BEST BE DEMONSTRATED AND REFLECTED THROUGH PROGRESSIVE CHANGES IN THE ENABLING ENVIRONMENT, INCLUDING ELECTION AND CAMPAIGN FINANCE LAW.

VII. INCREASED ACCOUNTABILITY OF THE PUBLIC SECTOR SHOULD BE AN IMPORTANT AIM OF THE PROJECT. NOTWITHSTANDING THE CRITICAL NEED TO REDUCE CORRUPTION IN KENYA, ACHIEVEMENT OF THIS OBJECTIVE DEPENDS HEAVILY ON THE COMMITMENT OF THE EXECUTIVE TO IMPROVING PUBLIC SECTOR GOVERNANCE. THE CASE FOR SUCH A COMMITMENT IS NOT MADE IN THE PRELIMINARY ASSESSMENT.

D. POLITICAL PARTIES. THE PP SHOULD ENSURE THAT ANY SUPPORT FOR POLITICAL PARTIES IS CONSISTENT WITH THE GUIDELINES CONTAINED IN 92 STATE 396239 (9 DEC. 1992), AS WELL AS THE AID D/G POLICY PAPER. WITHOUT LIMITATION, SUPPORT FOR POLITICAL PARTIES SHOULD BE ON AN EXCEPTIONAL BASIS, LIMITED TO TRAINING ACTIVITIES CONDUCTED BY NON-

4

PARTISAN NGOS. THE GRANTS TO THE NGOS SHOULD EMPHASIZE THE IMPORTANCE OF THE APPEARANCE, AS WELL AS THE ACTUALITY, OF FAIRNESS. TRAINING MUST BE AVAILABLE TO ALL POLITICAL PARTIES COMMITTED TO THE DEMOCRATIC PROCESS. WHILE IT IS PREFERABLE THAT TRAINING BE PROVIDED TO THEM AS A GROUP, IN SOME CASES THIS WILL NOT MEET THEIR NEEDS. THUS, WHILE IN SOME CASES TRAINING MAY BE PROVIDED INDIVIDUALLY, IT IS CRITICAL THAT THERE IS EQUALITY OF ACCESS TO IT, AND THAT ALL GROUPS BE MADE EQUALLY AWARE OF ITS AVAILABILITY.

E. ELECTORAL SUPPORT. USE OF DFA FUNDS FOR COMMODITIES IN CONNECTION WITH ELECTORAL SUPPORT (SUCH AS COMPUTERS FOR THE NEC) IS CONSISTENT WITH AFR POLICY SO LONG AS IT IS IN CONNECTION WITH CAPACITY BUILDING, PREFERABLY IN CONJUNCTION WITH TA, BUT NOT FOR A ONE TIME ACQUISITION SUCH AS FOR BALLOT BOXES.

F. IT APPEARS THAT MANY OF THE PROPOSED ACTIVITIES MAY MORE APPROPRIATELY BE AUTHORIZED UNDER FAA 116(E), RATHER THAN DFA (SEC. 496) AUTHORITY. AT THIS POINT SUCH ACTIVITIES APPEAR TO INCLUDE MOST GENERAL LEGISLATIVE ACTIVITIES, SUPPORT FOR ELECTIONS AND POLITICAL PARTIES, AND MANY OF THE SMALL GRANTS NORMALLY MADE UNDER THE 116(E) PROGRAM, ALTHOUGH WE RECOGNIZE THAT JUDGMENTS ABOUT SPECIFIC ACTIVITIES CAN BE MORE PRECISELY MADE WHEN THEIR DETAILS ARE KNOWN. TO ENABLE THE PROJECT TO BE AUTHORIZED JOINTLY UNDER 496 AND 116(E), AFR HAS CONSULTED WITH STATE/HA, WHICH HAS CLEARED THIS CABLE.

G. HUMAN RIGHTS. THE PIDIS TREATMENT OF HUMAN RIGHTS IS INADEQUATE. THE PID PROPOSES TO ADDRESS REPRESSIVE LAWS, POLICE BRUTALITY, VIOLENCE AND THE EFFECTS OF QUOTE LAND CLASHES UNQUOTE, FREEDOM OF THE PRESS, AND SOCIAL

5

DISLOCATION AND HUMAN WELFARE. THE PROPOSAL DOES NOT ADDRESS THESE AREAS PROPERLY GIVEN THE FINANCIAL AND OTHER CONSTRAINTS TO USING FUNDS UNDER THE DEMOCRACY AND HUMAN RIGHTS FUND (DHRF). TO PRESERVE DERF TO MEET NEEDS ELSEWHERE, HA WOULD LIKE TO SEE HUMAN RIGHTS PROJECTS FINANCED DIRECTLY BY THIS PROJECT. HOWEVER, SINCE THIS RAISES A NUMBER OF ISSUES (INCLUDING EMBASSY OR MISSION MANAGEMENT OF THESE ACTIVITIES), AID/W WOULD LIKE TO EXPLORE THIS FURTHER WITH THE MISSION.

H. FAA SEC. 663. FAA SEC. 663 PROHIBITS THE USE OF FAA FUNDS OR LOCAL CURRENCY GENERATIONS TO PROVIDE ASSISTANCE TO POLICE, PRISONS, OR OTHER LAW ENFORCEMENT FORCES. IN DEVELOPING COUNTRIES, SOME GOVERNMENTAL ENTITIES, SUCH AS CUSTOMS ENTITIES, SOMETIMES HAVE ATTRIBUTES WHICH DEEM THEM LAW ENFORCEMENT FORCES, WHERE THAT MIGHT NOT NECESSARILY BE THE CASE IN THE US. THE PP SHOULD CAREFULLY REVIEW ENTITIES WHICH WILL RECEIVE ASSISTANCE FOR THIS POINT, PARTICULARLY IN AREAS SUCH AS TAX ENFORCEMENT. THE MISSION AND PLA VANCE HAVE PREVIOUSLY DEALT WITH THIS ISSUE IN THE CUSTOMS AREA.

I. SEC. 611(A). TO MEET SEC. 611(A) ADEQUATE PLANNING REQUIREMENTS, THE PP SHOULD ESTABLISH CRITERIA AND PROCEDURES FOR SUBACTIVITY SELECTION, EXPLAIN THE ANALYTICAL BASIS FOR SELECTING THE CRITERIA, AND (TO JUSTIFY THE AMOUNT OF FUNDING) CONTAIN AN ILLUSTRATIVE LIST OF SUBACTIVITIES, COSTED OUT, AT LEAST EQUALLING THE AUTHORIZED AMOUNT.

J. IEE. AS PART OF THE PID PROCESS, THE MISSION SHOULD SUBMIT AN IEE TO THE BUREAU ENVIRONMENTAL OFFICER.

3. IN ADDITION TO CONSULTATION WITH AFR/ONI, AID/W RECOMMENDS THAT THE MISSION PROJECT COMMITTEE INCLUDE APPROPRIATE REDSO/EA STAFF TO REVIEW THE REF CABLE AND ASSESSMENT.

4. MISSION SHOULD DETERMINE WHETHER FUNDS IN ITS CURRENT FY 1993 OYB CAN ACCOMMODATE THIS PROJECT. MISSION HOWEVER CAN PROCEED TO DEVELOP THE PP.

CHRISTOPHER

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UNCLASSIFIED STATE 230361/03

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16

PROG/CONT

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UNCLASSIFIED STATE 398

BUD-5
X-Project 615-026
X-Project 615-025

ACTION AID-2 INFO AMB ECON POL/RLO

A
VZCZCTRO194NA0067
RR RUEHNR
DE RUEHC #9531 1040552
ZNR UUUUU ZZH
R 140652Z APR 94
FM SECSTATE WASHDC
TO AMEMBASSY NAIROBI 1023
BT
UNCLAS STATE 098531

14-APR-94 TOR: 06:50
CHRG: AID
DIST: AID

X-CONT FILE

AIDAC

E.O. 12356: N/A

TAGS:

SUBJECT: TECHNICAL NOTIFICATION EXPIRATIONS FOR KENYA

REF: STATE 094110

TECHNICAL NOTIFICATIONS FOR U.S. DOLS. 1,500,000 FOR STRENGTHENING DEMOCRACY AND GOVERNANCE IN KENYA (615-0265) AND U.S. DOLS. 400,000 FOR CONTRACEPTIVE SOCIAL MARKETING (615-0251) EXPIRED ON APRIL 9, 1994 WITHOUT OBJECTION. OBLIGATION MAY NOW BE INCURRED.

CHRISTOPHER
BT
#8531

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UNCLASSIFIED STATE 098531

DATE REC'D	4-15
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No action necessary. _____ (Date) 4/15

(Initials) *W*

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ACTION AID-2 INFO AMB CON POL/RLO

Project 615-0251
X-Project 615-0266

VZCZCTRO662NA0188

OFFICIAL FILE

RE RUEHR

DE RUEHC #4110 0900758

31-MAR-94

TOR: 08:00

ZNR UUUUU ZZH

CHRG: AID

R 310758Z MAR 94

DIST: AID

FM SECSTATE WASHDC

TO AMEMBASSY NAIROBI 0413

X-CONT FILE

BT

UNCLAS STATE 084110

AIDAC

E.O. 12356: N/A

TAGS:

SUBJECT: TECHNICAL NOTIFICATIONS FOR KENYA

TECHNICAL NOTIFICATIONS FOR U.S. DOLS. 1,500,000 FOR STRENGTHENING DEMOCRACY AND GOVERNANCE IN KENYA (615-0265) AND U.S. DOLS. 400,000 FOR CONTRACEPTIVE SOCIAL MARKETING (615-0251) WENT TO THE HILL ON MARCH 25, 1994. MISSION WILL BE ADVISED WHEN NOTIFICATIONS HAVE EXPIRED. MISSION MAY NOT OBLIGATE FUNDS PRIOR TO TNS EXPIRATION.

CHRISTOPHER

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ACTION AID-2 INFO AMB ECON POL/RLO

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VZCZCTR0395NA0726
RR RUEHNR
DE RUEHC #7769 3343611
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R 252639Z MAR 94
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TO AMEMBASSY NAIROBI 2155
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UNCLAS STATE 377769

25-MAR-94 TOR: 07:29
CHRG: AID
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- X-Project 615-0232
- X-Project 615-0236
- X-Project 615-0229
- X-Project 615-0247
- X-Project 615-0250
- X-Project 615-0251
- X-Project 615-0254
- X-Project 615-0266

AIDAC

E.O. 12356: N/A
TAGS:
SUBJECT: SS4 ALLOWANCE - KENYA

1. APPROPRIATION 72-114/51014, BUDGET PLAN CODE GSS4-94-21615-4613 INCREASED BY DOLLARS 10,473,241. FUNDS FOR PROJECT 615-0232, FAMILY PLANNING SERVICES AND SUPPORT, DOLLARS 5,300,000; PROJECT 615-0236, PVO CO-FINANCING, DOLLARS 360,000; PROJECT 615-0229, NATIONAL AGRICULTURE RESEARCH PROJECT, DOLLARS 1,813,241; PROJECT 615-0247, CONSERVATION OF BIODIVERSE RESOURCE AREAS, DOLLARS 1,100,000; PROJECT 615-0250, KENYA MARKET DEVELOPMENT PROJECT (PA), DOLLARS 1,300,000; PROJECT 615-0254, PRIVATE SECTOR FAMILY PLANNING II, DOLLARS 1,500,000; PROJECT 615-0251, CONTRACEPTIVE SOCIAL MARKETING, DOLLARS 400,000; AND PROJECT 615-0266, STRENGTHENING DEMOCRACY AND GOVERNANCE IN KENYA, DOLLARS 200,000. TOTAL ALLOWED TO DATE UNDER THIS EPC IS DOLLARS 12,683,141.

2 BECAUSE OF OUTSTANDING PARRING TICKETS DUE THE DISTRICT OF COLUMBIA - USAID IS TO WITHHOLD AT 100 PERCENT OF FINES OWED PLUS A 10 PERCENT PENALTY. NOA FUNDS MUST BE USED TO COVER THIS REQUIREMENT. THEREFORE, DOLLARS 16,759 WAS DEDUCTED FROM PROJECT 615-0229. NEW NOA OYB LEVEL FOR THIS PROJECT IS DOLLARS 1,813,241.

3. FUNDS CANNOT BE ALLOWED UNTIL EXPIRATION OF TN WITHOUT OBJECTION. DESK WILL ADVISE MISSION WHEN TN HAS EXPIRED.

4. AMENDMENT 01 ADVICE OF ALLOWANCE FOLLOWS.

CHRISTOPHER
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TOTAL	19

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Action taken.....

No action necessary.....

UNCLASSIFIED STATE (Attch) 7769 (Date)

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UNCLASSIFIED STATE 357629

PROJECT-615-0245
X-PROJECT-615-0266
X-PROJECT-615-0236

ACTION AID-2 INFO AMB ECON. POL/RLO 5
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FM SFCWFO
FM SFCWFO #7629 3301935
ZNR UUUUU 72H
261933Z NOV 93
FM SFCSTATE WASHDC
TO AMEMBASSY NAIROBI 5733
BT
UNCLAS STATE 357629

27-NOV-93 TOR: 04:57
CHRG: AID
DIST: AID

X-CONT FILE

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E.O. 12356: N/A

TAGS:

SUBJECT: SS4 ALLOWANCE - KENYA

1. APPROPRIATION 72-114/51014, BUDGET PLAN CODE GSS4-94-21615-1G13 ESTABLISHED FOR DOLLARS 2,210,000. FUNDS FOR PROJECT 615-0245, HEALTH CARE FINANCING DOLLARS 770,000; FUNDS FOR PROJECT 615-0266, STRENGTHENING DEMOCRACY AND GOVERNANCE, DOLLARS 1,300,000; FUNDS FOR PROJECT 615-0236, EVO CO-FINANCE, DOLLARS 140,000. TOTAL ALLOWED TO DATE UNDER THIS BPC IS DOLLARS 2,210,000.

2. FUNDS CANNOT BE ALLOWED UNTIL EXPIRATION OF TN WITHOUT OBJECTION. DESK WILL ADVISE MISSION WHEN TN HAS EXPIRED.

3. ADVICE OF ALLOWANCE FOLLOWS.

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C&R EB	
RF	1
CHRON	1
TOTAL	8

20

STRENGTHENING DEMOCRACY AND GOVERNANCE IN KENYA

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I. EXECUTIVE SUMMARY

A. Project Components

The proposed project to strengthen democracy and governance in Kenya is a five year, seven million dollars' project activity to be financed under the Development Fund for Africa. The overall goal of the project is to promote the development of a more tolerant and accommodating democratic culture in Kenya. The project's purpose is to strengthen the capacity of key democratic institutions. It will assist in building the capacity of selected institutions, both public and private, that promote democratization and good governance. Through the project, USAID will concentrate its activities in the following four areas:

- improving legislative capability and performance;
- empowering civil society;
- increasing independent policy analysis, dialogue and debate;
- strengthening accountability in fiscal management, legislative oversight, auditing systems, and lawful governance.

A complex, but interesting process is underway in Kenya which holds out the possibility that, despite formidable challenges, democratic governance may eventually be realized. If successful, this process will move Kenya toward a viable multiparty democracy. For maximum prospects of success, it is essential that Kenya receive sustained international support. This project represents one facet of the overall USAID approach of aiding Kenya in its political and economic liberalization efforts.

The project will involve a mix of activities, including direct support to key government (the National Assembly, the Ministry of Finance, the Controller and Auditor General, the Attorney General/Judiciary, the Public Accounts and Public Investment Committees) and nongovernmental civic institutions (the Institute for Policy Analysis and Research, and several civic groups). The specific activities will include technical assistance, training, workshops/seminars and procurement of commodities.

The project costs are summarized in Table 1 on page 35 and detailed costs are presented in Table 2 on page 36 A.I.D. contribution will amount to \$7million. The GOK and NGOs will contribute \$2.5 million in-kind.

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B. Relationship to Agency's Strategy

USAID/Kenya's project to strengthen democracy and governance is consistent with the Agency strategy of "Building Democracy" issued in January 1994 which provides broad framework for the promotion of democracy and good governance. USAID/Kenya's democracy and governance project supports this objective by focussing on strengthening democratic institutions and supporting a vibrant civic society. The project will also foster Agency's aims of stimulating participation, transparency and accountability of government.

Promoting democratic governance is consistent with and directly related to the overall goal of promoting sustainable broad-based economic growth as stated in the 1990 Country Program Strategic Plan (CPSP). Improvements in democratic governance in Kenya will help alleviate many of the recurring constraints to sustainable, broad-based economic growth and development by facilitating expanded and informed participation, enhanced reliability and responsiveness of Government and open policy dialogues. USAID/Kenya's success in the other core areas of sustainable development as in population and health, private sector development and agricultural development, can be enhanced by democratization and good governance.

C. Other Donor Assistance

There is broad donor consensus on the need for political reform and improved governance in Kenya. This was demonstrated during the November 1991 Consultative Group meeting. Attention of donors is increasingly turning to the strengthening of institutions that promote political pluralism. Their major focus is on enhancing parliamentary capability and legislative performance. Canada, the U.K. and the U.S. are supporting study tours for Members of Parliament and the staff of the Clerk of the National Assembly. The Friedrich Ebert Foundation (a German Foundation) and the Ford Foundation are supporting seminars and workshops for Members of Parliament. Most donors are involved in strengthening the nongovernmental sector. NGOs are supported through a variety of grant programs. Canada, Denmark, Sweden, the Netherlands, the Friedrich Ebert Foundation and the Ford Foundation are especially active in supporting NGOs that promote the respect for human rights. The UNDP has provided a forum for discussion of the critical issue of ethnic clashes (that is, the resettlement of clash victims and reconciliation of communities in the affected clash areas.)

Virtually all donors support the freedom of the press. DANIDA is assisting in the training of journalists. Canada, Germany, Sweden and Denmark intend to cofinance the establishment of a media trust which will strengthen the existence of the advocacy press. The Ford Foundation intends to assist legal

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defense of journalists to maintain an independent and objective press.

During this period of post transition after the era of single party politics in Kenya, donor coordination remains critical. The needs for the consolidation of democratic governance are many. USAID/Kenya intends to continue its coordination with other donors to ensure that important issues in the strengthening of political pluralism, nongovernmental sector and enhancing government accountability and transparency are effectively addressed.

D. Project Rationale and Risks

Building democracy is both the end in itself as well as one of the four elements (means) identified by USAID for sustainable development strategies. Other strategic elements for sustainable development are: (a) promoting sustained, broad-based, and participatory economic growth, (b) protecting the environment, and (c) stabilizing population growth. This project, in addition to building democracy as the end in itself, will be especially important for the economic growth objective in the present Kenya context for three basic reasons.

First, the project will help increase the probability of sustaining economic reforms -- in particular, to support major and significant economic reforms that have been implemented over the past year. Second, the project will contribute broadly to participatory and broad-based development. Finally, the project by strengthening institutions to support democratic governance will help reduce the cost of weak governance and improve the investment climate over time.

Politics is central to economic reform in particular and transition to a democratic governance in general. Politics has been a major obstacle and principal reason for Kenya's patchy, intermittent commitment, and stop-go reform implementation. Over the past two years, Kenya has changed the constitution to permit the multiparty political system. Nonetheless, there remain a number of risks that may cause this project to fail. The extent to which this project can succeed depends largely on how the government in power manages the dualistic change of market-oriented reforms and democratic transition. More specifically, there are three major risks.

First, it remains questionable as to the extent to which the current government is committed to allow the nascent democratic process to blossom. It is equally uncertain, at this time that Parliamentarians can reform themselves to be more organized and better informed in order to become more issues-oriented instead of personality-oriented.

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Second, the status quo (anti-reform) element in the government still outnumbered the reformers. The reformers must be able to show the fruits of economic and political reforms to discredit opponents of economic change. Given Kenya's fragile macroeconomic situation and mixed political climate, it may take longer than the politics will allow to mobilize investment and speed up the economic recovery process. Consequently, the risk associated with the possibility of backtracking on reforms cannot be ruled out.

Finally, there is also a risk associated with the prevalent rent-seeking practice -- a legacy from a controlled economy (partly inherited from the colonial time) resulting in economic distortions which tend to encourage rent-seeking behavior. The attitudinal tendency to use official position to capture the economic rent (viewed as income) can seriously undermine reforms and resource mobilization.

E. Conditions Precedent, Covenants, and Negotiating Status

Except for standard project conditions precedent and covenants, this project does not propose any specific policy conditionality as this is not the appropriate instrument. However, the Project Agreement or Memorandum of Understanding will include the government's assurance of non-interference in the activities to be undertaken by the Institute for Policy Analysis and Research, and in the civil society component of the project.

During the design of this project, a number of Kenyan private sector institutions have participated in defining priority areas for project focus. USAID/Kenya has regularly engaged in dialogues with key implementing agencies, e.g. the National Assembly, the Ministry of Finance, the Attorney General/Judiciary, the Institute for Policy Analysis and Research, and various civic organizations, to ensure that the project is responsive to their needs. USAID/Kenya has received formal requests from the National Assembly, Ministry of Finance, the Attorney General and the Institute for Policy Analysis and Research. The Mission has also received informal requests from potential beneficiaries and proposals from various civic groups. The Mission, however, has yet to engage the government in a formal negotiation of this project.

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II. PROJECT BACKGROUND

A. Political Context

1. The Transition to Political Pluralism

In terms of the stages of democratic evolution, Kenya has made the transition from a single party state to multiparty system and is now dealing with problems associated with post-transition and consolidation of multiparty democracy. There are two elements that stand out in Kenya's political liberalization process. These are the legalization of multiparty democracy, and the holding of nationwide elections.

To pave the way for Kenya's transition from a single party state to a multiparty system, significant changes were made to the Constitution. A major amendment was the repealing of Section 2A of the Constitution. Section 2A enacted in 1982 had made Kenya a one party state. The Government, re-introduced a multiparty democracy in December 1991 when it repealed Section 2A of the Constitution. This permitted formation of opposition political parties. Of particular note were far-reaching changes in the law regulating election of the President. These included the election of the President by direct, universal and equal suffrage; a limit was placed on the number of terms allowable for the Office of the President to two five year terms; and a new requirement of a run-off elections in every case where no presidential candidate attains an overall majority vote of 50 percent, and a 25 percent of this vote in at least 5 of the 8 provinces.

In December 1992, Kenya held its first multiparty parliamentary and civic (local government) elections in 26 years, and its first-ever multiparty presidential election. Despite the many flaws that appeared in an electoral process lasting over a year, most domestic and international observers concluded that the elections were reasonably representative, free and fair and were an important and positive step in the development of competitive politics in Kenya.

The following were the outcomes of the elections:- 1) the incumbent, President Daniel Arap Moi was returned back to office; 2) his party, the Kenya African National Union (KANU) held 112 seats in the 200-seat Assembly and the six opposition parties won the remainder of the seats (that is 44 percent of parliamentary seats); and 3) opposition parties gained significant representation and control of most of Kenya's largest towns and municipalities.

Initially after the elections, there were indications that the Kenyan Government was yet to reconcile itself to a new era of

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multiparty politics. For instance, there was a sudden proroguing (arbitrary suspension) of the Parliament in January 1993, after its first day of business. This turned out to be a temporary setback and Parliament has functioned reasonably satisfactorily and remained an important forum for debate. Opposition Members of Parliament are able to participate in fairly free debates which are lively and extensively reported in the press. At times the Government receives difficult questions and criticisms from the opposition on such important issues as ethnic clashes, Auditor General and Public Account Committee reports on financial mismanagement within the public sector.

2. Human Rights and Civil Liberties

The Kenyan Constitution provides freedom of speech and press. The media includes three daily newspapers providing national coverage. The print press is vibrant and independent, though it exercises self-censorship in reporting some politically sensitive issues. Often print editorials are critical of government policies. The weekly newspapers and magazines, many of which take a more strident tone in their criticism of the Government, have occasionally been harassed. At times the police and sedition laws have been used to arrest editors, dismantle printing presses, harass vendors and impound magazines. An opposition leader's book entitled "Kenya: Return to Reason" was banned last year. The Government has instigated legal suits against journalists and finally released them without conclusions of trial.

Radio is the medium through which most Kenyans get their news. The Government controls the single radio station and its affiliate television station, the Kenya Broadcasting Corporation (KBC), as well as, the other television station, the Kenya Television Network (KTN). State radio and television broadcasts do not provide objective reporting and there is a blackout of news related to activities of opposition leaders.

The Societies Act governs freedom of association. Many nongovernmental organizations (NGOs) are allowed to operate freely. Civil society in Kenya is one of the most developed and active in Africa. Professional associations, the church and more than 2,000 indigenous NGOs have carved out a role that the Government must respect. The Catholic Bishops of Kenya, the National Council of Churches of Kenya (NCCK) - a Protestant umbrella group and the clergy continue to play an important role in promoting democratic governance. Freedom of worship is acknowledged in the Constitution and is allowed. Kenya has a growing, vocal and thriving human rights community. The Kenya Human Rights Commission produces a regular series of often critical reports on human rights in Kenya and reacts to specific abuses, without government harassment. The Institute for Democracy continues to monitor parliamentary by-elections with

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generally good cooperation from the government appointed Elections Commission. Legal organizations such as the Kenya Chapter for the International Commission of Jurists and the Kenya Law Society continue to cover various issues related to weak governance.

Freedom of assembly, while provided for in the Constitution, is seriously limited by the Public Order Act, which gives authorities power to control public gatherings. The Act usually does not interfere with social, cultural, charitable, recreational, religious, professional, commercial and industrial meetings. However, the police and district and provincial administration break up licensed and unlicensed meetings of opposition Members of Parliament. Freedom of movement, like other rights is permitted subject to conditions. Prior to 1992, Government prevention of its critics to travel abroad was pervasive.

The Government commitment to ethnic tolerance has been called into question in the face of ethnic violence that have recurred in the Rift Valley Province and neighboring parts of Western Kenya since October 1991. The ethnic clashes have claimed over one thousand lives, displaced over 250,000 people and destroyed substantial property. Despite the Government having declared the hardest hit areas of Molo, Burnt Forest, Londiani, Elburgon and Enosupukia as security zones, and accepted a UNDP sponsored program for rehabilitation and reconciliation of clashes victims, it has failed to adequately halt the suffering and bring peace in these areas. It is a great puzzle because the Kenyan Government has sent troops to assist UN peace keeping operations across the world but has refused to commit the human and material resources necessary to halt the carnage.

3. Transparency, Accountability, and Governance

The Kenya Government has a well developed budgetary system and process. There is the Program Review and Forward Budget which details the Government spending plans over a three year period. Expenditure ceilings which are the basis for the forward budget are approved by the Cabinet. The first year of the Program Review and Forward Budget is translated into an Annual Budget called Annual Estimates. Ministries prepare their budget request which are discussed extensively by the Budget Committees and finalized by the Ministry of Finance (The Treasury). The budget is submitted to the Parliament for debate and approval. If in the course of a fiscal year, some ministries require additional funds for necessary expenditures, a Supplementary Budget is prepared which is again tabled in Parliament for debate and approval.

Similarly, the Government has an elaborate accounting and auditing system. The Minister of Finance authorizes the Permanent Secretaries who are Accounting Officers to utilize

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funds. In turn the Accounting Officers submit their financial requests to the Treasury which then forwards them to the Controller and Auditor General for approval. As Controller, the Office of the Controller and Auditor General approves requests to the Exchequer. After this, the requests are sent to the Central Bank and money is transferred from the Paymaster General Account. It is the responsibility of the Controller and Auditor General to audit all accounts of the Accounting Officers on behalf of the National Assembly (Parliament) and submit his report as required by law to the Minister of Finance within seven months after the fiscal year. The Minister of Finance is also required under the law to table the report to the National Assembly within fourteen days of receipt of this document. The Controller and Auditor General Report on all Government Accounts is then discussed by the Public Accounts Committee (all its members are Members of Parliament). The recommendations of the Public Accounts Committee are presented to Parliament for discussion and approval. It becomes now the responsibility of the Minister of Finance to implement the National Assembly recommendations on the Audit Report. On instructions from the Minister of Finance, the Attorney General may institute necessary legal redress.

The weaknesses in the Kenya Government financial accounting and management system relate to areas of monitoring and controlling expenditures, and failure to take corrective measures. There is lack of financial discipline among many Accounting Officers. Yet the Government Financial Rules and Regulations state very clearly that no Accounting Officer shall enter into any financial commitment unless there is provision in the Budget. All tender boards are prohibited from approving any tender until the Accounting Officer confirms in writing that funds are available. All Purchase Orders should only be issued if funds are available. However, many Accounting Officers flout these rules and regulations. What is lacking is the will on the part of the Government to enforce discipline and ensure compliance with financial regulations. The Controller and Auditor General Office issues each year a frank and honest report documenting malfeasance in all offices ranging from the Presidency down but to date very few follow up actions to correct financial mismanagement have been forthcoming.

In general the Government makes reasonably effective use of resources contributed by donors. These are a few cases of misuse of donor funds such as the Danish financed Rural Development Fund. However, there is a system in place that ensures proper usage of donor resources. The Government negotiations with donors for external funds are usually formalized into either (i) Loan Agreement, (ii) Grant Agreement, (iii) Memorandum of Understanding or, (iv) Exchange of Letters that constitute an agreement. In most of these agreements, categories of expenditures to be financed are clearly stated. The mode of disbursements to be adopted and accounts to be kept are normally

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outlined.

Corruption is one of the most serious constraints to sustainable development in Kenya and a potential threat to achieving democratic governance. It is, however, difficult to measure the exact magnitude and prevalence of corruption. There is anecdotal evidence based on local experience and from the business community. Corruption seems to have been growing and there is a danger for it to become routinized and could constitute a slow but deadly hemorrhage attacking the entire Kenyan economic system. Indications of low level corruption have been shown in activities such as acquiring a land title deed, a driving or road license, a permit to distribute maize for sale, a place in high school for a child, and a trading license. Other rent-seeking activities include implementation of investment projects (especially in the fields of energy, airline and telecommunications), export pre-shipment facility, export compensation, import licensing, interbank foreign exchange transactions, and grain marketing have also been sources of corruption. Rent-seeking activities and corruption tend to erode the faith of Kenyans and foreign investors in the integrity of public officials.

Over the past year, significant progress has been made in reducing the role of Government, especially in allocating foreign exchange. The Government has abolished import licenses, export compensation, export pre-shipment scheme, and virtually all foreign exchange transactions are now left to market forces (the Central Bank only allocates foreign exchange to Government requirements.) Grain pricing, marketing and distribution has also been liberalized. These are important actions that have closed major avenues for corruption. Although there is more openness and reporting on corruption and increased public debate of these issues. More needs to be done to mitigate corruption at all levels. Actions are necessary to send signal to those involved that there are costs associated with corruption and to indicate government's commitment.

B. Economic Context

Since April 1993, events suggest a positive focusing by the Kenya Government on improving macroeconomic management and sustaining the reform process. Over the past three years economic growth has stagnated, inflation has accelerated and monetary and fiscal policies have presented real challenges. Substantial progress was made in decontrolling prices and to a large extent trade and exchange liberalization is being sustained. The successful negotiation of a Policy Framework Paper (PFP) with the IMF and the World Bank and a one-year Enhanced Structural Adjustment Facility (ESAF) with the IMF further demonstrate the Government's willingness to implement economic reforms. Donors' decision to indicate new commitments

for Kenya at the November 1993 Consultative Group meeting also show a recognition of the Government of Kenya's efforts to improve the policy environment.

1. Economic Growth

In recent years, the Kenyan economy has experienced low growth. Real GDP growth fell from 2.3 percent in 1991 to 0.4 percent in 1992. Economic growth is estimated at 0.8 percent in 1993. The major domestic factors that adversely affected growth include severe and prolonged drought, disruptions and uncertainties associated with Kenya's transition to multiparty political system, intermittent ethnic violence in productive agricultural districts, expansionary monetary policy and weak fiscal discipline. External factors contributing to the slow down in growth were weak export prices, the withholding to quick disbursing donor aid and the influx of refugees from neighboring Somali and Sudan.

2. Monetary Policy

The most serious macroeconomic problem that Kenya encountered was monetary expansion. The money supply (M2) grew rapidly to 33.6 percent by end of 1992, compared to 15.5 percent in 1990 and 20.9 percent in 1991. This was mainly as a result of poor governance. Monetary creation was driven largely by non-compliance with prudential requirements and by the access of distressed banks to various credit facilities of the Central Bank of Kenya (CBK). A number of banks failed to meet the statutory cash and liquidity ratios and maintained persistent overdrafts at CBK. In addition, there was substantial growth in rediscounts under the Central Bank's export pre-shipment discount facility. The Central Bank also incurred large losses by purchasing foreign exchange at the interbank rate and selling at the more appreciated official exchange rate. Monetary expansion partly fueled price instability. Inflation accelerated from 19.6 percent in 1991 to 27.3 percent in 1992. The inflationary effect of excessive monetary growth became more evident in 1993. The annual average rate of inflation in 1993 was 45.4 percent.

Beginning March 1993 the Government initiated strong actions to control liquidity expansion. The Government strengthened its economic management team. The Central Bank eliminated overdrafts, strictly limited access to rediscount and overnight advances, abolished export pre-shipment facility, closed down three banks as well as nine non-bank financial institutions, doubled the commercial banks' required cash ratio, strengthened clearing house arrangements and rules, and relied more on open market operations. These measures reduced monetary overhang, stabilized the exchange rate and reduced inflationary pressures.

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3. Fiscal Policy

Fiscal discipline improved in FY91/92 when the central Government's deficit declined to 2.9 percent from 6.6 percent level in FY90/91. However, significant deterioration was experienced in FY92/93 (the budget deficit was 9.2 percent of GDP). The main causes for this weak fiscal performance were increased spending on elections, and expenditure overruns related to high interest payments on both foreign and domestic debt, resulting from the exchange rate depreciation and aggressive treasury bills' sales at high interest rates to mop up excess liquidity. The Government aims at substantially tightening fiscal policy in FY93/94 and reducing the budget deficit to 4.7 percent of GDP.

4. Trade and Exchange Reform and Price Decontrol

The Government made significant progress in liberalizing the foreign exchange market and decontrolling domestic prices. In order to provide incentives to exporters, the Government introduced 100 percent foreign exchange retention accounts for non-traditional exporters in September 1992. This was soon followed with a 50 percent retention scheme for the traditional exporters. The Government also introduced the convertible foreign exchange bearer certificates (FOREX-Cs) which allowed importers easier access to foreign exchange. However, these partial liberalizations caused a wide spread between the official exchange rate and the FOREX-C rate. In addition, the exporters were unwilling to sell off their foreign currencies in retention accounts. These problems made the Government to reverse exchange and trade liberalization measures in late March 1993. However, the liberalization program was resumed in mid-May, with (i) the reintroduction of 50 percent retention of all exports (which must be used, however, or sold within 90 days); (ii) resumption of trading of retained foreign exchange at market-determined exchange rates; (iii) abolition of the import and foreign exchange licensing system; and (v) towards the end of 1993 the Government abolished the official exchange rate (effectively unifying the exchange rate at the market rate).

Substantial progress was made in price decontrol beginning from 1991. Prices were liberalized on 20 produce groups in 1992. A further four important groups (including tyres, steel coils and iron sheeting, retail sugar, bread, wheat and wheat flour) were liberalized in March 1993. The Government decontrolled maize and maize-meal prices in December 1993. This was a difficult action since the Government had long feared liberalizing the maize market given that maize is the staple food. A total of 241 commodity items are no longer price controlled. The Government is almost completely eliminating price controls. The two remaining controls are on petroleum fuels and pharmaceutical drugs for treatment and management of cancer, AIDS, hypertension

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and diabetes. These remaining price controls will be removed by July 1994.

5. Donor Commitment

The recent improvements in the policy environment facilitated the successful negotiation of a Policy Framework Paper (PFP) with the IMF and the World Bank and a one-year Enhanced Structural Adjustment Facility (ESAF) arrangement with the IMF. Following this agreement, the Consultative Group of donors on Kenya met on November 22 and 23, 1993 and indicated new commitments for 1994 totalling \$850 million, of which \$170 million is in the form of quick disbursing balance of payments support. In order to ease Kenya's external public debt arrears problems donors met the Government in January 1994. Terms for multilateral debt arrears rescheduling were agreed upon and discussions with individual bilateral creditors are on-going.

C. Major Challenges and Opportunities

From the analyses above, there are many socio-political, and economic challenges which urgently need to be addressed to help sustain, reinforce and deepen democratization and good governance in Kenya. The overriding challenge is how to maintain the political will, support and commitment to political pluralism. Limited political will/could drive Kenya back to a situation of intolerance. There is need to increase the acceptability of legitimate opposition so that the freedom of association for opposition leaders is enhanced. Improving legislative capability and performance is a key priority area of attention if Parliament is to function as an effective institution in bringing about necessary checks and balances in the promotion of democratic governance.

In the human rights and civil society sphere, the key challenges facing Kenya are: (i) the promotion of greater freedom of the press and the broadcast media; (ii) the ending of ethnic clashes; and (iii) the enhancement of the capacities of civic institutions. A freer press and broadcast media are important vehicles in the promotion of good governance and democratization in Kenya. The broadcast media has yet to adjust to multiparty politics. Recurring ethnic clashes threaten to undermine Kenya's political and economic stability, and a potential danger to a cohesive society. If current rehabilitation and reconciliation efforts are not successful, then freedom of movement and migration within Kenya could be at risk. The strengthening and expansion of an already vibrant self-governing civil society in Kenya is critical for achieving broader participation in development. If civil society can increasingly become autonomous and interactive, it will demand and supply better governance and be a stimulus to political liberalization.

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Revitalizing the economy so that economic growth could be rapid, broad-based and sustained is a great challenge facing Kenya. Progress achieved in the field of trade and foreign exchange reform, price decontrols and significant improvement in the discipline of the banking/financial sector, should be sustained. Fiscal discipline and control of inflation, as well as monetary restraint are especially important challenges. Improved governance will also be enhanced through reducing the role of the public sector by undertaking parastatal reform and privatization. Promotion of greater transparency and accountability of the Government is central to sustainable development.

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III. PROGRAM FACTORS

A. Relationship to Agency's Strategy

USAID/Kenya's project to strengthen democracy and governance is consistent with the Agency strategy of "Building Democracy" issued in January 1994 which provides broad framework for the promotion of democracy and good governance. Fostering democracy is a long-established goal of the United States Foreign Policy objective. Historically, the Congress has encouraged USAID's attention to democratic political development. This began with the enactment of Title IV of the Foreign Assistance Act (FAA) of 1961, which cites building democratic institutions as one goal. In 1967 Title IX was added to FAA to emphasize "maximum participation in the task of economic development...through the encouragement of democratic private and local non-governmental institutions." In 1990 USAID announced renewed commitment to assisting "developing countries to realize their full national potential through the development of open and democratic societies and the dynamism of free markets and individual initiative."

USAID's strategic objective is to assist developing countries in promoting the transition to and consolidation of democratic regimes. USAID/Kenya's democracy and governance project supports this objective by focussing on strengthening democratic institutions and supporting a vibrant civic society. The project will also foster Agency's aims of stimulating participation, transparency and accountability of government. This will be through improvement of Government of Kenya budget monitoring process, modernization and increasing the autonomy of the tax system to make it more transparent, promotion of policy dialogue and debate through support of research institutions, such as the Institute of Policy Analysis and Research (IPAR), promotion of legal reform, improvement of Parliamentary capability and legislative audit oversight, and encouragement of participation through support to civic groups (nongovernmental entities).

B. Relationship to USAID/Kenya Country Program Strategic Plan

The goal of this project is to promote a more tolerant and accommodating democratic culture in Kenya. This is consistent with and directly related to the overall goal of promoting sustainable broad-based economic growth as stated in the 1990 Country Program Strategic Plan (CPSP). Improvements in democratic governance in Kenya will help alleviate many of the recurring constraints to sustainable, broad-based economic growth and development by facilitating expanded and informed participation, enhanced reliability and responsiveness of

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Government and open policy dialogues. USAID/Kenya's success in the other core areas of sustainable development as in population and health, private sector development and agricultural development, depends to a significant degree on democratization and good governance.

The Mission project to strengthen democracy and governance in Kenya cuts across the Country Strategy. For instance, there is mutual interdependency between popular participation, a supportive legal structure and accountable governance on the one hand and economic growth (as reflected by improved agricultural market efficiency, increase non-traditional export earnings, increased profitability of microenterprises) on the other hand. In order to create a climate conducive to sustainable development, USAID/Kenya aims at implementing democratic governance activities as well as economic and social development programs. Political, economic and social developments are interrelated and should reinforce one another.

Within the next two years, the Mission's current CPSP will be due for review. A new CPSP will be developed and will further define Mission's strategic objectives. An integrated approach will be adopted so that interrelationships between programs will be assessed more closely. For instance, the Mission will examine how assistance in other development sectors will facilitate democratic governance objectives and vice versa.

C. Relationship to GOK Development Priorities

In December 1993, the Government of Kenya (GOK) published its 1994-1996 Development Plan and had already concluded its Policy Framework Paper (PFP) with the IMF and the World Bank. These documents set out the GOK development priorities. In terms of democracy and governance, President Moi states in the Development Plan: "We have developed a strong tradition of democracy and rule of law which has allowed the Kenyan people to live in peace and harmony... We have an unbroken record of freely elected civilian government... In Kenya, the reintroduction of multi-party democracy in December 1991 was perhaps the most significant historical change that has taken place since independence. The conduct of the first multiparty elections in December 1992, the smooth transition to the new system of government... is a testimony of the political maturity of our nation."

The GOK intends to limit direct and indirect public sector participation in manufacturing, agriculture, trade, finance, transport and telecommunications. The Government role is to be confined to maintenance of law and order, administration of justice, provision of broad-based basic education and health services, provision of economic infrastructure, protection of environment, and formulation and execution of policy. The

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private sector is therefore expected to play a dominant role in the economy. By its intention to reduce its participation in the economy, the GOK is indirectly contributing to addressing the governance problem and letting the market forces take the lead in economic transactions.

D. Other Donor Assistance

There is broad donor consensus on the need for political reform and improved governance in Kenya. This was demonstrated during the November 1991 Consultative Group meeting when donors suspended balance of payments assistance partly reflecting their displeasure with Kenya's democratic governance performance. During Kenya's transition from single party to multiparty political system, donor commitment and consistent pressure was evident and it influenced a fairly successful multiparty election. Many donors sent in observer groups to the elections. The British provided assistance for ballot boxes and the U.S. provided indelible ink. The Canadians, the EEC, Denmark, the Netherlands, Sweden, the U.S. and the Ford Foundation supported a local election monitoring group called the National Elections Monitoring Unit (NEMU). Donors continue to support the monitoring of by-elections.

Attention of donors is increasingly turning to the strengthening of institutions that promote political pluralism. Their major focus is on enhancing parliamentary capability and legislative performance. Canada, the U.K. and the U.S. are supporting study tours for Members of Parliament and the staff of the Clerk of the National Assembly. The Friedrich Ebert Foundation (a German Foundation) and the Ford Foundation are supporting seminars and workshops for Members of Parliament. Support for political parties is limited mainly because of the difficulties of getting opposition parties and the ruling party (KANU) to work together. However, the Friedrich Nauman Foundation (a German Foundation) had been able to fund an all political parties' workshop.

Bilateral donors meet regularly to discuss the progress the Government is making on improving governance. Donors have developed an accountability and economic governance matrix which enables them to monitor and assess performance in this area. The Friedrich Nauman Foundation has provided funding for two conferences, namely, the "Nairobi We Want" and the "Kisumu We Want" intended to come up with an action program to improve governance in the local authorities. There is also an active Donor Democracy and Governance Group (DDGG) established in March 1992 and chaired by the Canadian High Commission.

Most donors are involved in strengthening the nongovernmental sector. The emphasis is on enhancing NGOs capacity and improving the enabling environment. NGOs are

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supported through a variety of grant programs. Canada, Denmark, Sweden, the Netherlands, the Friedrich Ebert Foundation and the Ford Foundation are especially active in supporting NGOs that promote the respect for human rights. The UNDP has provided a forum for discussion of the critical issue of ethnic clashes (that is, the resettlement of clash victims and reconciliation of communities in the affected clash areas.)

Virtually all donors support the freedom of the press. DANIDA is assisting in the training of journalists. Canada, Germany, Sweden and Denmark intend to cofinance the establishment of a media trust which will strengthen the existence of the advocacy press. The Ford Foundation intends to assist legal defense of journalists harassed by dubious charges of sedition.

During this period of post transition after the era of single party politics in Kenya, donor coordination remains critical. The needs for the consolidation of democratic governance are many. USAID/Kenya intends to continue its coordination with other donors to ensure that important issues in the strengthening of political pluralism, nongovernmental sector and enhancing government accountability and transparency are effectively addressed.

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IV. PROJECT RATIONALE

Building democracy is both the end in itself as well as one of the four elements (means) identified by USAID for sustainable development strategies. Other strategic elements for sustainable development are: (a) promoting sustained, broad-based, and participatory economic growth, (b) protecting the environment, and (c) stabilizing population growth. This project, in addition to building democracy as the end in itself, will be especially important for the economic growth objective in the present Kenya context for three basic reasons.

First, the project will help increase the probability of sustaining economic reforms -- in particular, to support major and significant economic reforms that have been implemented over the past year. Second, the project will contribute broadly to participatory and broad-based development. Finally, the project by strengthening institutions to support democratic governance will help reduce the cost of weak governance and improve the investment climate over time.

Governance is a broad and multidimensional concept and is closely allied to efficiency. Democratic pluralism implies, among other things, broad-based participation, responsible freedom of expression, respect for the rule of law, and adequate checks and balances. Democratic governance can thus be broadly defined as the use of power -- generated from a regime (set of rules) accepted as legitimate by the populace -- in the effective management of a country's economic resources for the purpose of promoting and enhancing societal values (such as the goal of sustainable socio-economic development).

While there are many aspects of what constitute democratic governance, it is easier to recognize the lack of it. Weak governance can be manifested by the following.

- (a) Failure to separate between what is public and what is private resulting in a tendency to direct public resources for private gain.
- (b) Failure to establish a predictable framework of law, and excessive discretion in the application of the rule of law.
- (c) Excessive application of nontransparent decision making and inadequate accountability for actions taken.
- (d) Existence of excessive rules, regulations, licensing requirements, and statutory monopoly power. These have impeded the functioning of markets and encouraged economic rent-seeking.

The conditions described above are situations in which rent-seeking thrives. Rent-seeking behavior rises with excessive monopoly power, state controls, and direct government involvement (instead of markets) in resource allocation. Rent-seeking is also more pervasive where there is greater discretion, less accountability and transparency which results in actions or decisions that are more difficult to monitor than if they are taken in a transparent manner.

Weak governance and its associated economic cost of rent-seeking activities encompasses especially the following key areas of economic and financial management:

- (a) budgeting, public investment programming, and expenditure allocation;
- (b) taxation and revenue collection.
- (c) Central Bank's supervision and regulation of the financial system;
- (d) trade and exchange regime;
- (e) economic and financial performance of public enterprises; and
- (f) productivity of the civil service.

A. Sustainability of Economic Reform and Participatory Development

Kenya's record of implementing economic reform over more than a decade has been at best described as "stop-go", with several policy reversals or haltingly implemented reforms. In the World Bank's assessment, Kenya's performance on implementing economic reforms has been characterized as "patchy and intermittent commitment". Yet, in order to have sustainable development the reform process must be continuous and maintained over an adequately long period of time. The inability of the Kenyan Government to stay the course of economic reform has constrained economic growth and development. More specifically, the government has had difficulty in sustaining reforms in the public sector (such as, state-owned enterprise and budgetary reforms), in trade and exchange, and in agricultural pricing and marketing.

Among many reasons for the lack of sustained economic reform efforts is the basic fact that the reforms mentioned above tend to put them squarely in conflict with a political system that emphasizes patronage and economic rent. The latter is associated with policies that create distortions. For example, state-owned

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enterprises are a particularly good source for patronage as they can employ large numbers of people. Administrative controls of import and foreign exchange (as opposed to market-determined approach) have greater political benefits. Under a market-determined import regime, no importer can be discriminated (for or against) because all face the same market price. However, in a system of import and exchange control regime, a government is able to allocate selectively import licenses and apply different levels of protection (and potential economic rent) to reward different clients, firms, or industries. Monopsonistic practices, controls of input supply, marketing and price-setting (generally below the market price) by agricultural marketing boards tend to reduce farmers' incentives and frequently leads to "side-payments" in order to capture some of the economic rent.

The Kenyan Government over the past year has adopted a number of significant reforms which are now at different implementation phases. The reforms (see Section II for details) include, for example, major trade and exchange liberalization, agricultural price and market liberalization, and decontrols of prices for nearly all commodities. These reforms have eliminated or reduced distortions and consequently reduced opportunities for rent-seeking.

But to sustain and make further progress on economic reforms, it is generally accepted that these reforms are likely to pose fewer threats to political regimes that remain in power through electoral votes and have gained a certain legitimacy than regimes that have to depend on a combination of coercion and patronage. To gain legitimacy, the government in power must encourage broad-based participation of the populace. The "stakeholders" in the process of policy reform must be local. Outsiders can provide the catalyst for the initial reform impulse, but local groups must develop the capacity to conceptualize, articulate, promote the continuous process of reform (and if necessary make mid-course adjustment) at the political level. The political power under the circumstances must be able to mold public opinion, and "stakeholders" for reforms.

Donors have relied on conditionality and financial pressure to initiate reform packages. This may be necessary levers under certain situation. However, a process of reform that is locally led and participatory can only be assisted by development aimed at strengthening key democratic governance institutions through training, dissemination of policy viewpoints and results, technical collaboration of research and dialogue. Such institutional strengthening is the focus of this project.

The guiding principles for sustainable and participatory reform process would include the following governance attributes: autonomy, accountability, transparency, and preeminence of policy

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rules over discretion. These attributes need to be fostered generally through legislative changes. Major institutions may involve, for example: (a) the Central Bank that is more autonomous and accountable in its pursue of price stability and noninflationary growth; (b) a tax authority that is more professional in conducting its tasks in revenue collection and equitable enforcement of the tax codes; (c) a sound budgetary management where public spending decision is transparent and expenditures are accountable for; (d) a fully autonomous judiciary and electoral authority; and (e) an effectively functioning Parliament.

B. Cost of Weak Governance: Resource Mobilization and Efficiency

Coherent economic policy framework and reforms cannot be forged and maintained through time without a reasonable degree of governance -- transparent policy formulation and implementation, accountability, and minimal distortions and rent-seeking activities. The inability of the Kenyan Government to sustain policy reforms over a long period of time has created a credibility gap in the eyes of investors. Furthermore, rent-seeking behavior has raised costs of doing business. Consequently, investor and business confidence has been eroded. Private investment (both domestic and foreign) has shown a declining trend for over a decade -- from nearly 15 percent of GDP in the late 1970s to less than 11 percent in 1991.

Not only that weak governance contributed to poor investment climate, it has also resulted in low efficient use of economic resources. As a crude proxy indicator of the declining efficient use of resources, economists use the measure of the (incremental) capital-output ratio (i.e., how much additional capital is needed to increase a unit of output -- the higher the ratio the lower the efficient use of economic resources). According to the latest estimates by the World Bank, Kenya's capital-output ratio has risen rapidly since 1989, averaging about 7 to 8 during 1989-1992. This is clearly unacceptably high by comparison to other high growth economies, whose capital-output ratio usually ranges between 3 and 4. The project by supporting the strengthening of governance can help reduce the level of inefficiency and contribute to higher growth for the same level of resources. As a strong track record is established and sustained and investor confidence restored, growth can be further accelerated by rising investment. Strengthening governance thus can be an important element in Kenya's economic growth strategy.

C. Assessment of Project Risks

Politics is central to economic reform in particular and transition to a democratic governance in general. Politics has been a major obstacle and principal reason for Kenya's patchy,

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intermittent commitment, and stop-go reform implementation. Over the past two years, Kenya has changed the constitution to permit the multiparty political system. Nonetheless, there remain a number of risks that may cause this project to fail. The extent to which this project can succeed depends largely on how the government in power manages the dual change of market-oriented reforms and democratic transition. More specifically, there are three major risks.

First, it remains questionable as to the extent to which the current government is committed to allow the nascent democratic process to blossom. It is unclear whether the government can bring itself to accommodate and tolerate different viewpoints and criticism. It is equally uncertain, at this time that the Members of Parliament can become better informed in order to become more issues-oriented instead of being personality-oriented.

Second, the status quo (anti-reform) element in the government still outnumbers the reformers. The reformers must be able to show the fruits of economic and political reforms to discredit opponents of economic change. This will materialize when the reforms are sustained long enough to restore credibility and investor confidence. Given Kenya's fragile macroeconomic situation and mixed political climate, it may take longer than the politics will allow to mobilize investment and speed up the economic recovery process. Consequently, the risk associated with the possibility of backtracking on reforms cannot be ruled out.

Finally, there is also a risk associated with the prevalent rent-seeking practice -- a legacy from a controlled economy (partly inherited from the colonial time) resulting in economic distortions which tend to encourage rent-seeking behavior and corruption. In an economic sense, income is seen as returns on investment (human and physical capital), productivity, entrepreneurship, and innovation. On the other hand, economic rent is "unearned income" and it is generally associated with entitlement under political regimes that emphasize patronage and personal rewards. The attitudinal tendency to use official position to capture the economic rent (viewed as income) can seriously undermine reforms and resource mobilization.

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V. PROJECT STRATEGY AND DESCRIPTION

A. Project Approach and Strategy

Under this project, Strengthening Democracy and Governance in Kenya, USAID recognizes the challenge that although Kenya has now a multiparty political system, support for further political reforms remains weak in certain key quarters of power. The Mission is, however, committed to help Kenyans consolidate significant gains thus far made and build upon these achievements to move the country toward a viable system of democratic governance.

Kenya's success as a multiparty democracy hinges on, to a great extent the degree of progress it achieves in the following strategic areas: strengthening democratically elected institutions (parliament and local authorities); promoting the rule of law and public accountability (support effective legal and judicial systems, provincial and district administration, and the police); supporting respect for human rights; strengthening institutions and organizations within civil society that increase government responsiveness and accountability; increasing free flow of information; and encouraging democratic values (such as tolerance of diverse opinions, the value of political compromise.)

Through this project, USAID will concentrate its activities in supporting legal reform by the Attorney General Office, strengthening the democratically elected legislature, improving the monitoring and accounting of public expenditures and improving the corporate structure and capacity of the Government revenue departments, building the capacity for legislative audit oversight through the Public Accounts and Public Investments Committees, strengthening the capacity of Controller and Auditor General Office, strengthening civil society, and supporting independent policy research institution. Interventions in the above areas are of medium to long-term nature. USAID/Kenya will implement these activities in a complementary and integrative manner. Flexibility in possible interventions will be maintained to reflect changing circumstances.

The project will support both government institutions and nongovernmental organizations. USAID/Kenya will closely collaborate with the U.S. Embassy and coordinate with other donors in the implementation of this democratic governance project. To ensure that project activities achieve their objectives, USAID/Kenya will insist upon monitoring and evaluation systems, and will carry out periodic reviews.

The project intends to concentrate on building local democratic and governance capacities, rather than relying

exclusively on intermittent importation of outside experts whose long term impact is not clear cut. However, whenever outside individuals or institutional assistance are incorporated into the project, it will also be imperative that those interests possess, or quickly acquire, a competent grounding in Kenya's democratic governance realities and that their appropriate expertise is of immediate applicability.

B. Project Goal

The overall goal of the project, is to promote a more tolerant and accommodating democratic culture in Kenya. This is a higher project objective expected to be achieved over time (that is, over the long-term - more than five years.) Progress toward democratic governance will be in terms of: 1) a reasonably viable system of checks and balances (public institutions at the national and local levels are accountable, transparent and accessible); 2) an increased active role in decision-making by institutions in civic society; 3) a reduced overall rate of human rights abuses; and 4) an increased respect for the rule of law and a more independent judiciary.

C. Project Purpose

In order to achieve the long-term goal of a more tolerant and accommodating democratic culture in Kenya, the project will strengthen the capacity of key democratic institution. Specifically, the project will:

- * support the National Assembly to improve legislative capability and performance.
- * assist in the establishment of an independent Institute of Policy Analysis Research (IPAR).
- * promote civic institutions, particularly those engaged in advancing democratic governance.
- * assist in strengthening accountability in the following areas:
 - (a) the Ministry of Finance's efforts to monitor and account for public expenditures, as well as, improve the autonomy, professionalism and efficiency of the tax system;
 - (b) facilitate legislative audit oversight through the Public Accounts and Public Investment Committees;
 - (c) assist the Controller and Auditor General to improve auditing systems;

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(d) facilitate and support the Attorney General's efforts to review and reform laws and regulations.

D. Expected Purpose-level Achievements

Achievement of the project purpose is expected to produce the following results:

- * improved parliamentary ability to modify or even redraft legislation.
- * improved quality of parliamentary debate on major public policy issues.
- * increased access to and availability of information of Members of Parliament.
- * reduced variation between actual spending and budget allocation.
- * establishment of corporate structure for revenue collections capable of sustained revenue collections in a professional and equitable manner.
- * improved quality of government audited accounts.
- * improved follow-up of audit recommendations.
- * obsolete laws repealed.
- * inconsistencies in laws eliminated.
- * relevant laws introduced to suit Kenya's market-oriented reforms and multiparty democracy.
- * strengthened capacity of civil society to contribute to improving governmental accountability.
- * increased policy dialogue and debate.

Key assumptions linking the project purpose and goal are that the GOK will remain committed to improving democratic governance and that the GOK will not restrict the operations of nongovernmental organizations.

E. Project Components and Outputs

To achieve the project purpose of strengthening key democratic institutions, the project will support both public and private sector institutional building efforts. The project will provide specific assistance to 1) the National Assembly, 2) the Institute for Policy Analysis and Research, 3) NGOs, and

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4) Institutions involved in fiscal management and accountability, (the Ministry of Finance, Controller and Auditor General, Public Accounts and Public Investment Committees, and Attorney General).

1) National Assembly

Although the National Assembly is increasingly becoming an important forum for the deliberation of public policy, these debates are often based on limited information on policy-making process and specific issues. Despite their relatively high level of education and professional experience, many Members of Parliament (MPs) lack skills of being effective legislators. Over half of the MPs are serving in the legislature for the first time, while most are serving in their first multiparty parliament. MPs ability is further constrained by the limited staff support from the Office of the Clerk to the National Assembly.

USAID/Kenya will strengthen the capacity of the National Assembly by enhancing the skills of MPs to deal with the issues before the House (that is, Parliament), as well as enhancing the skills of staff of the Office of the Clerk (including Librarians.)

2) Institute for Policy Analysis and Research

As Kenya progresses toward a democratically pluralistic society, it is important that all Kenyans including policy makers, political leaders, opinion leaders, the Kenyan public, as well as international donors and investors, are correctly informed about public policy issues facing the country. Currently, there are no influential and independent research institutions engaged in analysis of policy and policy dialogue. Recently, a new independent body, the Institute of Economic Affairs (IEA) was launched with support from Friedrich Nauman Foundation (a German organization). It is, therefore, still too early to assess what impact on policy IEA will have. In addition IEA's association with the opposition may put its non-partisan stature in doubt.

Kenya has over a thousand private consultancy firms, all of which are engaged in some kind of policy analysis and research on a client by client basis. None of these firms is involved in intensive public policy analysis. There are six national research institutes in Kenya. These are: 1) Kenya Agricultural Research Institute (KARI), Kenya Industrial Development Research Institute (KIDRI), Kenya Forest Research Institute (KEFRI), Kenya Medical Research Institute (KEMRI), Kenya Trypanosomiasis Research Institute (KETRI), and Kenya Marine and Fisheries Research Institute (KEMFRI). The country also hosts a number of international research organizations including the International Laboratory for Research on Animal Diseases (ILRAD), International

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Center for Research on Agro-Forestry (ICRAF) and International Center for Insect Physiology and Ecology (ICIPE). All are engaged in highly specialized scientific research.

There are about 2,000 local non governmental organizations (NGOs). None of the NGOs engages in serious policy analysis and research. All are recipients of socio-economic policy findings. Kenya has four public universities, ten degree granting private institutions, and three national polytechnics. The private universities offer liberal arts and are not engaged in significant policy research work. The polytechnics are essentially technical training institutions. The public universities, which were once the force of sound policy research and counsel, have limited this capability due to resource constraints. Until the mid eighties the Institute for Development Studies (IDS) of University of Nairobi had a well-deserved reputation for high quality policy research.

Donor-supported technical assistance has often been used to fill in the gap in policy analysis and research. Technical assistance has not effectively contributed to the building of local capacity, as it has often failed to provide local counterparts full opportunity to gain hands-on-experience.

The only independent organization in Kenya that shows promise of being capable to provide policy research is the African Economic Research Consortium (AERC). But it is an organization of a network of African researchers. Being a continental network, it is not able to provide concentrated policy analysis and research on public issues in Kenya.

Under this democratic governance project, USAID/Kenya together with other donors will support the establishment of and functioning of a new and independent organization, the Institute for Policy Analysis and Research (IPAR). Potential donors include World Bank/UNDP/African Development Bank under the African Capacity Building Foundation (ACBF), the Swedish Agency for Research Cooperation with Developing Countries (SAREC), the Rockefeller Foundation, the Ford Foundation, the European Union and DANIDA. IPAR will be non-partisan and interdisciplinary, and will undertake public policy research and analysis and will be engaged in policy dialogue.

The Institute for Policy Analysis and Research will enhance understanding of emerging public policy issues including long term economic, political social and environmental challenges. IPAR will stimulate public debate on the policy responses required to successfully address these issues. USAID/Kenya will support the production of high quality, consistent and independent public policy research studies, and the development of analytical skills of IPAR's core researchers. The Mission will also assist IPAR in its policy dialogue's efforts. IPAR

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intends to develop and maintain an active dialogue and networking with government agencies, universities, research institutes, NGOs, consultancy firms and the private sector.

3) Civil Society

Civil society in Kenya is relatively well-developed. There are many Harambee (self-help) community development associations which provide basic social welfare services in rural Kenya. Harambee movement was encouraged by the Government. Church organizations and Church-based non governmental organizations (NGOs) have rapidly expanded and are involved in various socio-economic development activities. Kenya has also witnessed the emergence of professional and business associations and human rights groups. There are also a large number of international private voluntary organizations (PVOs) operating in the country.

However, civil society in Kenya has increasingly come under government pressure and state regulation. Country-wide association such the Kenya Farmers Association, the Central Organization of Trade Unions, Mwendeleo Ya Wanawake (a women organization), Kenya Planters Coffee Union etc. have either been disbanded or taken over by the ruling party or continuously been harassed. Most significant was the passage of the NGO Registration Act in 1990 which gives the Government regulatory powers over NGOs, requiring NGOs to register with the State.

With the transition to multiparty politics in Kenya, civil society has become more active. Initial demands for return to multiparty politics were made by the churches. Professional especially lawyers, university lectures and even doctors have called for democratic governance. In addition, a small but growing number of private organizations have merged to specifically advance democracy and human rights. These include organizations which monitored the 1992 multiparty elections, organizations which have sought to defend against human rights abuses, those concerned with civil education, an association to defend the press, organizations concerned with the rights and empowerment of women, among others.

It is critical to strengthen the institutionalization of many of these organizations which need to consolidate the gains they have so far made in promoting democratic governance. While these NGOs constitute a vital resource, most of them are urban-based and this limits the impact of their activities on the majority of rural Kenyans. Therefore, it is also essential to support organizations that have rural outreach programs and rural-based NGOs.

Under the Kenya democratic governance project, USAID will support on a selective basis the strengthening of some existing organizations committed to advancing democracy and good

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governance in Kenya. The Mission will also support emerging associations in the rural areas. Organization skills of these institutions will be improved and knowledge of Kenyans, especially in civil education will be enhanced. The project will establish a grants program from which USAID/Kenya will provide funding to qualified Kenyan NGOs involved in a broad range of democratic governance activities. The grants program will be complementary to the Democracy Human Rights Fund-DHRF (116e grants) by focusing on institutional capacity building of NGOs, permitting multi-year or follow-up funding to viable recipient NGOs, supporting groups which mix developmental and human rights agendas, and providing grants ranging from \$5,000 to \$150,000 or over.

The Mission will adopt a competitive selection process for awarding grants, similar to the current selection criteria that is employed in determining NGOs worthy of funding under the DHRF/116(e). Unsolicited proposals will be reviewed according to the following criteria: 1) the proposed activity is consistent with the USAID/Kenya democratic governance objectives; 2) the NGO presents clear and feasible plans for administering the project activity and managing its finances; 3) the proposed activity is demand driven and has broad-based local support (including women); 4) the NGO has a clear plan for reaching targeted beneficiaries; and 5) the proposed activity demonstrates the potential to be self-sustaining without U.S. Government funding beyond the life of USAID/Kenya democratic governance project.

Key assumptions linking projects outputs and purpose are that the current coordination between USG country team and the National Assembly will be maintained, IPAR will secure funding from other donor, and that USAID will recognize the political sensitivity of supporting civil society and the inherent risks associated with assisting NGOs whose track records may be short.

4) Accountability and Lawful Governance

The Budget Supply Department of the Ministry of Finance has the main stewardship for managing and accounting for public financial resources. In order to control and monitor public expenditures, an efficient and functioning Budget Information System (BIS), and effective monitoring and accounting of public expenditures (Budget Monitoring System - BMS) are needed. USAID/Kenya has provided assistance to the BIS which is functioning relatively well. However, the BMS has not yet been well developed. Under this project the capacity of the Ministry of Finance to monitor and account for public spending will be strengthened. A Budget Monitoring System will be set up.

In the past, the Ministry of Finance has been experiencing the problem of uneven revenue collection. Since 1986, this Ministry has undertaken various tax reforms to improve revenue

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mobilization. In 1990, under the direction of the Department of Fiscal and Monetary Affairs, the Government launched a major effort to modernize tax administration so as to improve the efficiency and effectiveness of the tax system and to increase the buoyancy of the tax system. To date, the program has introduced a number of policy changes including rationalization of various taxes (which has included a reduction in some tax rates), expansion of tax bases to improve the revenue responsiveness and fairness of the tax system, put in place a functioning Value Added Tax (VAT), and the Personal Identification Number (PIN). The PIN was introduced to make it more difficult to evade taxation. USAID has co-financed this program which is supported by UNDP. Although the above results in tax modernization are encouraging, the effort is still in the initial phase. Under this project, the Mission will provide assistance for the establishment of institutional arrangements to ensure the sustainability of effective, fair and accountable tax system.

There is a strong linkage between budget information and monitoring system, as well as revenue collection system on one hand, and legislative performance on the other hand. Greater availability of and access to information is enhanced by the improvements in budget and revenue systems. This information is then readily accessible to the Parliament, and therefore transparency in decision-making, and better government accountability is reinforced.

The Controller and Auditor General is responsible for ensuring that public resources are being used as intended, and therefore plays a critical role in improving government accountability. Yearly, the Controller and Auditor General reveals weaknesses in Government expenditure controls and revenue collection. However, the capacity of this office needs further strengthening to facilitate thorough auditing of government accounts. USAID/Kenya will provide assistance to enhance the skills of staff in the Controller and Auditor General Office.

The Public Accounts Committee (PAC) and Public Investment Committee (PIC) are parliamentary committees composed of Members of Parliament, whose task is to review and make recommendations on follow-up to the Auditor General reports on government accounts and parastatals accounts. Under this project, PAC and PIC members' skills will be further improved.

The Attorney General is responsible for enforcement of the rule of law. In terms of providing necessary redress to those accused of abusing public trust and violating financial accounting practices, the Attorney General's Chambers has been weak. Also its ability to undertake legal research, legislative analysis and drafting is limited by staff constraints. USAID/Kenya will provide assistance to the Attorney General

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Office so that skills of staff are enhanced and required systems set up.

F. Project Inputs

The project's total estimated cost will be US\$9.5 million, of which USAID will contribute US\$7 million and the balance \$2.5 million will be provided in-kind contribution by the host country. The life of the project is five years. Illustrative activities for support will include technical assistance and training needed to develop the capacity of: 1) the Parliament; 2) the Office of the Clerk to the National Assembly; 3) the Fiscal Affairs Department of the Ministry of Finance; 4) the Controller and Auditor General's Office; 5) the Attorney General's Chambers, and 6) the institute for Policy analysis and research. Technical assistance and training activities will also enhance the quality of analysis on key public policy issues by IPAR. Seminars, workshops, study tours, audits and project reviews and evaluations will be financed.

Commodity assistance such as microcomputers and related software, photocopier, and an assortment of library materials will be financed under the project. For IPAR, the project will fund start up costs such as office space, equipment and supplies, staff recruitment, management systems development and initial accounting services.

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VI. PROJECT MANAGEMENT AND IMPLEMENTATION**A. Overall Implementation Responsibilities:****1. USAID**

The project will be administered directly by USAID/Kenya. It will be managed by the Office of Projects. A U.S. direct hire or personal services contractor will be the project officer responsible for the entire democracy and governance efforts under the guidance of the Director and Deputy Director. He/She will be under the supervision of the Chief of Office of Projects. The project officer will oversee the activities of a team of individuals responsible for day-to-day implementation. This team will consist of three Kenyan professionals (project specialists) and a secretary, who will be financed under the project.

The democracy and governance project team will maintain effective and regular contacts with senior officials of the GOK (especially Ministry of Finance, Controller and Auditor General' Office and Attorney General Chambers); the Parliament (especially the Clerk's Office, the Speaker of the National Assembly, the Public Accounts and Public Investments Committees); political parties; private associations; academia; the Institute for Policy Analysis and Research; and private individuals. Specific management responsibilities include preparation of all project documentation and official correspondence; coordination of all project implementation; scheduling of short-and long-term technical assistance; participating in and providing support to donor coordination group on democracy and governance; and briefing Mission management on the status of project activities. More indepth reporting on project status, including financing expenditures, will take place as part of the Mission's semi-annual project portfolio review.

In terms of detailed documentation, the project team will be expected to develop or review the scopes of work (SOW) for project financed activities or terms of reference (TOR) for any short-term or long-term technical assistance requirements. The project officer will convene Mission Project Review Committee (PRC) for review and approval of proposed project activities. The project team will prepare all requisite documentation (e.g. Project Implementation Letters (PILs), Project Implementation Orders/Technical and Commodity (PIO/Ts and PIO/Cs) to procure necessary services and/or equipment. The team will facilitate Mission clearance and reviews for these documents.

The Kenya democratic governance project will require the active involvement of skilled personnel from other USAID's technical officers. For instance, effective implementation and management of IPAR, components under the Ministry of Finance, the

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Controller and Auditor General and the Attorney General will depend on significant participation of technical officers outside the Office of Projects. The Program Office, the Controller's Office, as well as the REDSO/Regional Legal Advisor, Democracy and Governance Advisor, and Contracting Officer as required, will play a key role in maintaining programmatic, legal, administrative and financial oversight of the project.

It is anticipated that democracy and governance project financing for the components of IPAR and civil society will be administered under A.I.D. Handbook 13 Cooperative Agreement/Grants mechanisms. The Cooperative Agreement/Grants mechanism will provide the Mission and the project team with a financing structure that will allow for the "substantial involvement", while maximizing flexibility, that is required by the Mission in order to effectively guide activities. The Project Committee consisting of officers from the democracy and governance project team, the Program Office, the Contracting and Legal Offices of REDSO, and the Controller's Office will review and approve grant proposals. All grants will be signed by a responsible officer of the Regional Contracting Office, REDSO. Grantee supervision will be the responsibility of the project team.

Many proposals submitted by NGOs may be from those without prior experience in administering USG or A.I.D. grants. If an award is contemplated, the democracy and governance project team, with appropriate Mission support, will undertake a pre-award survey of the entity's procurement, personnel, financial and other management systems as required by AID policies and regulations.

Any financing provided to Kenyan government institutions will be administered directly by the Mission, and direct payment to suppliers of goods and services will be made. Official correspondence (i.e. PILs) will be used to communicate the details of these financing arrangements and methods of payment including definition of eligible expenditures.

To maximize flexibility and accommodate evolutions in project requirements, funds transfers will be permitted. For example, in the event the amount of technical assistance and other support budgeted under a specific project component is not required, funds will be transferred to another budget line-item within the same component by the Mission directly, or to another project component. Similarly, should savings accrue within an element of a component, such savings will be reapportioned either within the component by USAID directly, or to another component.

2. The Government of Kenya

The active involvement and support of the GOK is essential

for success of this project. Because of the mix of activities planned for support, it will be necessary to relate to and coordinate requirements with several ministries, offices and/or commission. The Ministry of Finance is expected to have the lead role in coordinating and collaborate project activities.

Regarding the day-to-day implementation and administration of the project, it is anticipated that the GOK will nominate officers to serve as the authorized GOK representatives from each of the implementing entities. These designated individuals will have direct responsibility for ensuring project activities are effectively implemented.

Where the Democracy and Governance project finances activities designed and/or implemented by GOK institutions, e.g., the National Assembly proposal or planned Ministry of Finance involvement, the Mission will use PILs to communicate arrangements, and to elaborate on reporting and evaluation needs. Any contracting required under such arrangements will be the direct responsibility of the Mission.

B. Financial Plan

1. Summary Cost Estimates

The total A.I.D. funding level for the project is U.S.\$7million over a five-year period. In addition, the host country (GOK and NGOs) will contribute in-kind U.S.\$2.5million (this share is in excess of the 25 percent host country contribution requirement). The total estimated cost of the project is therefore, U.S.\$9.5million. The proposed project will be funded under the Development Fund for Africa (DFA), with joint authorization under Section 116(e). Presented in Table 1 below is a summarized illustrative project budget. It is estimated that USAID contribution will finance both foreign exchange cost (at least 70 percent) and local costs (up to 30percent) of project activities.

2. Estimated Project Cost Details (A.I.D Contribution)

Table 2 contains detailed cost estimates for each project component covering FY94 through FY98. Below is a discussion of these costs.

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Table 1
Strengthening Democracy and Governance in Kenya
(615-0266)
Illustrative Budget Summary (FY94-FY98)

(U.S. \$'000)

<u>Source:</u>	<u>AID</u>		<u>GOK/NGOs</u>	<u>Total</u>
	<u>FX</u>	<u>LC</u>	<u>LC</u>	
<u>Use:</u>				
1. National Assembly	826	350	300	1,476
2. Institute for Policy Analysis and Research	1,050	450	0	1,500
3. Civil Society	1,050	450	300	1,800
4. Accountability and Lawful Governance	997	427	1,900	3,324
5. Project Management	700	300	0	1,000
6. Evaluation/Audit	210	90	0	300
7. Contingency	70	30	0	100
Grand Total	4,903	2,097	2,500	9,500

National Assembly

USAID will commit \$1.176 million over the next five years of the project to support the improvement of legislative capability and performance. The project will finance study tours for Members of Parliament, study tours/internships for the staff of the Clerk to the National Assembly, U.S. training for library staff as well as the staff of Clerk's office staff, and commodities (computer, copier and library materials).

Institute for Policy Analysis and Research

The project will support the establishment of the Institute for Policy Analysis and Research (IPAR). A.I.D will provide \$1.5 million towards this effort. This contribution represents a fraction of overall funding required by IPAR. Other donors are expected to co-finance IPAR. Over the life-of-project IPAR is expected to become a viable local policy analysis think-tank. USAID will finance start-up costs such as office rent, equipment and supplies, staff recruitment, training and salary/allowances for secretariat staff, management systems development, initial accountancy services and other direct costs. Short-term consultancies for policy studies and research, workshops and seminars will also be financed.

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TABLE 2
STRENGTHENING DEMOCRACY AND GOVERNANCE IN KENYA PROJECT (615-0266)
ILLUSTRATIVE BUDGET (U.S.\$)

<u>ACTIVITY</u>	<u>FY94</u>	<u>FY95</u>	<u>FY96</u>	<u>FY97</u>	<u>FY98</u>	<u>TOTAL</u>	<u>%LOP</u>
I. National Assembly							
1. MP Study Tours	160,000	160,000	167,000	0	0	487,000	
2. Internships	0	50,000	50,000	0	0	100,000	
3. Librarian Training	0	42,000	42,000	0	0	84,000	
4. Other Staff Development	0	75,000	200,000	120,000	0	395,000	
5. Computer/Copier/Library Mtls.	<u>30,000</u>	<u>50,000</u>	<u>30,000</u>	<u>0</u>	<u>0</u>	<u>110,000</u>	
SubTotal	190,000	377,000	489,000	120,000	0	1,176,000	16.8%
II. Institute for Policy Analysis & Research							
1. Inst. Support	100,000	150,000	150,000	200,000	150,000	750,000	
2. Policy Analysis (ST TA)	70,000	55,000	55,000	70,000	60,000	310,000	
3. Studies (ST TA)	70,000	60,000	70,000	55,000	55,000	310,000	
4. Seminars/Workshops	20,000	20,000	20,000	0	0	60,000	
5. Accountancy Services	10,000	10,000	10,000	0	0	30,000	
6. Other Costs/Audits	<u>10,000</u>	<u>15,000</u>	<u>15,000</u>	<u>0</u>	<u>0</u>	<u>40,000</u>	
Subtotal	280,000	310,000	320,000	325,000	265,000	1,500,000	21.4%
III. Civil Society							
1. Civil Education	0	150,000	150,000	100,000	100,000	500,000	
2. Human Rights	0	100,000	100,000	100,000	100,000	400,000	
3. Independent Media	0	50,000	100,000	50,000	50,000	250,000	
4. Election Monitoring	0	0	0	150,000	0	150,000	
5. Seminars/Workshops	0	50,000	0	50,000	0	100,000	
6. Other Costs/Accountancy Services	<u>10,000</u>	<u>20,000</u>	<u>30,000</u>	<u>40,000</u>	<u>0</u>	<u>100,000</u>	
SubTotal	10,000	370,000	380,000	490,000	250,000	1,500,000	21.4%

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IV. Accountability and Lawful Governance								
1. Budget Monitoring (LT TA)	300,000	250,000	0	0	0	550,000		
2. Tax Modernization (ST TA)	100,000	100,000	0	0	0	200,000		
3. Training	20,000	30,000	0	0	0	50,000		
4. Travel (Local & Int'l)	25,000	25,000	0	0	0	50,000		
5. Controller and Auditor General	0	100,000	100,000	24,000	0	224,000		
6. Public Accounts & Public Investments Committees	0	50,000	50,000	50,000	0	150,000		
7. Attorney General & Judiciary	<u>0</u>	<u>100,000</u>	<u>100,000</u>	<u>0</u>	<u>0</u>	<u>200,000</u>		
SubTotal	445,000	655,000	250,000	74,000	0	1,424,000		20.4%
V. Project Management								
1. U.S. (DH or PSC)	70,000	125,000	125,000	125,000	125,000	570,000		
2. FSN (PSCs)	24,000	72,000	72,000	76,000	76,000	320,000		
3. Secretary	6,000	6,000	6,000	6,000	6,000	30,000		
4. Office Equipment/Supplies	30,000	6,000	6,000	6,000	6,000	54,000		
5. Other Costs	<u>5,000</u>	<u>5,000</u>	<u>5,000</u>	<u>5,000</u>	<u>6,000</u>	<u>26,000</u>		
SubTotal	135,000	214,000	214,000	218,000	219,000	1,000,000		14.3%
VI. Evaluation/Audit								
1. Baseline Data/Studies	0	10,000	40,000	50,000	0	100,000		
2. Mid-term & Final Evaluations	0	0	80,000	0	80,000	160,000		
3. Audits/Financial Reviews	<u>0</u>	<u>10,000</u>	<u>10,000</u>	<u>10,000</u>	<u>10,000</u>	<u>40,000</u>		
SubTotal	0	20,000	130,000	60,000	90,000	300,000		4.3%
VII. Contingency	0	0	50,000	50,000	0	100,000		1.4%
GRAND TOTAL	<u>1,080,000</u>	<u>1,946,000</u>	<u>1,833,000</u>	<u>1,337,000</u>	<u>824,000</u>	<u>7,000,000</u>		100%
EXPENDITURE/LOP	15.1%	27.8%	26.2%	19.1%	11.8%	100%		

(Impress: D&G)

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Civil Society

It is estimated that \$1.5 million will be used to support the strengthening of civil society. Over the next five years, several grants will be made to support NGOs involved in the following activities; civic education, human rights, press freedom and election monitoring. This list of activities is not exhaustive. Seminars and workshops promoting democracy and good governance will also be supported.

Accountability and Lawful Governance

It is estimated that \$1.424 million of project funds will be used to support the improvement of fiscal management and accountability. Assistance will be provided to improve lawful governance, financial management and accountability, and legislative audit oversight. The project will finance technical assistance, training, study tours/attachments, travel and commodities (computers and related supplies).

Project Management

The project budget of \$1.0 million provides for one U.S (D.H or P.S.C) and three Kenyan professionals (P.S.Cs) who will be the core staff to manage the various project components. A secretary will also be recruited to offer support services to the project team.

Evaluation and Audit

A total of \$300,000 of project funds will be used to finance mid-term and final project evaluations, annual audits of grantees and contractors, baseline data collection and special studies.

Contingency

USAID has set aside \$100,000 for contingency to accommodate any shortfall under any of the components. In addition, with each project component, an inflation factor of approximately 10% has been factored.

3. Obligation Schedule and Mechanism

It is expected that the A.I.D. grant \$7.0 million will be incrementally obligated in four trenches as follows: 1) \$1.5million in FY94, 2) \$2.0million in FY95, 3) \$1.8million in FY96 and 4) \$1.7million in FY97. This project will operate under a Project Agreement or a general Memorandum of Understanding with the Government of Kenya.

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4. Reasonableness of Cost Estimates

The cost estimates developed for this project appear to be reasonable and in line with actual costs of similar projects in the Mission and elsewhere in Africa. As noted in the project description and financial narrative, in certain components, (e.g. Institute for Policy Analysis and Research, Budget Monitoring and Tax Modernization under the Ministry of Finance) budget estimates represent the USAID portion that would not necessarily cover all the costs associated with these components.

The cost estimates for long-term and short-term technical assistance are based on actual contract costs under various USAID supported project activities. Similarly, the cost estimates for U.S. staff, local staff, office equipment and supplies are based upon actual expenditures incurred by USAID/Kenya operations. The project budget includes allowances in each component for an inflation rate of approximately 10 percent and a contingency line item totalling \$100,000.

In the event that the amount of support budgeted under a specific project component is not required, funds will be transferred to another budget line-item within the same component or to another project component. Similarly, should savings accrue due to cost savings, such savings may be re-apportioned within the component or to another component of the project.

5. Methods of Implementation and Financing

USAID/Kenya will retain responsibility for procurement of technical, material and other services and goods required under the project. Assistance to the Institute for Policy Analysis and Research, and civic groups will be administered under A.I.D. Handbook 13 Cooperative Agreement and/or grants. Where financing is supporting activities administered by the Government of Kenya implementing institutions, the arrangements for support will be defined in Direct Contracts and will specify that A.I.D. will make direct payments to suppliers of goods and/or services.

The following is an illustration of the methods of implementation and A.I.D. financing arrangements required by this project.

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PROJECT COMPONENT	METHOD OF IMPLEMENTATION	METHOD OF FINANCING	AMOUNT (\$'000)
National Assembly	Direct Contracts	Direct Payment	1,176
Institute for Policy Analysis & Research	HB 13 Coop. Ag.	Periodic Advance	1,500
Civil Society	HB 13 Grants	Periodic Advance	1,500
Accountability and Lawful Governance	Direct Contracts	Direct Payment	1,424
Project Management	Direct Contracts	Direct Payment	1,000
Evaluation/Audit	Direct Contracts	Direct Payment	300
Contingency	-	-	<u>100</u>
TOTAL:			<u>7,000</u>

C. Monitoring and Evaluation Plan

The project management team will have the principal day-to-day monitoring responsibility for the overall project, but it is expected that collaborating institutions responsible for the implementation of various project activities will monitor progress in their respective areas. At a minimum quarterly meetings between institutions and the project management members will be held to assess the relevancy of inputs, the validity of expected outputs and, ultimately the realism of expected project achievements.

As discussed in Section VI.A, the project management team will regularly meet with Mission Management (semi-annually) to share information on project status, discuss issues or concerns, and determine whether changes or revisions to any elements of the project appear warranted. Monitoring data at the input level will be collected by the project management team and implementing organizations on the basis of contractor/grantee reports. The project management team will have the principal responsibility for assuring that the data is collected by these collaborating institutions on a quarterly basis. At the output level, narrative written reports, special studies, field reports and financial documents will serve to assess whether technical assistance, training, material support and other inputs have reached the intended beneficiaries and enhanced skills and knowledge as intended by the activities.

Evaluation of the project will follow standard A.I.D. procedures. Two project evaluations are scheduled over the LOP to assess the relevancy of project interventions in assisting

Kenya to consolidate and sustain improvements in democratic governance. The first, mid-term evaluation is scheduled in FY96, and would examine progress, constraints and issues. The Scope of Work for the evaluation will be developed by the project management team. As far as possible impact measurement level for project components will be emphasized, so that the mid-term evaluation will provide some indication of the likelihood of achieving the project stated objectives. The conduct of the evaluation will be the responsibility of independent experts outside USAID/Kenya and collaborating institutions. A three week effort is envisioned for this evaluation.

The final project evaluation is scheduled to take place in FY98 and will focus on the extent to which progress has been achieved in meeting the stated end of project status indicators. This evaluation will assess the extent to which performance has furthered the consolidation and sustainability of democratic governance in Kenya. The results of this evaluation are expected to heavily influence a decision on whether a follow-on project is justified in order to effectively support Kenya's political liberalization and progress towards good governance. The Scope of Work for this evaluation will be prepared by the project management team. An independent consulting team will undertake the evaluation and a four week level of effort is anticipated.

Project funds will be used to develop a baseline data base. A project management information system will be designed, a baseline survey and special studies will be conducted.

VII. CONDITIONS, COVENANTS AND NEGOTIATING STATUS

A. Conditions and Covenants

Except for standard project conditions precedent and covenants, this project does not propose any specific policy conditionality as this is not the appropriate instrument. No new policies or major administrative changes are required to properly implement the project. However, the Project Agreement or Memorandum of Understanding will include the government's assurance of non-interference in the activities to be undertaken by the Institute for Policy Analysis and Research, and in the civil society component of the project.

Conditions Precedent to Disbursement for National Assembly, Ministry of Finance, Controller and Auditor General, Public Accounts and Public Investment Committees, and Attorney General

Except as A.I.D. may otherwise agree in writing, prior to the disbursement by A.I.D. of any DFA financing for technical assistance, training or commodities made available under this Grant for the above-mentioned institutions or to the issuance by A.I.D. of documentation pursuant to which such disbursement will be made, the GOK shall furnish or have furnished to A.I.D., in form and substance satisfactory to A.I.D., documentation confirming that the GOK has formally concurred in writing with the terms of reference developed by the parties for technical assistance, monitoring and commodity/material procurement to be financed under this democracy and governance project.

B. Negotiating Status

During the design of this project, a number of Kenyan private sector institutions have participated in defining priority areas for project focus. USAID/Kenya has regularly engaged in dialogues with key implementing agencies, e.g. the National Assembly, the Ministry of Finance, the Attorney General/Judiciary, the Institute for Policy Analysis and Research, and various civic organizations, to ensure that the project is responsive to their needs. USAID/Kenya has received formal requests from the National Assembly, Ministry of Finance, the Attorney General and the Institute for Policy Analysis and Research. The Mission has also received informal requests from potential beneficiaries and proposals from various civic groups. The Mission, however, has yet to engage the government in a formal negotiation of this project.

LOGICAL FRAMEWORK
STRENGTHENING DEMOCRACY AND GOVERNANCE IN KENYA (615-0266)

NARRATIVE SUMMARY	OBJECTIVELY VERIFIABLE INDICATORS	MEANS OF VERIFICATION	IMPORTANT ASSUMPTIONS
<p>Goal: To promote a more tolerant and accommodating democratic culture.</p> <p>Purpose: To strengthen the capacity of key democratic institutions.</p>	<p>Measures of Goal Achievements:</p> <ul style="list-style-type: none"> * a reasonably viable system of checks and balances to show that public institutions at the national and local levels are accountable, transparent and accessible. * an increased active role in decision-making by institutions in civic society. * a reduced overall rate of human rights abuses. * an increased respect for the rule of law and a more independent judiciary. <p>End of Project Status:</p> <ul style="list-style-type: none"> Improved parliamentary ability to modify or even redraft legislation. Improved quality of parliamentary debate on major public policy issues. Increased access to and availability of information to Members of Parliament. <ul style="list-style-type: none"> Reduced variation between actual spending and budget allocation. Increased tax revenue. 	<ul style="list-style-type: none"> * International human rights reports, including State Department Country and Amnesty International reports. * Local NGOs human rights country reports. * Evaluations, assessments and similar documents on the status of democratic governance by USAID or other donors. <p>Legislative reports e.g. the Hansard. Legislative proposals made by MPs. Investigative reports or verifiable information given in press releases.</p> <p>Mid-term and final evaluation reports.</p> <p>Financial reports from the Budget Monitoring System, Appropriations Accounts by Controller and Auditor General.</p> <p>Ministry of Finance's publication on Estimates of Revenue.</p>	<p>GOK maintains its commitment to political democratization and takes significant, observable steps to improve its performance in regard to accountability, transparency and good governance.</p> <p>Parliament continues to function satisfactorily without interference from the ruling party (KANU).</p> <p>The Ministry of Finance remains committed to improving financial management and accountability.</p>

NARRATIVE SUMMARY	OBJECTIVELY VERIFIABLE INDICATORS	MEANS OF VERIFICATION	IMPORTANT ASSUMPTIONS
<p>Outputs: National Assembly capacity strengthened.</p> <p>Ministry of Finance capacity to monitor and account for public spending, and develop a transparent tax revenue system, is strengthened.</p> <p>65</p>	<p>Improved quality of government audited accounts.</p> <p>Improved follow-up of audit recommendations.</p> <p>Obsolete laws repealed and inconsistencies in laws eliminated, and relevant laws introduced to suit Kenya's market-oriented reforms and multiparty democracy.</p> <p>Increased policy dialogue and debate.</p> <p>A better informed civil society.</p> <p>Members of Parliament receive required support and training to enhance their skills.</p> <p>Staff of the Clerk to the National Assembly receive required support and training to enhance their skills.</p> <p>Budget Monitoring System is fully operational. Staff of tax revenue departments receive required training to enhance their skills.</p>	<p>Appropriations Accounts by Controller and Auditor General.</p> <p>Public Accounts and Public Investment Committees' reports/recommendations.</p> <p>The Kenya Constitution.</p> <p>IPAR policy studies/reports/seminars.</p> <p>Survey reports on assisted NGOs.</p> <p>Project progress reports.</p> <p>Mid-term and final evaluation reports.</p> <p>Field trip reports by MPs and staff of the Clerk to the National Assembly.</p> <p>Surveys and assessments carried out on skills acquired by MPs and the Clerk staff.</p> <p>Project progress reports.</p> <p>Mid-term and final evaluation reports.</p>	<p>The GOK continues to show interest in transparent auditing systems.</p> <p>The Attorney General continues to promote lawful governance.</p> <p>GOK does not restrict NGO operations.</p> <p>The National Assembly maintains its current coordination with the USG country team.</p> <p>The GOK continues to commit resources to develop budget monitoring system and to modernize tax administration.</p>

NARRATIVE SUMMARY	OBJECTIVELY VERIFIABLE INDICATORS	MEANS OF VERIFICATION	IMPORTANT ASSUMPTIONS
<p>Controller and Auditor General capacity is strengthened.</p>	<p>Staff of Controller and Auditor General's Office receive required training to enhance their accounting and auditing skills.</p>	<p>Project progress reports. Mid-term and final evaluation reports.</p>	
<p>Public Accounts and Public Investment Committee's capacity is improved.</p>	<p>Members of Parliament who constitute the PAC and PIC receive required support and training to enhance their skills for legislative audit oversight.</p>	<p>Project progress reports. Surveys and assessment on skills acquired by the PAC and PIC members. Mid-term and final evaluation reports.</p>	<p>The GOK implements audit recommendations.</p>
<p>Attorney General's Chambers' capacity is strengthened.</p>	<p>Staff of Attorney General's Chambers receive required training to enhance their ability to undertake legal research, legislative analysis and drafting.</p>	<p>Project progress reports. Mid-term and final evaluation reports.</p>	<p>The GOK remains committed to improving lawful governance.</p>
<p>Institute for Policy Analysis and Research's capacity is built.</p>	<p>Institutional structures for IPAR's policy analysis and research are in place. Policy/Research agenda is established. IPAR is functioning as a viable independent policy research institution.</p>	<p>Project progress reports. IPAR annual reports. Policy and research studies. Mid-term and final evaluation reports.</p>	<p>IPAR will secure additional funding from other donors.</p>
<p>Institutional Capacity of selected NGOs that promote democratic governance is strengthened.</p>	<p>NGOs carry out civic education programs. The press reports more freely and independently. Human rights and election monitoring groups undertake required activities.</p>	<p>Project progress reports. Mid-term and final evaluation reports.</p>	<p>The potential risks of supporting young civic groups will be recognized.</p>

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NARRATIVE SUMMARY	OBJECTIVELY VERIFIABLE INDICATORS	MEANS OF VERIFICATION	IMPORTANT ASSUMPTIONS
Items: Technical Assistance, Training, commodities and study tours for GOK institutions.	\$2.726 million	Project records. Reports from GOK institutions.	
Technical assistance, training, and salaries/allowances for IPAR.	\$1.5 million	Project records. Reports from IPAR.	
Civil society grants.	\$1.25 million	Project records.	
Project Management.	\$0.711 million	Project records.	
Technical Assistance (Audit and evaluation)	\$0.500 million	Project records.	
Contingency	\$0.313 million		
TOTAL:	\$7.0 million		

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Project 615-0266

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E.O. 12356: N/A

TAGS:

SUBJECT: STRENGTHENING DEMOCRACY AND GOVERNANCE IN KENYA
(PROJECT NO. - 615-0266)

REF (A) NAIROBI 12399 (3) PRELIMINARY ASSESSMENT AND PROPOSALS, MAY 1993

1. AID/W AGREES WITH MISSION THAT THE DOCUMENT IS EXHAUSTIVE AND IN MANY RESPECTS EXCEEDS THE REQUIREMENTS OF A FORMAL PID. MISSION IS THEREFORE ADVISED TO TREAT REF B AS A PID-LIKE DOCUMENT AND TO PROCEED WITH PID REVIEW, AND IF APPROVED, PROCEED WITH DEVELOPMENT AND APPROVAL OF PP ACCORDING TO MISSION'S TIMEFRAME AND SCHEDULE OUTLINED IN REF A, PARA 1. NEW PROJECT DESCRIPTION (NPD) CONCURRENCE TO PROCEED WITH DEVELOPMENT OF THE SUBJECT PROJECT IS HEREBY PROVIDED. A-AA/APR HEREBY DELEGATES AUTHORITY TO THE DIRECTOR, USAID/KENYA, OR TO THE PERSON ACTING IN THAT CAPACITY, TO APPROVE THE PID FOR THIS PROJECT IN AN APPROXIMATE AMOUNT OF DOLS 5-7 MILLION. THIS AD HOC DOA SHALL BE EXERCISED IN ACCORDANCE WITH ALL THE TERMS AND CONDITIONS OF DOA 551, EXCEPT FOR THE DOLLAR AMOUNT LIMITATION. BASED ON THIS PID APPROVAL DOA, THE MISSION MAY EXERCISE ITS DOA 551 AUTHORITY TO APPROVE THE PP.

2. APR/ONI WOULD APPRECIATE BEING CONSULTED IN THE DRAFTING OF THE PP FOR THE PROPOSED PROJECT. IT IS PREPARED TO ASSIST THE MISSION IN DEVELOPING THE PROJECT, IF USAID REQUIRES TDY ASSISTANCE. IN THIS REGARD, APR/ONI, STATE/HA AND GC/APR PROVIDE THEIR COMMENTS AND ISSUES BELOW FOR MISSION CONSIDERATION. ADDITIONAL APR/ONI AND STATE/HA COMMENTS HAVE BEEN POUCHED TO THE MISSION FOR FURTHER CONSIDERATION.

A. APR/ONI SHARES THE ASSESSMENT TEAM'S CONCLUSIONS ABOUT THE VERY TENUOUS NATURE OF KENYA'S POLITICAL ENVIRONMENT. THE LACK OF AGREEMENT ON ELECTION RULES, ETHNIC INTOLERANCE AND SUSPICION, ELECTION-RELATED VIOLENCE, THE CONSTRAINTS PLACED ON POLITICAL PARTY CAMPAIGN ACTIVITIES AND THE PRESS, AND THE QUESTIONABLE DEGREE OF TRANSPARENCY

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IN THE CONDUCT OF THE DECEMBER ELECTIONS UNDERLIE THE FRAGILE NATURE OF THE TRANSITION PROCESS IN KENYA. THE CURRENT POLITICAL ENVIRONMENT PRESENTS THE MISSION WITH ONEROUS STRATEGIC AND PROGRAMMATIC CHOICES.

B. THE PROPOSED PROJECT PURPOSE, TO CONSOLIDATE AND IMPROVE THE FRAGILE POLITICAL GAINS MADE TO DATE AND TO IMPROVE GOVERNANCE ARE LAUDABLE BUT VERY BROAD AND OPEN ENDED OBJECTIVES. THE MISSION SHOULD CONSIDER MOVING THEM UP TO THE GOAL OR SUB-GOAL LEVEL. AT THE SAME TIME, THREE OF THE FOUR PROPOSED INTERVENTION AREAS ARE ALSO QUITE BROADLY FOCUSED. WHILE THEY REPRESENT A BOLD APPROACH TO PROMOTING POLITICAL CONSOLIDATION AND IMPROVED GOVERNANCE, THE NATURE OF THE POLITICAL ENVIRONMENT AND THE COMPLEXITY OF THE BROAD INSTITUTIONAL PROBLEMS IN MOST OF THE TARGET AREAS WHEN COMPARED TO THE LIMITED HUMAN AND BUDGET RESOURCES AVAILABLE TO THE MISSION RAISES SERIOUS QUESTIONS REGARDING THE STRATEGIC RELEVANCE AND TECHNICAL FEASIBILITY OF CERTAIN OF THE PROPOSED INTERVENTIONS. A MORE PRUDENT USE OF THE LIMITED RESOURCES MIGHT BE TO FOCUS ON ONE OR TWO OF THE PROPOSED INTERVENTIONS DURING THE FIRST PHASE OF THE PROJECT.

C. AFR/ONI WOULD PLACE STRENGTHENING CIVIL SOCIETY HIGH ON THE LIST OF PROPOSED INTERVENTIONS AND CAUTION MISSION ON INTERVENTIONS THAT ARE DIRECTLY SUPPORTIVE OF THE CURRENT GOVERNMENT. AT THE SAME TIME, AFR/ONI WOULD RECOMMEND THAT THE PROJECT FOCUS ON THOSE INTERVENTIONS FOR WHICH THE UNDERLYING LEGAL AND REGULATORY ENABLING ENVIRONMENT IS MOST FAVORABLE.

I. THE FIRST PRIORITY SHOULD BE THE STRENGTHENING OF CIVIL SOCIETY, ESPECIALLY THOSE ASSOCIATIONS WHICH CONTRIBUTE TO IMPROVING GOVERNMENTAL ACCOUNTABILITY AND PERFORMANCE. THE STRENGTHENING OF POLITICAL PARTIES, PROVIDING IT IS DONE ON A NON-PARTISAN BASIS, SHOULD ALSO BE CONSIDERED.

II. SUPPORT FOR A FREE PRESS IS CLEARLY A HIGH PRIORITY FOR COUNTRIES IN THE INITIAL STAGES OF DEMOCRATIC TRANSITION. HOWEVER, THE ASSISTANCE CONTEMPLATED IN THIS AREA MAY NOT SUCCEED IF THE GOVERNMENT CONTINUES TO HARASS THE PRESS. MISSION NEEDS TO CAREFULLY REVIEW AGENCY REGULATIONS WHICH LIMIT ITS CAPACITY TO PROVIDE FUNDS DIRECTLY TO PRIVATE-FOR-PROFIT ORGANIZATIONS FOR AMONG OTHER THINGS SETTLING DEBTS. THE PP SHOULD SPELL OUT CLEARLY THE SEPARATE FUNCTIONS OF THE PRESS AS BOTH AN END

OF DEMOCRATIC REFORM AND AS A MEANS TOWARD ACCOMPLISHING DEMOCRATIC REFORM. STATE/HA SUGGESTS THIS IDEA SHOULD BE INCORPORATED INTO PROGRAM PLANNING.

III. ESTABLISHMENT OF AN INSTITUTE FOR POLICY ANALYSIS AND RESEARCH IS ALSO HIGH ON OUR LIST EVEN THOUGH THE PAYOFF MAY BE LONG TERM.

IV. STRENGTHENING THE NATIONAL ASSEMBLY MAY BE CRITICAL TO THE ESTABLISHMENT OF A FUNCTIONING DEMOCRACY IN KENYA, HOWEVER, IT IS NOT CLEAR THAT THE KENYA NATIONAL ASSEMBLY IS SUFFICIENTLY INDEPENDENT OF THE PRESIDENCY OR THAT THE OPPOSITION IS SUFFICIENTLY EMPOWERED WITHIN THE NATIONAL ASSEMBLY TO RENDER THE PROPOSED ASSISTANCE PRODUCTIVE. IF SUCH A CASE CAN BE MADE, THE PRIORITY ATTACHED TO THIS ACTIVITY WOULD INCREASE.

V. THE PROPOSED PROJECT COULD EMPHASIZE MORE STRONGLY THE NEED FOR A PROPERLY FUNCTIONING, INDEPENDENT JUDICIARY IN THE PROCESS OF DEMOCRATIZATION. THE ONLY JUDICIAL PROPOSAL IS AN ASSESSMENT OF THE NEEDS AND COSTS OF PROVIDING STENOGRAPHIC AND OTHER RECORDING EQUIPMENT TO THE COURT SYSTEM. SINCE NO OTHER DONOR WITH THE POSSIBLE EXCEPTION OF THE FORD FOUNDATION IS CONTEMPLATING ASSISTANCE AT THIS TIME, THIS IDEA SHOULD BE REASSESSED. THE PP SHOULD CONDUCT AN ASSESSMENT OF THE ABOVE MENTIONED EQUIPMENT TO DETERMINE WHAT ARE THE NEEDS. IN ADDITION, AN ASSESSMENT OF THE JUDICIARY SYSTEM SHOULD BE DONE (IE. THE COURT ADMINISTRATION, DELAY, PRISON CONDITIONS, COMPETENCE OF JUDGES, ETC.)

VI. AS SUGGESTED BY THE ASSESSMENT TEAM, THE MISSION SHOULD CONSIDER DELAYING ASSISTANCE TO THE ELECTORAL COMMISSION IN VOTER REGISTRATION UNTIL SUCH TIME THAT THE GOVERNMENT IS CLEAR ON ITS COMMITMENT TO DEMOCRATIC

PRINCIPLES WHICH CAN BEST BE DEMONSTRATED AND REFLECTED THROUGH PROGRESSIVE CHANGES IN THE ENABLING ENVIRONMENT, INCLUDING ELECTION AND CAMPAIGN FINANCE LAW.

VII. INCREASED ACCOUNTABILITY OF THE PUBLIC SECTOR SHOULD BE AN IMPORTANT AIM OF THE PROJECT. NOTWITHSTANDING THE CRITICAL NEED TO REDUCE CORRUPTION IN KENYA, ACHIEVEMENT OF THIS OBJECTIVE DEPENDS HEAVILY ON THE COMMITMENT OF THE EXECUTIVE TO IMPROVING PUBLIC SECTOR GOVERNANCE. THE CASE FOR SUCH A COMMITMENT IS NOT MADE IN THE PRELIMINARY ASSESSMENT.

D. POLITICAL PARTIES. THE PP SHOULD ENSURE THAT ANY SUPPORT FOR POLITICAL PARTIES IS CONSISTENT WITH THE GUIDELINES CONTAINED IN 92 STATE 390000 (9 DEC. 1992), AS WELL AS THE AID D/G POLICY PAPER. WITHOUT LIMITATION, SUPPORT FOR POLITICAL PARTIES SHOULD BE ON AN EXCEPTIONAL BASIS, LIMITED TO TRAINING ACTIVITIES CONDUCTED BY NON-

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PARTISAN NGOS. THE GRANTS TO THE NGOS SHOULD EMPHASIZE THE IMPORTANCE OF THE APPEARANCE, AS WELL AS THE ACTUALITY, OF FAIRNESS. TRAINING MUST BE AVAILABLE TO ALL POLITICAL PARTIES COMMITTED TO THE DEMOCRATIC PROCESS. WHILE IT IS PREFERABLE THAT TRAINING BE PROVIDED TO THEM AS A GROUP, IN SOME CASES THIS WILL NOT MEET THEIR NEEDS. THUS, WHILE IN SOME CASES TRAINING MAY BE PROVIDED INDIVIDUALLY, IT IS CRITICAL THAT THERE IS EQUALITY OF ACCESS TO IT, AND THAT ALL GROUPS BE MADE EQUALLY AWARE OF ITS AVAILABILITY.

E. ELECTORAL SUPPORT. USE OF DFA FUNDS FOR COMMUNITIES IN CONNECTION WITH ELECTORAL SUPPORT (SUCH AS COMPUTERS FOR THE NEC) IS CONSISTENT WITH AFR POLICY SO LONG AS IT IS IN CONNECTION WITH CAPACITY BUILDING, PREFERABLY IN CONJUNCTION WITH TA, BUT NOT FOR A ONE TIME ACQUISITION SUCH AS FOR BALLOT BOXES.

F. IT APPEARS THAT MANY OF THE PROPOSED ACTIVITIES MAY MORE APPROPRIATELY BE AUTHORIZED UNDER FAA 116(E), RATHER THAN DFA (SEC. 496) AUTHORITY. AT THIS POINT SUCH ACTIVITIES APPEAR TO INCLUDE MOST GENERAL LEGISLATIVE ACTIVITIES, SUPPORT FOR ELECTIONS AND POLITICAL PARTIES, AND MANY OF THE SMALL GRANTS NORMALLY MADE UNDER THE 116(E) PROGRAM, ALTHOUGH WE RECOGNIZE THAT JUDGMENTS ABOUT SPECIFIC ACTIVITIES CAN BE MORE PRECISELY MADE WHEN THEIR DETAILS ARE KNOWN. TO ENABLE THE PROJECT TO BE AUTHORIZED JOINTLY UNDER 496 AND 116(E), AFR HAS CONSULTED WITH STATE/HA, WHICH HAS CLEARED THIS CABLE.

G. HUMAN RIGHTS. THE PIDIS TREATMENT OF HUMAN RIGHTS IS INADEQUATE. THE PID PROPOSES TO ADDRESS REPRESSIVE LAWS,

POLICE BRUTALITY, VIOLENCE AND THE EFFECTS OF QUOTE LAND CLASHES UNQUOTE, FREEDOM OF THE PRESS, AND SOCIAL

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DISLOCATION AND HUMAN WELFARE. THE PROPOSAL DOES NOT ADDRESS THESE AREAS PROPERLY GIVEN THE FINANCIAL AND OTHER CONSTRAINTS TO USING FUNDS UNDER THE DEMOCRACY AND HUMAN RIGHTS FUND (DHRF). TO PRESERVE DERT TO MEET NEEDS ELSEWHERE, HA WOULD LIKE TO SEE HUMAN RIGHTS PROJECTS FINANCED DIRECTLY BY THIS PROJECT. HOWEVER, SINCE THIS RAISES A NUMBER OF ISSUES (INCLUDING EMBASSY OR MISSION MANAGEMENT OF THESE ACTIVITIES), AID/W WOULD LIKE TO EXPLORE THIS FURTHER WITH THE MISSION.

H. FAA SEC. 653. FAA SEC. 663 PROHIBITS THE USE OF FAA FUNDS OR LOCAL CURRENCY CONTRIBUTIONS TO PROVIDE ASSISTANCE TO POLICE, PRISONS, OR OTHER LAW ENFORCEMENT FORCES. IN DEVELOPING COUNTRIES, SOME GOVERNMENTAL ENTITIES, SUCH AS CUSTOMS ENTITIES, SOMETIMES HAVE ATTRIBUTES WHICH DEEM THEM LAW ENFORCEMENT FORCES, WHERE THAT MIGHT NOT NECESSARILY BE THE CASE IN THE US. THE PP SHOULD CAREFULLY REVIEW ENTITIES WHICH WILL RECEIVE ASSISTANCE FOR THIS POINT, PARTICULARLY IN AREAS SUCH AS TAX ENFORCEMENT. THE MISSION AND PLA VANCE HAVE PREVIOUSLY DEALT WITH THIS ISSUE IN THE CUSTOMS AREA.

I. SEC. 511(A). TO MEET SEC. 511(A) ADEQUATE PLANNING REQUIREMENTS, THE PP SHOULD ESTABLISH CRITERIA AND PROCEDURES FOR SUBACTIVITY SELECTION, EXPLAIN THE ANALYTICAL BASIS FOR SELECTING THE CRITERIA, AND (TO JUSTIFY THE AMOUNT OF FUNDING) CONTAIN AN ILLUSTRATIVE LIST OF SUBACTIVITIES, COSTED OUT, AT LEAST EQUALLING THE AUTHORIZED AMOUNT.

J. IEE. AS PART OF THE PID PROCESS, THE MISSION SHOULD SUBMIT AN IEE TO THE BUREAU ENVIRONMENTAL OFFICER.

3. IN ADDITION TO CONSULTATION WITH AFR/ONI, AID/W RECOMMENDS THAT THE MISSION PROJECT COMMITTEE INCLUDE APPROPRIATE REDSO/EA STAFF TO REVIEW THE REF CABLE AND ASSESSMENT.

4. MISSION SHOULD DETERMINE WHETHER FUNDS IN ITS CURRENT FY 1993 OYB CAN ACCOMMODATE THIS PROJECT. MISSION HOWEVER CAN PROCEED TO DEVELOP THE PP.

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REPUBLIC OF KENYA

ANNEX C

Telegraphic Address:
"Bunge," Nairobi
Telephone: 21291
When replying please quote



CLERK'S CHAMBERS
NATIONAL ASSEMBLY
PARLIAMENT BUILDINGS
P.O. Box 41842
NAIROBI, KENYA

Ref: No. CORR. 3/1/1/211
and date

12th October 1993

Ambassador Auriela Brazeal,
Embassy of the United
States of America,
NAIROBI.

Dear *Dr. Westley*

REF: INSTITUTIONAL SUPPORT FOR PARLIAMENT

Reference is made to various discussions over the past few months and as a result I enclose herewith a short write-up of a programme for institutional support to Parliament. It is appreciated that this is a discussion document and that areas and levels of funding will be discussed inhouse by you and your colleagues.

It is understood in the final analysis that procurement of the equipment will be through USAID sources but installation of the same will be the responsibility of Kenya Parliament. As far as we are concerned, we put premium on all activities.

I am looking forward to hearing from you.

Yours *sincerely*

A handwritten signature in cursive script, appearing to read "Japhet K. Masya".

JAPHET K. MASYA
CLERK OF THE NATIONAL ASSEMBLY

- ✓ c.c. Dr. John Westley, U.S.A.I.D., Kenya
Mr. Fred La Sor, U.S.I.S.,
Dr. Joel D. Barkan, U.S.A.I.D./REDSO, Nairobi.

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PARLIAMENT GOVERNANCE IMPROVEMENT PROGRAMME 1993-1997

1. BACKGROUND

Parliament has been aware of the need to improve its operations especially in human and physical resource planning, research and data handling capacity. In the past attempts at improvements have not attracted resources for the institution was not viewed in developmental terms. Fortunately current concern with governance have created possibilities for there is interest in supporting Parliament to improve itself in the country as well as in the donor community. Parliament's needs have been discussed within Government and with some interested donors over the past year.

Parliament's work load is going to increase and diversify as in the multi party era as new demands are put on the institution. It is therefore important that its internal management process be put on long term sound basis by developing a strategic plan which will review past operations, physical and human resources and systematically identify solutions for anticipated growth of the institution.

2. PROJECT OBJECTIVES

Primary Objective

The project's primary objective is institutional strengthening of Parliament.

Sub-objectives

1. Train Senior Staff on issues of organisational development related to producing a working strategic plan.
2. Improve the production of Hansard by training staff in desk top publishing and acquiring equipment for it.
3. Increase the library research capacity by training staff and modernising equipment.
4. Train staff to increase their effectiveness.
5. Expose MPs to other legislative systems with a view to improving their effectiveness.

3. PROJECT ACTIVITIES

A. SENIOR STAFF ORGANISATIONAL DEVELOPMENT SEMINAR

Parliament recognises that one area it needs to improve and soon is the management of the institution. Perhaps nothing will contribute to the improvement of services within Parliament than training in organisational development where the 10 key management staff (including the Clerk to Parliament) will review their operations, discuss improvements and set targets for their work.

It is proposed that the 10 senior staff hold a 3-4 week seminar within country during January /February 1994. This seminar should address inter alia 1. Distribution of work 2. Staff and staffing needs 3. Financial needs 4. Space and Equipment needs 5. Organisational decision

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making processes 6. Human resources needs 7. Research needs. 8. Management of Parliament's plant and 9. Management of the Chamber 10. Management of Committees. It is expected that out of the month long seminar a strategic plan would emerge.

It is proposed that the training be conducted by two consultants, preferably one with experience of OD training locally and one with OD training experience of American legislatures. It is estimated that this activity will cost US\$ 90,000.

B. TRAINING RESEARCH LIBRARIANS

Parliament has, like the rest of Government, been loosing a lot of Librarians in the recent past. There apparently is great demand of Librarians in the national market. Yet the operation of Parliament Library is crucial for research. To date, Parliament has not had the capacity to do research outside its own past operations. It is clear that this is not satisfactory for the future. There will be need to get Parliamentary Library staff to do research outside its past records. The key need therefore is to train library research staff. No formal systems for training in this area exist in the country. It is therefore proposed that this training be in the United States and it be for a year long period. The training programme should be essentially by attachment to Congressional Staff and should concentrate on research on matters coming to Congress.

Although bonding of trained personnel is not the current norm, discussions with the Directorate of Personnel Management and Parliament are afoot seeking a solution to the losses. Perhaps by upgrading the job status will lead to retention of staff.

The demand is for six librarians over and above clerks who will be involved in some research. Since there is need for specialisation, it is proposed that the six will be recruited from individuals with background in law, journalism, economics, sociology, political science, environment, science and information science. It is proposed that two of them go for training in 1994, 1995 and 1996 respectively. The total training package will cost around US\$ 210,000

C. STAFF TRAINING

Parliamentary administrative staff are usually trained on the job for there is no formal training institute which is able to train them before they join the institution. Some of the staff who have been on the job have essentially picked enough experience to fulfil their roles. There is need to upgrade their knowledge. Second and perhaps more critical for the functioning of Parliament, is the need to induct new staff into the legislative processes. New staff have to be recruited since the establishment was never fulfilled. The increase in numbers is targeted towards improving the performance of Parliament. The third reason for thinking of new training programme is the increase in the complex nature of multi-party parliament and workload of the whole legislative process. It is expected that the demands which will be put on the staff by Parliamentarians will increase. There will also be the need for understanding the functioning of multiparty legislatures.

Training areas desired are essentially in procedures and practices of Parliaments; drafting of questions; research on debates and handling of enquiries. Advise to Members on all of these issues is a critical skill for the Clerk' Office staff.

It is planned that 30 staff be trained through short internships in the US. It is proposed that 8 staff be attached to state legislatures over the next three years and 6 staff in the fourth year. Attachments should be for a period of 3 months. The bulk of the time should be spent in state legislatures with limited period spent with Congressional staff. When they are on this attachment, they should also be attached to the Canadian Provincial Parliaments or the Canadian Parliament in Ottawa. It is estimated that this training will cost about US\$ 270,000 for the four year period and about US\$ 72,000 during the first year.

D. UPGRADING THE PRODUCTION OF HANSARD

Currently Hansard production is based on taping debates, transcription of the tape, word processing of the text and final copy production at Government Printer, where Parliament competes for attention with all other business. The word processing system needs updating. Its work stations have no memory. This system cannot produce final hard copy Hansard, Order Paper and Votes and Proceedings for the business of the House expeditiously. Sources of inefficiency are at word processing where existing capacity is not adequate and having to rely on Government Printer for final copies.

It is proposed that Five stand alone computers be procured for the purpose of desk top publishing of Hansard to final copy. These computers should be at least a 486 machine, have at least 250 MB tape drive, CD ROM, scanner, desk top publishing software and have ports for future external memory expansion. Four laser printers and one dot matrix printers and a quality high speed photocopier are ancillary equipment. Local companies should be considered to assure servicing. This activity is of great urgency and it is proposed that the procurement be undertaken during 1993. It is estimated that the total cost of this process including training of staff in the equipment will cost US\$ 200,000.

E. UPGRADING LIBRARY DATA HANDLING CAPACITY

Normal operations in Parliament require extensive reference and use of old Hansard and other national policy documents. This involves significant amounts of research and handling of stored materials. Experience in many legislatures points out that having these materials in CD ROM aids utilisation as well as cutting research time. One of the key requirements in the Library is the ability to put past Hansard records on CD ROM to facilitate their retrieval, to improve storage and to facilitate use. The equipment required will be two 486 computers, CD ROM, scanner, writer, converter and peripherals. The second computer will be used for general administrative support. Experience with past equipment suggests that the suppliers should have local outlets to facilitate maintenance. It is estimated that the whole package, including training and consultancy will cost US\$. 100,000.

F. MP TOURS

Slightly more than half of the Members of Parliament have no legislative experience. It is important that they be exposed to other legislatures especially those which operate in multi-party situations. This will facilitate their thinking through the MP role and understanding alternative organisational formats and processes of legislating since this is one of the issues under debate in the country.

Parliament has already had a seminar for all the MPs on procedures and practices in country. Thirteen Parliamentarians have already gone to United States under USAID sponsorship for a period of three weeks. This initial group spent some time in Congress and some with state legislators. Generally, the experience in state legislatures seems to have been more useful. It would be desirable that future tours be biased to MPs spending more time in state legislatures. On the way to and back from the US, it would be useful if MPs can get exposure to Commonwealth Parliaments, say in Canada, UK or Caribbean for procedures and practices in the Commonwealth tend to be similar.

The target for these tours is to expose as many as 130 MPs to other legislatures. From a programming point of view, there is a problem since the only times they can go are in January/February; May/June and August/September. The Public Accounts and Public Investments Committees meet during the later period and this could present problems. It is proposed that one lot of two lots of 15 go for the three week tour in 1994, 1995 and 1996. The total cost for this activity is estimated as US\$ 720,000

4. BUDGET SUMMARY

SENIOR STAFF ORGANISATIONAL DEVELOPMENT SEMINAR	US\$ 90,000
UPGRADING THE PRODUCTION OF HANSARD	US\$ 200,000
UPGRADING LIBRARY DATA HANDLING CAPACITY	US\$ 100,000
TRAINING RESEARCH LIBRARIANS	US\$ 210,000
STAFF TRAINING	US\$ 270,000
MP TOURS	<u>US\$ 720,000</u>
TOTAL	<u>US\$1,590,000</u>

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Embassy of the United States of America



Nairobi, Kenya
November 8, 1993

Mr. Japhet K. Masya, Clerk
Kenya National Assembly
Clerk's Chambers
Parliament Buildings
P.O. Box 41842
Nairobi, Kenya

[Handwritten signature and initials]

Dear Mr. Masya:

This is to acknowledge, with appreciation, your letter of October 12 and the accompanying attachment describing the Parliament Governance Improvement Programme 1993-97. As you know from discussions with Dr. Barkan and the staff at the USAID Kenya mission, and from discussions with the recent team of consultants from the National Council for State Legislatures, we will give this program our most serious consideration. In this regard, we hope to provide an appropriate package of assistance as part of USAID's democratic governance program.

I look forward to the outcome of further discussions between yourself and USAID that will result in the final design of this project. The United States will certainly do what it can to support this effort.

With best wishes, I am

Sincerely,

Aurelia E. Brazeal
Ambassador

DRAFTED:AID:JBarkan
APPROVED:AMB:AEBrazeal
CLEARED:USIS:FLaSor

[Handwritten initials]

bcc: AID/JBarkan, ~~AID/JBarkan~~, DCM/EMSouthwick, USIS/FLaSor

ANNEX --

PAGE 1

INITIAL ENVIRONMENTAL EXAMINATION

OR

CATEGORICAL EXCLUSION

Project Country: Kenya

Project Title and Number: Democracy and Governance, 615-0266

Funding: DFA, Grant, \$7.00 Million

IEE/CE Prepared by: Steffi Meyer, USAID/Kenya

Environmental Action Recommended:

Positive Determination: _____

Negative Determination: _____

Categorical Exclusion: _____ X _____

It is recommended that this project be categorically excluded from further environmental review pursuant to AID Regulation 22 CFR 216 (c) (2) (i) because the project consists of "education, technical assistance, or training programs."

Concurrence: [Signature]
 Bureau Environmental Officer,

Approved: [Signature]
 Disapproved: _____
 Date: 11/15/93

Clearance:
 GC/AFR: MA Kiewan
 Date: 12/21/93

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INITIAL ENVIRONMENTAL EXAMINATION

OR

CATEGORICAL EXCLUSION

Project Country: Kenya

Project Title and Number: Democracy and Governance, 615-0266

Funding: DFA, Grant, \$7.00 Million

IEE/CE Prepared by: SM Steffi Meyer, USAID/Kenya

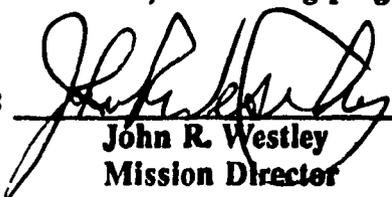
Environmental Action Recommended:

Positive Determination: _____

Negative Determination: _____

Categorical Exclusion: _____ X _____

It is recommended that this project be categorically excluded from further environmental review pursuant to AID Regulation 22 CFR 216 (c) (2) (i) because the project consists of "education, technical assistance, or training programs."

Action Requested By: 
 John R. Westley
 Mission Director

Date: 11/9/93

Clearance: Eric R. Loken, REO: ERL

AVance, RLA: 

Concurrence: _____
 Bureau Environmental Officer,
 AFR/ARTS/FARA

Date: _____

GC/AFR: _____

Date: _____

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INITIAL ENVIRONMENTAL EXAMINATION

A. Description of the Project:

Kenya's political and economic status has suffered numerous setbacks since 1986. To restore the lost pace of economic development will require that progress be made with respect to political development, specifically further movement towards a democratic political system and improved governance on the part of the Government of Kenya. The proposed project seeks to support the establishment of a more tolerant and institutionalized system of democratic governance throughout the country.

The purpose of the project is twofold: 1) to strengthen the capacity of key democratic institutions in Kenya; and 2) to improve governance through training, civic education and institutional strengthening. The specific project target institutions are: The Parliament and the Institute for Policy Analysis and Research. Other areas of support include Governance/Accountability and Civil Society, especially with respect to Election Monitoring and Civic Education.

B. Identification and Evaluation of Environmental Impact:

The project is strictly a training and institutional capacity building project. As such, it is expected to have no significant impact on the physical environment. Socially, it will profoundly affect the lives of those who participate in the training programs. Politically, it will affect the political environment in Kenya through the institutions that benefit from the institutional strengthening component of the project.

C. Recommended Environmental Threshold Decision:

Based on the above, it is recommended that the project receive a Categorical Exclusion from further environmental review pursuant to AID Regulation 22 CFR 216.2 (c) (2) (i) because it consists of "education, technical assistance, or training programs."

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5C(2) - ASSISTANCE CHECKLIST

Listed below are statutory criteria applicable to the assistance resources themselves, rather than to the eligibility of a country to receive assistance. This section is divided into three parts. Part A includes criteria applicable to both Development Assistance and Economic Support Fund resources. Part B includes criteria applicable only to Development Assistance resources. Part C includes criteria applicable only to Economic Support Funds.

CROSS REFERENCE: IS COUNTRY CHECKLIST UP TO DATE?

In process.

A. CRITERIA APPLICABLE TO BOTH DEVELOPMENT ASSISTANCE AND ECONOMIC SUPPORT FUNDS

1. Host Country Development Efforts
(FAA Sec. 601(a)): Information and conclusions on whether assistance will encourage efforts of the country to:
(a) increase the flow of international trade; (b) foster private initiative and competition; (c) encourage development and use of cooperatives, credit unions, and savings and loan associations; (d) discourage monopolistic practices; (e) improve technical efficiency of industry, agriculture, and commerce; and (f) strengthen free labor unions.

The Project will promote the creation of a conducive environment for private initiative and competition among local institutions through the strengthening of the democratic process and institutions.

2. U.S. Private Trade and Investment
(FAA Sec. 601(b)): Information and conclusions on how assistance will encourage U.S. private trade and investment abroad and encourage private U.S. participation in foreign assistance programs (including use of private trade channels and the services of U.S. private enterprise).

U.S. based technical assistance will be used to establish a budget management system and a U.S. PVO will implement the project assistance to Parliament.

3. Congressional Notification

a. General requirement (FY 1994 Appropriations Act Sec. 515; FAA Sec. 634A): If money is to be obligated for an activity not previously justified

Yes.
A Congressional Notification was sent to the Congress on 12/14/93

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to Congress, or for an amount in excess of amount previously justified to Congress, has Congress been properly notified (unless the Appropriations Act notification requirement has been waived because of substantial risk to human health or welfare)?

and expired on 12/29/93 without objection.

b. Special notification requirement (FY 1994 Appropriations Act Sec. 520): Are all activities proposed for obligation subject to prior congressional notification?

Yes.

c. Notice of account transfer (FY 1994 Appropriations Act Sec. 509): If funds are being obligated under an appropriation account to which they were not appropriated, has the President consulted with and provided a written justification to the House and Senate Appropriations Committees and has such obligation been subject to regular notification procedures?

N/A.

d. Cash transfers and nonproject sector assistance (FY 1994 Appropriations Act Sec. 537(b)(3)): If funds are to be made available in the form of cash transfer or nonproject sector assistance, has the Congressional notice included a detailed description of how the funds will be used, with a discussion of U.S. interests to be served and a description of any economic policy reforms to be promoted?

N/A.

4. Engineering and Financial Plans (FAA Sec. 611(a)): Prior to an obligation in excess of \$500,000, will there be: (a) engineering, financial or other plans necessary to carry out the assistance; and (b) a reasonably firm estimate of the cost to the U.S. of the assistance?

N/A.

5. Legislative Action (FAA Sec. 611(a)(2)): If legislative action is required within recipient country with respect to an obligation in excess of \$500,000, what is the basis for a

N/A.

reasonable expectation that such action will be completed in time to permit orderly accomplishment of the purpose of the assistance?

6. **Water Resources (FAA Sec. 611(b)):**
If project is for water or water-related land resource construction, have benefits and costs been computed to the extent practicable in accordance with the principles, standards, and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.)? (See A.I.D. Handbook 3 for guidelines.)

N/A.

7. **Cash Transfer/Nonproject Sector Assistance Requirements (FY 1994 Appropriations Act Sec. 537).** If assistance is in the form of a cash transfer or nonproject sector assistance:

a. **Separate account:** Are all such cash payments to be maintained by the country in a separate account and not commingled with any other funds (unless such requirements are waived by Congressional notice for nonproject sector assistance)?

N/A.

b. **Local currencies:**
If assistance is furnished to a foreign government under arrangements which result in the generation of local currencies:

(1) Has A.I.D. (a) required that local currencies be deposited in a separate account established by the recipient government, (b) entered into an agreement with that government providing the amount of local currencies to be generated and the terms and conditions under which the currencies so deposited may be utilized, and (c) established by agreement the responsibilities of A.I.D. and that government to monitor and account for deposits into and disbursements from the separate account?

(a) N/A.

(b) N/A.

(c) N/A.

(2) Will such local currencies, or an equivalent amount of local currencies, be used only to carry out the purposes of the DA or ESF chapters of the FAA (depending on which chapter is the source of the assistance) or for the administrative requirements of the United States Government?

N/A.

(3) Has A.I.D. taken all appropriate steps to ensure that the equivalent of local currencies disbursed from the separate account are used for the agreed purposes?

N/A.

(4) If assistance is terminated to a country, will any unencumbered balances of funds remaining in a separate account be disposed of for purposes agreed to by the recipient government and the United States Government?

N/A.

8. Capital Assistance (FAA Sec. 611(e)): If project is capital assistance (e.g., construction), and total U.S. assistance for it will exceed \$1 million, has Mission Director certified and Regional Assistant Administrator taken into consideration the country's capability to maintain and utilize the project effectively?

N/A.

9. Multiple Country Objectives (FAA Sec. 601(a)): Information and conclusions on whether projects will encourage efforts of the country to: (a) increase the flow of international trade; (b) foster private initiative and competition; (c) encourage development and use of cooperatives, credit unions, and savings and loan associations; (d) discourage monopolistic practices; (e) improve technical efficiency of industry, agriculture and commerce; and (f) strengthen free labor unions.

The Project aims to strengthen key democratic institutions which will help in challenging corrupt practices that hinder private initiative and competition thereby freeing resources for the enhancement of technical efficiency in various sector of the economy.

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10. **U.S. Private Trade** (FAA Sec. 601(b)): Information and conclusions on how project will encourage U.S. private trade and investment abroad and encourage private U.S. participation in foreign assistance programs (including use of private trade channels and the services of U.S. private enterprise).

The Project is not designed to encourage U.S. investment per se but will create an enabling environment. This may lead to added investment/market opportunities in Kenya for U.S. firms.

11. **Local Currencies**

a. **Recipient Contributions** (FAA Secs. 612(b), 636(h)): Describe steps taken to assure that, to the maximum extent possible, the country is contributing local currencies to meet the cost of contractual and other services, and foreign currencies owned by the U.S. are utilized in lieu of dollars.

Based on the illustrative project budget, GOK will contribute up to 35% of the total project costs.

b. **U.S.-Owned Currency** (FAA Sec. 612(d)): Does the U.S. own excess foreign currency of the country and, if so, what arrangements have been made for its release?

The U.S. owns no excess Kenya shillings.

12. **Trade Restrictions**

a. **Surplus Commodities** (FY 1994 Appropriations Act Sec. 513(a)): If assistance is for the production of any commodity for export, is the commodity likely to be in surplus on world markets at the time the resulting productive capacity becomes operative, and is such assistance likely to cause substantial injury to U.S. producers of the same, similar or competing commodity?

N/A.

b. **Textiles (Lautenberg Amendment)** (FY 1994 Appropriations Act Sec. 513(c)): Will the assistance (except for programs in Caribbean Basin Initiative countries under U.S. Tariff Schedule "Section 807," which allows reduced tariffs on articles assembled abroad from U.S.-made components) be used directly to procure feasibility studies, prefeasibility studies, or project profiles of potential

No.

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investment in, or to assist the establishment of facilities specifically designed for, the manufacture for export to the United States or to third country markets in direct competition with U.S. exports, of textiles, apparel, footwear, handbags, flat goods (such as wallets or coin purses worn on the person), work gloves or leather wearing apparel?

13. **Tropical Forests** (FY 1991 Appropriations Act Sec. 533(c)(3) (as referenced in section 532(d) of the FY 1993 Appropriations Act): Will funds be used for any program, project or activity which would (a) result in any significant loss of tropical forests, or (b) involve industrial timber extraction in primary tropical forest areas?

No.

14. **PVO Assistance**

a. **Auditing and registration** (FY 1994 Appropriations Act Sec. 568): If assistance is being made available to a PVO, has that organization provided upon timely request any document, file, or record necessary to the auditing requirements of A.I.D., and is the PVO registered with A.I.D.?

*The Project is likely to fund the establishment of some new PVOs e.g., IPAR. The PVOs will not be required to register with USAID/W before assistance is provided because of the unique nature of PVOs that are likely to benefit however, they will be subjected to A.I.D. audit requirements.

b. **Funding sources** (FY 1994 Appropriations Act, Title II, under heading "Private and Voluntary Organizations"): If assistance is to be made to a United States PVO (other than a cooperative development organization), does it obtain at least 20 percent of its total annual funding for international activities from sources other than the United States Government?

N/A.

* To be decided at the PRC.

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15. Project Agreement Documentation

(State Authorization Sec. 139 (as interpreted by conference report)):

Has confirmation of the date of signing of the project agreement, including the amount involved, been cabled to State L/T and A.I.D. LEG within 60 days of the agreement's entry into force with respect to the United States, and has the full text of the agreement been pouched to those same offices? (See Handbook 3, Appendix 6G for agreements covered by this provision).

N/A.

16. Metric System (Omnibus Trade and Competitiveness Act of 1988 Sec. 5164, as interpreted by conference report, amending Metric Conversion Act of 1975 Sec. 2, and as implemented through A.I.D. policy): Does the assistance activity use the metric system of measurement in its procurements, grants, and other business-related activities, except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms?

Yes.

Are bulk purchases usually to be made in metric, and are components, subassemblies, and semi-fabricated materials to be specified in metric units when economically available and technically adequate?

Yes.

Will A.I.D. specifications use metric units of measure from the earliest programmatic stages, and from the earliest documentation of the assistance processes (for example, project papers) involving quantifiable measurements (length, area, volume, capacity, mass and weight), through the implementation stage?

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17. **Abortions** (FAA Sec. 104(f);
FY 1994 Appropriations Act, Title II,
under heading "Population, DA,"
and Sec. 518):

a. Are any of the funds to be used for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions? No.

b. Are any of the funds to be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations? No.

c. Are any of the funds to be made available to any organization or program which, as determined by the President, supports or participates in the management of a program of coercive abortion or involuntary sterilization? No.

d. Will funds be made available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services? (As a legal matter, DA only.) N/A.

e. In awarding grants for natural family planning, will any applicant be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning? (As a legal matter, DA only.) N/A.

f. Are any of the funds to be used to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning? N/A.

g. Are any of the funds to be made available to any organization if the President certifies that the use of these funds by such organization would violate any of the above provisions related to abortions and involuntary sterilization?

No.

18. **Cooperatives** (FAA Sec. 111): Will assistance help develop cooperatives, especially by technical assistance, to assist rural and urban poor to help themselves toward a better life?

N/A.

19. **U.S.-Owned Foreign Currencies**

a. **Use of currencies** (FAA Secs. 612(b), 636(h); FY 1994 Appropriations Act Secs. 503, 505): Are steps being taken to assure that, to the maximum extent possible, foreign currencies owned by the U.S. are utilized in lieu of dollars to meet the cost of contractual and other services.

N/A.

b. **Release of currencies** (FAA Sec. 612(d)): Does the U.S. own excess foreign currency of the country and, if so, what arrangements have been made for its release?

No.

20. **Procurement**

a. **Small business** (FAA Sec. 602(a)): Are there arrangements to permit U.S. small business to participate equitably in the furnishing of commodities and services financed?

No special arrangement but will be given priority where appropriate.

b. **U.S. procurement** (FAA Sec. 604(a)): Will all procurement be from the U.S., the recipient country, or developing countries except as otherwise determined in accordance with the criteria of this section?

Yes.

c. **Marine insurance** (FAA Sec. 604(d)): If the cooperating country discriminates against marine insurance companies authorized to do business in

Yes.

the U.S., will commodities be insured in the United States against marine risk with such a company?

d. Non-U.S. agricultural procurement (FAA Sec. 604(e)): If non-U.S. procurement of agricultural commodity or product thereof is to be financed, is there provision against such procurement when the domestic price of such commodity is less than parity? (Exception where commodity financed could not reasonably be procured in U.S.)

N/A.

e. Construction or engineering services (FAA Sec. 604(g)): Will construction or engineering services be procured from firms of advanced developing countries which are otherwise eligible under Code 941 and which have attained a competitive capability in international markets in one of these areas? (Exception for those countries which receive direct economic assistance under the FAA and permit United States firms to compete for construction or engineering services financed from assistance programs of these countries.)

N/A.

f. Cargo preference shipping (FAA Sec. 603): Is the shipping excluded from compliance with the requirement in section 901(b) of the Merchant Marine Act of 1936, as amended, that at least 50 percent of the gross tonnage of commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers) financed shall be transported on privately owned U.S. flag commercial vessels to the extent such vessels are available at fair and reasonable rates?

No.

g. Technical assistance

(FAA Sec. 621(a)): If technical assistance is financed, will such assistance be furnished by private enterprises on a contract basis to the fullest extent practicable? Will the facilities and resources of other Federal agencies be utilized, when they are particularly suitable, not competitive with private enterprise, and made available without undue interference with domestic programs?

Technical assistance will be furnished by private enterprises on a contract basis to the fullest extent practicable. Use of other Federal agencies is not contemplated.

h. U.S. air carriers

(International Air Transportation Fair Competitive Practices Act, 1974): If air transportation of persons or property is financed on grant basis, will U.S. carriers be used to the extent such service is available?

Yes.

i. Consulting services

(FY 1994 Appropriations Act Sec. 567): If assistance is for consulting service through procurement contract pursuant to 5 U.S.C. 3109, are contract expenditures a matter of public record and available for public inspection (unless otherwise provided by law or Executive order)?

Yes.

j. Metric conversion (Omnibus

Trade and Competitiveness Act of 1988, as interpreted by conference report, amending Metric Conversion Act of 1975 Sec. 2, and as implemented through A.I.D. policy): Does the assistance program use the metric system of measurement in its procurements, grants, and other business-related activities, except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms? Are bulk purchases usually to be made in metric, and are components, subassemblies, and semi-fabricated materials to be specified in metric

Yes.

Yes.

units when economically available and technically adequate? Will A.I.D. specifications use metric units of measure from the earliest programmatic stages, and from the earliest documentation of the assistance processes (for example, project papers) involving quantifiable measurements (length, area, volume, capacity, mass and weight), through the implementation stage? Yes.

k. Competitive Selection Procedures (FAA Sec. 601(e)): Will the assistance utilize competitive selection procedures for the awarding of contracts, except where applicable procurement rules allow otherwise? Yes.

l. Chemical Weapons (FY 1994 Appropriations Act Sec. 569): Will the assistance be used to finance the procurement of chemicals that may be used for chemical weapons production? No.

21. Construction

a. Capital project (FAA Sec. 601(d)): If capital (e.g., construction) project, will U.S. engineering and professional services be used? N/A.

b. Construction contract (FAA Sec. 611(c)): If contracts for construction are to be financed, will they be let on a competitive basis to maximum extent practicable? N/A.

c. Large projects, Congressional approval (FAA Sec. 620(k)): If for construction of productive enterprise, will aggregate value of assistance to be furnished by the U.S. not exceed \$100 million (except for productive enterprises in Egypt that were described in the Congressional Presentation), or does assistance have the express approval of Congress? N/A.

22. **U.S. Audit Rights** (FAA Sec. 301(d)): If fund is established solely by U.S. contributions and administered by an international organization, does Comptroller General have audit rights? N/A.

23. **Communist Assistance** (FAA Sec. 620(h)). Do arrangements exist to insure that United States foreign aid is not used in a manner which, contrary to the best interests of the United States, promotes or assists the foreign aid projects or activities of the Communist-bloc countries? Yes.

24. Narcotics

a. **Cash reimbursements** (FAA Sec. 483): Will arrangements preclude use of financing to make reimbursements, in the form of cash payments, to persons whose illicit drug crops are eradicated? Yes.

b. **Assistance to narcotics traffickers** (FAA Sec. 487): Will arrangements take "all reasonable steps" to preclude use of financing to or through individuals or entities which we know or have reason to believe have either: (1) been convicted of a violation of any law or regulation of the United States or a foreign country relating to narcotics (or other controlled substances); or (2) been an illicit trafficker in, or otherwise involved in the illicit trafficking of, any such controlled substance? Yes.

25. **Expropriation and Land Reform** (FAA Sec. 620(g)): Will assistance preclude use of financing to compensate owners for expropriated or nationalized property, except to compensate foreign nationals in accordance with a land reform program certified by the President? Yes.

26. **Police and Prisons** (FAA Sec. 660): Will assistance preclude use of financing to provide training, advice, or any financial support for police, Yes.

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prisons, or other law enforcement forces, except for narcotics programs?

27. **CIA Activities** (FAA Sec. 662):
Will assistance preclude use of financing for CIA activities? Yes.

28. **Motor Vehicles** (FAA Sec. 636(1)):
Will assistance preclude use of financing for purchase, sale, long-term lease, exchange or guaranty of the sale of motor vehicles manufactured outside U.S., unless a waiver is obtained? Yes.

29. **Export of Nuclear Resources** (FY 1994 Appropriations Act Sec. 506):
Will assistance preclude use of financing to finance--except for purposes of nuclear safety--the export of nuclear equipment, fuel, or technology? Yes.

30. **Publicity or Propaganda** (FY 1994 Appropriations Act Sec. 557):
Will assistance be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress, to influence in any way the outcome of a political election in the United States, or for any publicity or propaganda purposes not authorized by Congress? No.

31. **Marine Insurance** (FY 1994 Appropriations Act Sec. 531): Will any A.I.D. contract and solicitation, and subcontract entered into under such contract, include a clause requiring that U.S. marine insurance companies have a fair opportunity to bid for marine insurance when such insurance is necessary or appropriate? Yes.

32. **Exchange for Prohibited Act** (FY 1994 Appropriations Act Sec. 533):
Will any assistance be provided to any foreign government (including any instrumentality or agency thereof), foreign person, or United States person in exchange for that foreign government or person undertaking any No.

action which is, if carried out by the United States Government, a United States official or employee, expressly prohibited by a provision of United States law?

33. **Commitment of Funds (FAA Sec. 635(h)):** Does a contract or agreement entail a commitment for the expenditure of funds during a period in excess of 5 years from the date of the contract or agreement? No.

34. **Impact on U.S. Jobs (FY 1994 Appropriations Act, Sec. 547):**

a. Will any financial incentive be provided to a business located in the U.S. for the purpose of inducing that business to relocate outside the U.S. in a manner that would likely reduce the number of U.S. employees of that business? No.

b. Will assistance be provided for the purpose of establishing or developing an export processing zone or designated area in which the country's tax, tariff, labor, environment, and safety laws do not apply? If so, has the President determined and certified that such assistance is not likely to cause a loss of jobs within the U.S.? No.

c. Will assistance be provided for a project or activity that contributes to the violation of internationally recognized workers rights, as defined in section 502(a)(4) of the Trade Act of 1974, of workers in the recipient country, or will assistance be for the informal sector, micro or small-scale enterprise, or smallholder agriculture? No.

B. CRITERIA APPLICABLE TO DEVELOPMENT ASSISTANCE ONLY

1. **Agricultural Exports (Bumpers Amendment) (FY 1994 Appropriations Act Sec. 513(b), as interpreted by conference report for original enactment):** If

assistance is for agricultural development activities (specifically, any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training), are such activities: (1) specifically and principally designed to increase agricultural exports by the host country to a country other than the United States, where the export would lead to direct competition in that third country with exports of a similar commodity grown or produced in the United States, and can the activities reasonably be expected to cause substantial injury to U.S. exporters of a similar agricultural commodity; or (2) in support of research that is intended primarily to benefit U.S. producers?

N/A.

2. **Tied Aid Credits** (FY 1994 Appropriations Act, Title II, under heading "Economic Support Fund"): Will DA funds be used for tied aid credits?

No.

3. **Appropriate Technology** (FAA Sec. 107): Is special emphasis placed on use of appropriate technology (defined as relatively smaller, cost-saving, labor-using technologies that are generally most appropriate for the small farms, small businesses, and small incomes of the poor)?

N/A.

4. **Indigenous Needs and Resources** (FAA Sec. 281(b)): Describe extent to which the activity recognizes the particular needs, desires, and capacities of the people of the country; utilizes the country's intellectual resources to encourage institutional development; and

The project recognizes and will support the principles of democratic rule, human rights, increased understanding of and participation in the making and implementation of public policy,

supports civic education and training in skills required for effective participation in governmental and political processes essential to self-government.

accountability by lawmakers and increased tolerance and bargaining between competing groups, all of which are critically required in Kenya.

5. **Economic Development** (FAA Sec. 101(a)): Does the activity give reasonable promise of contributing to the development of economic resources, or to the increase of productive capacities and self-sustaining economic growth?

Yes.

6. **Special Development Emphases** (FAA Secs. 102(b), 113, 281(a)): Describe extent to which activity will:

(a) effectively involve the poor in development by extending access to economy at local level, increasing labor-intensive production and the use of appropriate technology, dispersing investment from cities to small towns and rural areas, and insuring wide participation of the poor in the benefits of development on a sustained basis, using appropriate U.S. institutions; (b) encourage democratic private and local governmental institutions; (c) support the self-help efforts of developing countries; (d) promote the participation of women in the national economies of developing countries and the improvement of women's status; and (e) utilize and encourage regional cooperation by developing countries.

(a) \$1.75 million is to be made available for design and implementation of civic education programs with a focus on the rural/urban poor. This will contribute to their enlightenment on their right to participate in the development issues that affect their lives.

(b) This is in line with the project purpose to strengthen institutions that will contribute to the development of democracy.

(c) N/A.

(d) Yes, through civic education programs.

(e) N/A.

7. **Recipient Country Contribution** (FAA Secs. 110, 124(d)): Will the recipient country provide at least 25 percent of the costs of the program, project, or activity with respect to which the assistance is to be furnished (or is the latter

Yes, aggregate host country contributions will provide at least 25% of the project cost.

cost-sharing requirement being waived for a "relatively least developed" country)?

8. **Benefit to Poor Majority** (FAA Sec.128(b)): If the activity attempts to increase the institutional capabilities of private organizations or the government of the country, or if it attempts to stimulate scientific and technological research, has it been designed and will it be monitored to ensure that the ultimate beneficiaries are the poor majority?

Yes, through monitoring the contribution of civic education programs.

9. **Contract Awards** (FAA Sec. 601(e)): Will the project utilize competitive selection procedures for the awarding of contracts, except where applicable procurement rules allow otherwise?

Yes.

10. **Disadvantaged Enterprises** (FY 1994 Appropriations Act Sec. 558): What portion of the funds will be available only for activities of economically and socially disadvantaged enterprises, historically black colleges and universities, colleges and universities having a student body in which more than 40 percent of the students are Hispanic Americans, and private and voluntary organizations which are controlled by individuals who are black Americans, Hispanic Americans, or Native Americans, or who are economically or socially disadvantaged (including women)?

None.

11. **Biological Diversity** (FAA Sec. 119(g)): Will the assistance:
(a) support training and education efforts which improve the capacity of recipient countries to prevent

(a) N/A.

loss of biological diversity;
(b) be provided under a long-term agreement in which the recipient country agrees to protect ecosystems or other wildlife habitats; (c) support efforts to identify and survey ecosystems in recipient countries worthy of protection; or (d) by any direct or indirect means significantly degrade national parks or similar protected areas or introduce exotic plants or animals into such areas?

(b) N/A.

(c) N/A.

(d) No.

12. **Tropical Forests** (FAA Sec. 118; FY 1991 Appropriations Act Sec. 533(c) as referenced in section 532(d) of the FY 1993 Appropriations Act):

a. **A.I.D. Regulation 16:**
Does the assistance comply with the environmental procedures set forth in A.I.D. Regulation 16?

Yes, IEE categorical exclusion pursuant to AID regulation 22CFR 216.2(c) 2(i) because it consists of "educations, technical assistance, or training programs".

b. **Conservation:** Does the assistance place a high priority on conservation and sustainable management of tropical forests? Specifically, does the assistance, to the fullest extent feasible: (1) stress the importance of conserving and sustainably managing forest resources; (2) support activities which offer employment and income alternatives to those who otherwise would cause destruction and loss of forests, and help countries identify and implement alternatives to colonizing forested areas; (3) support training programs, educational efforts, and the establishment or strengthening of institutions to improve forest management; (4) help end destructive slash-and-burn agriculture by supporting stable and

(1) N/A.

(2) N/A.

(3) N/A.

(4) N/A.

- productive farming practices;
- (5) help conserve forests which have not yet been degraded by helping to increase production on lands already cleared or degraded; (6) conserve forested watersheds and rehabilitate those which have been deforested; (7) support training, research, and other actions which lead to sustainable and more environmentally sound practices for timber harvesting, removal, and processing; (8) support research to expand knowledge of tropical forests and identify alternatives which will prevent forest destruction, loss, or degradation; (9) conserve biological diversity in forest areas by supporting efforts to identify, establish, and maintain a representative network of protected tropical forest ecosystems on a worldwide basis, by making the establishment of protected areas a condition of support for activities involving forest clearance or degradation, and by helping to identify tropical forest ecosystems and species in need of protection and establish and maintain appropriate protected areas; (10) seek to increase the awareness of U.S. Government agencies and other donors of the immediate and long-term value of tropical forests; (11) utilize the resources and abilities of all relevant U.S. government agencies; (12) be based upon careful analysis of the alternatives available to achieve the best sustainable use of the land; and (13) take full account of the environmental impacts of the proposed activities on biological diversity?
- (5) N/A.
- (6) N/A.
- (7) N/A.
- (8) N/A.
- (9) N/A.
- (10) N/A.
- (11) N/A.
- (12) N/A.
- (13) N/A.

c. Forest degradation:

Will assistance be used for:

(1) the procurement or use of logging equipment, unless an environmental assessment indicates that all timber harvesting operations involved will be conducted in an environmentally sound manner and that the proposed activity will produce positive economic benefits and sustainable forest management systems; (2) actions which will significantly degrade national parks or similar protected areas which contain tropical forests, or introduce exotic plants or animals into such areas; (3) activities which would result in the conversion of forest lands to the rearing of livestock; (4) the construction, upgrading, or maintenance of roads (including temporary haul roads for logging or other extractive industries) which pass through relatively undergraded forest lands; (5) the colonization of forest lands; or (6) the construction of dams or other water control structures which flood relatively undergraded forest lands, unless with respect to each such activity an environmental assessment indicates that the activity will contribute significantly and directly to improving the livelihood of the rural poor and will be conducted in an environmentally sound manner which supports sustainable development?

(1) No.

(2) No.

(3) No.

(4) No.

(5) No.

(6) No.

d. Sustainable forestry:

If assistance relates to tropical forests, will project assist countries in developing a systematic analysis of the

N/A.

appropriate use of their total tropical forest resources, with the goal of developing a national program for sustainable forestry?

e. Environmental impact statements: Will funds be made available in accordance with provisions of FAA Section 117(c) and applicable A.I.D. regulations requiring an environmental impact statement for activities significantly affecting the environment?

Yes.

13. Energy (FY 1991 Appropriations Act Sec. 533(c) as referenced in section 532(d) of the FY 1993 Appropriations Act): If assistance relates to energy, will such assistance focus on: (a) end-use energy efficiency, least-cost energy planning, and renewable energy resources, and (b) the key countries where assistance would have the greatest impact on reducing emissions from greenhouse gases?

(a) N/A.

(b) N/A.

14. Debt-for-Nature Exchange (FAA Sec. 463): If project will finance a debt-for-nature exchange, describe how the exchange will support protection of: (a) the world's oceans and atmosphere, (b) animal and plant species, and (c) parks and reserves; or describe how the exchange will promote: (d) natural resource management, (e) local conservation programs, (f) conservation training programs, (g) public commitment to conservation, (h) land and ecosystem management, and (i) regenerative approaches in farming, forestry, fishing, and watershed management.

N/A.

15. Deobligation/Reobligation
(FY 1994 Appropriations Act Sec. 510):
If deob/reob authority is sought to be exercised in the provision of DA assistance, are the funds being obligated for the same general purpose, and for countries within the same region as originally obligated, and have the House and Senate Appropriations Committees been properly notified? N/A.

16. Loans

a. Repayment capacity (FAA Sec. 122(b)): Information and conclusion on capacity of the country to repay the loan at a reasonable rate of interest. N/A.

b. Long-range plans (FAA Sec. 122(b)): Does the activity give reasonable promise of assisting long-range plans and programs designed to develop economic resources and increase productive capacities? Yes.

c. Interest rate (FAA Sec. 122(b)): If development loan is repayable in dollars, is interest rate at least 2 percent per annum during a grace period which is not to exceed ten years, and at least 3 percent per annum thereafter? N/A.

d. Exports to United States (FAA Sec. 620(d)): If assistance is for any productive enterprise which will compete with U.S. enterprises, is there an agreement by the recipient country to prevent export to the U.S. of more than 20 percent of the enterprise's annual production during the life of the loan, or has the requirement to enter into such an agreement been waived by the President because of a national security interest? N/A.

17. Development Objectives

(FAA Secs. 102(a), 111, 113, 281(a)):

Extent to which activity will:

(1) effectively involve the poor in development, by expanding access to economy at local level, increasing labor-intensive production and the use of appropriate technology, spreading investment out from cities to small towns and rural areas, and insuring wide participation of the poor in the benefits of development on a sustained basis, using the appropriate U.S. institutions; (2) help develop cooperatives, especially by technical assistance, to assist rural and urban poor to help themselves toward better life, and otherwise encourage democratic private and local governmental institutions; (3) support the self-help efforts of developing countries; (4) promote the participation of women in the national economies of developing countries and the improvement of women's status; and (5) utilize and encourage regional cooperation by developing countries?

(1) The civic education programs will enhance wide participation of the poor in the benefits of development.

(2) N/A.

(3) The Project will support the activities of local NGOs working in areas of democracy and human rights.

(4) Yes.

(5) N/A.

18. Agriculture, Rural Development and Nutrition, and Agricultural Research (FAA Secs. 103 and 103A):

a. Rural poor and small farmers: If assistance is being made available for agriculture, rural development or nutrition, describe extent to which activity is specifically designed to increase productivity and income of rural poor; or if assistance is being made available for agricultural research, has account been taken of the needs of small farmers, and extensive use of field testing to adapt basic research to local conditions shall be made.

N/A.

b. Nutrition: Describe extent to which assistance is used in coordination with efforts carried out under FAA Section 104 (Population and Health) to help improve nutrition of the people of developing countries through encouragement of increased production of crops with greater nutritional value; improvement of planning, research, and education with respect to nutrition, particularly with reference to improvement and expanded use of indigenously produced foodstuffs; and the undertaking of pilot or demonstration programs explicitly addressing the problem of malnutrition of poor and vulnerable people.

N/A.

c. Food security: Describe extent to which activity increases national food security by improving food policies and management and by strengthening national food reserves, with particular concern for the needs of the poor, through measures encouraging domestic production, building national food reserves, expanding available storage facilities, reducing post harvest food losses, and improving food distribution.

N/A.

19. Population and Health
(FAA Secs. 104(b) and (c)):
If assistance is being made available for population or health activities, describe extent to which activity emphasizes low-cost, integrated delivery systems for health, nutrition and family planning for the poorest people, with particular attention to the needs of mothers and young

N/A.

children, using paramedical and auxiliary medical personnel, clinics and health posts, commercial distribution systems, and other modes of community outreach.

20. Education and Human Resources Development (FAA Sec. 105): If assistance is being made available for education, public administration, or human resource development, describe (a) extent to which activity strengthens nonformal education, makes formal education more relevant, especially for rural families and urban poor, and strengthens management capability of institutions enabling the poor to participate in development; and (b) extent to which assistance provides advanced education and training of people of developing countries in such disciplines as are required for planning and implementation of public and private development activities.

(a) Training provided under the Project will enhance the skill level of MPs and Parliament staff.

(b) Opportunities exist under the Project to send staff of the Office of the Clerk for advanced overseas training in such topics as research, and management skills.

21. Energy, Private Voluntary Organisations, and Selected Development Activities (FAA Sec. 106): If assistance is being made available for energy, private voluntary organizations, and selected development problems, describe extent to which activity is:

a. concerned with data collection and analysis, the training of skilled personnel, research on and development of suitable energy sources, and pilot projects to test new methods of energy production; and facilitative of research on and development and use of

N/A.

small-scale, decentralized, renewable energy sources for rural areas, emphasizing development of energy resources which are environmentally acceptable and require minimum capital investment;

b. concerned with technical cooperation and development, especially with U.S. private and voluntary, or regional and international development, organizations;

N/A.

c. research into, and evaluation of, economic development processes and techniques;

Yes. Through support from the Institute for Policy Analysis and Research Institute.

d. reconstruction after natural or manmade disaster and programs of disaster preparedness;

N/A.

e. for special development problems, and to enable proper utilization of infrastructure and related projects funded with earlier U.S. assistance;

N/A.

f. for urban development, especially small, labor-intensive enterprises, marketing systems for small producers, and financial or other institutions to help urban poor participate in economic and social development.

N/A.

22. Capital Projects (Jobs Through Export Act of 1992, Secs. 303 and 306(d)): If assistance is being provided for a capital project, is the project developmentally sound and will the project measurably alleviate the worst manifestations of poverty or directly promote environmental safety and sustainability at the community level?

N/A.

C. CRITERIA APPLICABLE TO ECONOMIC SUPPORT FUNDS ONLY

N/A.

1. **Economic and Political Stability** (FAA Sec. 531(a)): Will this assistance promote economic and political stability? To the maximum extent feasible, is this assistance consistent with the policy directions, purposes, and programs of Part I of the FAA?

2. **Military Purposes** (FAA Sec. 531(e)): Will this assistance be used for military or paramilitary purposes?

3. **Commodity Grants/Separate Accounts** (FAA Sec. 609): If commodities are to be granted so that sale proceeds will accrue to the recipient country, have Special Account (counterpart) arrangements been made? (For FY 1994, this provision is superseded by the separate account requirements of FY 1994 Appropriations Act Sec. 537(a), see Sec. 537(a)(5).)

4. **Generation and Use of Local Currencies** (FAA Sec. 531(d)): Will ESF funds made available for commodity import programs or other program assistance be used to generate local currencies? If so, will at least 50 percent of such local currencies be available to support activities consistent with the objectives of FAA sections 103 through 106? (For FY 1994, this provision is superseded by the separate account requirements of FY 1994 Appropriations Act Sec. 537(a), see Sec. 537(a)(5).)

5. **Capital Projects** (Jobs Through Exports Act of 1992, Sec. 306, FY 1993 Appropriations Act, Sec. 595): If assistance is being provided for a capital project, will the project be developmentally-sound and sustainable, i.e., one that is (a) environmentally sustainable, (b) within the financial capacity of the government or recipient to maintain from its own resources, and (c) responsive to a significant development priority initiated by the country to which assistance is being provided. (Please note the definition of "capital project" contained in section 595 of the FY 1993 Appropriations Act. Note, as well, that although a comparable provision does not appear in the FY 94 Appropriations Act, the FY 93 provision applies to, among other things, 2-year ESF funds which could be obligated in FY 94.)

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CONTRACT TYPE: Resident Hire,
U.S. Personal Services Contractor (PSC)

PERIOD OF PERFORMANCE: Two Years with Option to Extend by
two additional years

POSITION TITLE: Kenya D/G Project Manager

General Responsibilities

USAID/Kenya requires a Democracy/Governance (D/G) Project Manager with a broad range of strategic, programmatic and administrative skills and responsibilities as the USAID D/G assistance programs in Kenya are amended and implemented. The D/G Project Manager will serve as the principal USAID contract employee responsible for implementing and coordinating all matters pertaining to democracy and governance within the USAID Kenya program. Generally, this person shall:

1. Develop and maintain close contacts with a wide variety of individuals, groups and associations involved with the economic reform and the democratic political reform processes in Kenya, including improved governance, with a focus on non-governmental groups, key governmental ministries and key private sector organizations. Develop an understanding of the dynamics of the processes and the tradeoffs between the economic and political reforms. Provide analysis and advice to the Mission as needed.
2. Manage the overall activities associated with implementation of the multi-component \$7.0 million Kenya D/G Project.
3. Determine and oversee the technical assistance required to enable the various D/G Project implementing NGOs, contractors, and government agencies to increase their development impact.
4. Develop and maintain a monitoring and evaluation system that will among other things measure impact of the sub-projects and the overall D/G Project.
5. Provide overall supervision to the personnel in the D/G Project office.

Specific Responsibilities

1. Initiate and coordinate the design and development of USAID assistance mechanisms in the D/G area, ensuring that flexible mechanisms are developed with minimal management burden on USAID, in order to respond quickly to legitimate requests for assistance. This includes both short-term, relatively small

requests for assistance and longer-term institutional development for priority developmental areas as they evolve over the course of the project.

2. Monitor the implementation of the activities through site visits and maintaining close contacts with all groups involved in D/G activities. In addition, maintain programmatic, administrative, and financial oversight of project activities to ensure that project objectives are being effectively met within USAID guidelines and regulations. Also, prepare all requisite USAID documentation and facilitate USAID documentation clearance reviews and evaluations pertaining to the D/G project.
3. Coordinate all D/G activities funded by USAID in Kenya. The Contractor will work closely with the U.S. Embassy personnel and other donor country members in deciding on where USAID resources could be most effective. S/he will also make suggestions to other donor countries as to activities than USAID is not in a position to assist with.
4. Provide reports to USAID management on a quarterly basis. Reports should be both analytical, concerning the transition processes and future USAID assistance; and programmatic, concerning implementation issues and problems.
5. Manage project correspondence and maintain a project filing system.
6. Put into final form and process for funding and issuance the scopes of work (SOWs), terms of reference (TORs), and related PIO/Ts, PIO/Ps, and PIO/Cs for short- and long-term technical assistance, training, and commodities required in the D/G Project.
7. Put into final form and process appropriate clearances and issuance of all requisite project documentation (e.g. Project Implementation Letters (PILs), Project Paper Amendments, Pro Ag amendments, Project Authorization Amendments).
8. Review proposals, chair selection committees, and coordinate the selection and approval process for all project funded contracts, grants, cooperative agreements and other activities.
9. Provide technical advise and assistance to NGOs and other actual or potential sub-project implementing organizations in the areas of proposal development, activity implementation, and A.I.D. requirements.
10. Handle day-to-day management of specific sub-project activities to ensure that sub-projects are implemented in accordance with USAID/GOK Memorandum of Understanding and USAID grant or contract terms and conditions. Determine if a

sub-project is on track by reviewing quarterly project status and financial reports, conducting site visits and meeting with grantee/contractor and GOK officials. Identify sub-project issues and problems, formulate appropriate responses and advise Mission on appropriate corrective action. Resolve problems and implement Mission decisions.

11. Work on development of a data information system for the benefit of the grantees/contractors and A.I.D. to track goal, purpose, and specific output indicators of the sub-projects and the overall project to assess the impact of the Kenya D/G Project and to assess project performance and monitor progress. This shall include, but shall not be limited to, the semi-annual requirement for Project Implementation Reviews (PIRs).
12. Provide overall supervision to the D/G Project Financial Management Specialist and the D/G Program Specialist including work planning, evaluation and on-the-job training as appropriate.

Supervision: The Contractor will work under the general supervision of the USAID/Kenya Deputy Program Officer and report to him/her on a day-to-day basis. However, the Contractor will be expected to work independently, take initiative and be responsible for all D/G activities in Kenya funded by USAID without close day-to-day supervision.

Other Relationships: The Contractor will be expected to develop and maintain a collaborative professional relationship with the REDSO/ESA D/G Advisor in Nairobi, Kenya, and with the Democracy/Governance Division of the Office of Operations and New Initiatives in the Africa Bureau of AID/Washington (AFR/ONI/DG).

Selection Criteria

The candidate must be a U.S. citizen or the dependent of a USDH employee resident in Kenya.

1. Education. Applicants must have at least a bachelor's degree, although a Master's degree is preferred. Preferably, the educational history should reflect a strong mix of multi-disciplinary education in the humanities, social sciences, management, administration, office operations, basic micro-computer applications, and public policy. 20%

2. Work Experience. Minimum of ten (10) years of work experience including at least three (3) years in developing countries, preferably including political-oriented areas, and which involves sustained interaction with diverse local interests, the diplomatic community, and external non-governmental organizations. Preferably, applicants should have work experience with USAID or

other donors, and a strong familiarity with development procedures and funding instruments. 60%

3. Skills/Job Tools. Strong interpersonal and analytical skills, strong oral and written command of English, and proficiency in computer word processing and other basic microcomputer applications including spreadsheet and electronic mail. 20%

Must be available for employment on or before _____ and should be available for the full twenty-four (24) month term of the contract.

BUDGET: D/G PROGRAM ASSISTANT POSITION

For 24 months of services.

Salary	\$100,000.
FICA	6,200.
Medicare	1,450.
In-country transportation*	3,000.
In-country per diem (average \$60/dayx90)	5,400.
Micro-computer, software, supplies, etc.	5,000.
International telephone, communications	10,000.
Publications, misc, and contingency	4,850.
Comparability	<u>4,100</u>
TOTAL:	\$140,000.

POSITION TITLE: Kenya Democracy Governance Advisor

Statement of Work:

USAID/Kenya requires a Democracy/Governance (D/G) Advisor with a broad range of strategic knowledge and responsibilities in the disciplines relating to political science, democracy, and governance as the USAID D/G assistance programs in Kenya are amended and implemented. The D/G Advisor will serve as the principal USAID technical advisor and specialist on all matters pertaining to political science, democracy, and governance relating to USAID projects and programs. The D/G Advisor will not be responsible for management or administration of the Kenya Democratic Governance Project -- this responsibility will be assigned to the Kenya D/G Project Manager. Specifically, the Kenya D/G Advisor shall report to the Kenya D/G Project Officer (and in Project Management and Administration matters to the D/G Project Manager) and shall:

1. Develop and maintain close contacts with a wide variety of individuals, groups and associations involved with the economic reform and the democratic political reform processes in Kenya, including improved governance, with a focus on non-governmental groups, key governmental ministries and key private sector organizations. Develop an understanding of the dynamics of the processes and the tradeoffs between the economic and political reforms. Provide analysis and advice to the Mission as needed.
2. Provide detailed and frequent advice on the initiation and coordination of the design and development of USAID assistance mechanisms in the D/G area, ensuring that flexible mechanisms are developed with minimal management burden on USAID, in order to respond quickly to legitimate requests for assistance. This includes both short-term, relatively small requests for assistance during the transitional period and longer-term, more institutional support for priority areas.
3. Monitor the implementation of the activities through site visits and maintaining close contacts with all groups involved in D/G activities. In addition, s/he will advise on the programmatic, administrative, and financial oversight of project activities to ensure which are intended to ensure that project objectives are being effectively met within USAID guidelines and regulations. Also, the Contractor will contribute to in all ways necessary and appropriate and will assist the D/G Project Manager in preparation of all requisite USAID documentation and facilitate USAID documentation clearance reviews and evaluations pertaining to the D/G program in Kenya.
4. Coordinate all technical aspects of the D/G activities funded by USAID in Kenya. The Contractor will work closely with the U.S.

Embassy personnel and other donor country members in advising on where USAID resources could be most effective. S/he will also make suggestions to other donor countries as to activities than USAID is not in a position to assist with.

5. Provide reports to USAID management on a quarterly basis. Reports should be both analytical (concerning the transition processes and future USAID assistance) and programmatic (concerning implementation issues and problems).

Logistics: All logistical and material support required to mobilize, establish, and maintain the Contractor in Nairobi, Kenya will be supplied directly by USAID/Kenya in accordance with applicable USAID regulations and U.S. Mission policy.

Qualifications: The Contractor must be a U.S. citizen, with a minimum of seven years' experience in public administration, political science or related area, and with previous overseas experience. Preference will be given to experience in the field of democratic development, especially in the African context. The Contractor must demonstrate the ability to manage and supervise complex programs that require coordination of diverse elements, as well as possess a combination of good interpersonal skills, analytical ability and the ability to write well. S/he must have a university degree in political science, public administration, or related field.

Supervision: The Contractor will work under the general supervision of the USAID/Kenya D/G Project Officer (and in areas relating to Project Management and Administration will report to the D/G Project Manager), and report to him or her on a day to day basis. However, the Contractor will be expected to work independently, take initiative and be responsible for advising on all technical aspects of activities in Kenya funded by USAID without close day-to-day supervision.

Other Relationships: The Contractor will be expected to develop and maintain a collaborative professional relationship with the REDSO/ESA D/G Advisor in Nairobi, Kenya, and with the Democracy/Governance Division of the Office of Operations and New Initiatives in the Africa Bureau of AID/Washington (AFR/ONI/DG).

Kenya Democracy and Governance Project
Institutional Analysis
John W. Harbeson, D/G Advisor, REDSO/ESA

1. Introduction. This institutional analysis will consider the justification, need, design appropriateness, and viability of the Kenya Democracy and Governance Project (KDGP) overall and for each of the four substantive components. In addition, for each of the components this analysis will examine the appropriateness and viability of the implementation mechanisms proposed, both in the abstract and in Kenya's circumstances. Finally, for each of the elements it will suggest what results it might be reasonable to expect given satisfactory management and certain assumptions about the overall political climate within Kenya during the life of the project.

2. The Project Overall The project is nicely balanced between the democracy (legislature and civil society) components and the governance components (IPAR and financial management--though in practice these two categories are inseparable. Similarly, the project is also nicely balanced between giving the government what it wishes (financial management and legislative development) and what the Kenya mission in its judgment thinks would most help it to progress in the DG area (IPAR and civil society).

The civil society component is the least defined for reasons that will be discussed shortly. It is also indispensable to democracy in general and to the project in particular, also to be discussed shortly. This component is bound up with parts of the law reform task force process now getting underway, particular those task forces dealing with the companies and societies acts and with laws relating to women.

3. Justification. Given Kenya's situation in DG terms, the first question is why a DG project at all. The short answer is that the 1992 election was the beginning point not the conclusion of a transition to democracy and accountable, transparent governance. Moreover, given everything the Kenya government and those engaged in civil society have to contend with, it is beyond dispute that support and assistance from external donors will be essential for elements of that transition to be realized in the foreseeable future. The continuation of that support and assistance must, of course, as in any project, be premised on the GOK's (and in certain respects groups in civil society and opposition parties) continuing to honor clearly specified and communicated conditions precedent included within this project.

The justification of a DG project with these components rests (a) on the case made for them in the assessment conducted in the Spring, 1993, (b) the continued validity of those findings at this time, (c) their relevance to the objectives of democracy and

accountable, transparent governance, and (d) evidence that they are frequently if not universally a part of other states generally recognized as exemplifying democracy, not peculiar to one in particular unless the host country has expressed a desire to adopt it. Finally, though not mandatory, it is of great importance to be responsive to creative variations on basic democratic themes. With Germany's and Japan's possible unhappy exceptions, that has been a characteristic of the formation of nearly all other certifiable democracies.

How do the elements of this project fare when examined against the foregoing criteria? All were identified as appropriate elements in the assessment the Kenya Mission (KM) accepted a year ago based on conditions that continue to exist, indeed have intensified in some cases. The collapse of IDS at the university still leaves the Kenya without an equivalent institution. The needs of civil society remain and, indeed, could be said to have intensified. The situation of the Parliament is unchanged as are problems and initiatives underway in the financial management area.

All of the elements relate to indispensable, core elements of democratic theory in all its recognizable permutations. In all versions, civil society is an indispensable underpinning of democratic governance, because it is from civil society that the articulation, initiation, exemplification and defense of democratic values emanates. Civil society refers to those elements of society as a whole which undertake these indispensable functions. The free flow of information is the lifeblood of democracy just as it is for markets. Similarly, democracies like markets require institutions to strengthen the availability and dissemination of information since in practice that free flow has historically not been self-sustaining. That is the underlying justification of IPAR as the analysis in that section spells out in more detail. That transparency and accountability in the spending (and collecting) of tax dollars is essential to a democracy is self-evident, as is the importance of a competent, effective, and efficient legislative body. Indeed, AID guidelines rather neglect to insist that legislative leadership is also essential in a democracy.

All of the project elements are common features of states generally regarded as democratic. There can be no argument about legislatures or safeguards to insure accountability and transparency in all aspects of financial management. As defined above, civil society is an easily recognizable, vital element of all democracies. And every democracy has not one but a multiplicity of private institutions doing what is proposed for IPAR.

None of the elements reflect creative variations on common democratic themes with a uniquely Kenyan coat of arms. At the same time there is no evidence that the project's or the assessment's authors have dismissed any such in arriving at those initiatives now included in the project. On the AID side, IPAR is singular within the framework of other projects in place or contemplated within the region with South Africa's possible exception.

Alternatives to the elements chosen exist in other projects funded or contemplated within the region. These include: political

culture, political socialization, political parties, the media, interest groups, constitutional development or reform, and reform of security forces. All are relevant and important in any context, but there are no grounds to substitute or add any at this time. Strengthening of police forces continues to be legislatively out of bounds for AID. The media and some interest groups are not necessarily excluded from the civil society category. Constitutional reform elements of other projects presume governmental plans or activities already under way. Strengthening of political parties is badly needed in Kenya, but it might be inappropriate to duplicate the work of the Naumann Foundation, already very busy with supporting opposition parties. To work only with the governing party would be inappropriate under AID policies barring some agreement with Naumann for a joint project covering all parties that might allow AID to specialize on KANU, while the Naumann Foundation continued to work with the opposition parties. Political culture and political socialization are equally important but they are initiatives with a long view where the project's existing components have a justifiable immediacy about them.

4. Need/Purpose. The need for all four elements of the project is grounded in (a) well traveled pathways in democratic theory; and (b) Kenya realities, as traced by the Kenya DG assessment of May, 1993.

Civil Society. In democracies the people are supposed to govern as everyone knows. At the same time it is clear that most people don't get much chance to do so individually outside exercising the right to vote. People elect their representatives to the legislature and, directly or indirectly, the chief executives. But they need watchdogs to act on their behalf because as individuals mostly not in a position to do this either--New England (also NY) town meetings being a rare and wonderful exception at the local level. So, citizens in a democracy require watch dogs for this purpose as well. Civil society's function in democratic theory is to do just that. Operationally, civil society consists of those NGOs who wholly or in part make it their business to articulate democratic values, exemplify them internally, disseminate them widely (e.g. civic education), urge them upon governments on behalf of citizens (e.g. the churches prior to the decision to go multiparty in 1991), and defend them against governmental transgressions (e.g. human rights groups).

In the Kenya case there are over four hundred NGOs that are registered and many more that, for whatever reason, are not. Problems with registration and occasional official criticism notwithstanding, NGOs do have a freedom to form and function that is greater than in some other places in the region. But, as the assessment points out, there are significant and well known problems. There are still significant hassles in obtaining registration and instances of registration cancellation for reasons that are less than transparent. The NGO Board is government-dominated but NGO-friendly only so long as at least three GOK appointees are of that persuasion, a slender reed. The NGO act will

be discussed in the law reform task force on the societies and perhaps the companies act. The government's legitimate interest in NGOs being financially transparent, accountable, and competent cannot be used to undermine their autonomy, essential to perform their core functions.

The more immediate problem is that relative few NGOs have the organizational capacity to grow and the financial savvy to build up their financial resources. Capacity building in this case means not only helping NGOs to perform their core functions effectively but working with them to develop their organizational and financial management skills and capacity. If AID as a donor can give their financial management practices the Good Housekeeping Seal of Approval, that will help protect them from official intrusion. This basic need is at the same time the purpose of the project initiative in this area.

A larger need defining purpose is to increase horizontal linkage among civic-focused NGOs. The NGO council is one source, but those linkages need to be stitched more broadly so that ultimately, on issues of particular moment, the NGO community can in some sense speak with more collective authority. To some extent IED in Kenya, like FODEP in Zambia and IAG in Ethiopia, does do so very well now. But even such potential lead organizations need more of that horizontal linkage stitching behind them. This is, however, a long term and difficult objective to reach but one of which the Mission and Kenyan NGO leaders should nonetheless remain cognizant and do what they can now.

Legislative Improvement. The need/purpose of a strong legislature in democratic theory is so self-evident it does not need rehearsing.

One point does deserve attention. Even within states generally recognized and accepted as democratic, the degree of initiative, autonomy, and power varies sharply. AID's own documentation on democracy gives this point too little attention. Virtually all strains of democratic theory give the elected legislature preeminence in initiating policy and generally exercising governmental oversight. Practice among accepted democracies varies considerably. The "Westminster model" exemplified by the U.K. most closely adheres to theory on this point and is widely followed within the community of democratic states. France's Gaullist constitution exemplifies the other end of the spectrum. A hopelessly fractious 4th Republic parliament (like Italy's still) came to a serious crisis over Algeria in 1959 when a colon-inspired military coup nearly occurred. All parties, the communists included, appealed to de Gaulle to save them. The salvation took the form of a new 5th Republic constitution, duly ratified, that removed the legislature's power to impede the power of the president (now all-powerful instead of symbolic as before) to govern. Other countries, like the U.S. and Germany fall in between for a variety of special historical reasons.

Kenya's constitution and practice, like those of virtually every other country in the continent, is far closer to the French model than the Westminster model as they have evolved. Indeed

parliamentary practice in some places falls short of even French practice. Against the day when constitutional reform may occur in Kenya, it is essential that Parliament function effectively within its present sphere of influence so that it is prepared for greater influence and responsibility in the future. That means in practice, legislators who demonstrate knowledge of how to articulate issues and support them with facts, process bills, communicate information and ideas to the public, and keep an eye on government operations to the extent it is possible to do so (e.g. the Public Accounts Committee in particular). It means legislative staff who demonstrate ability to help legislators do these things.

Kenya's legislature, as the assessment points out, was once --in the late 1960s and early 1970s-- an arena of relatively solid, hard-hitting, well-reported debate on the issues of the day. Though the government's ability to prevail was never in doubt, the government did seem to take the debates seriously. Political hijinks are never absent in any democratic legislature, but they were generally well bounds. Then Speaker Slade and Deputy Speaker DeSouza were individuals respected by almost all MPs and across all communities within Kenya generally. Their contributions, at Kenya's birth as an independent state, in inculcating good parliamentary procedures and protocol were of great importance.

That tradition has been dissipated. But the point is that even within an executive and single party-dominant political system, Kenya already has a tradition of effective parliamentary performance to which it need only return.

A further goal, properly addressed in the assessment, is the need to establish continuity in MP and staff performance in a context in which electoral turnover of MPs is quite high, 75% are new in the present parliament (actually a bit higher than that as a result of some by-elections). Continuity of well trained staff, a major target of the project, is one way to do so. The responsibility also falls on those MPs who remain in office. By end of this project the number of MPs benefitting from this project will equal 50% or more of the size of Parliament. The odds are, therefore, that a high percentage of the actual MP community in this, and the next parliament, will have been beneficiaries of this project during its life.

That need constitutes the purpose of project intervention in this area. All the elements of the NCSL proposal are designed with these goals in mind. Parenthetically, Westminster-model followers don't always recognize the importance of staff support being adequate, including the U.K. This is an area where Kenya could be a pace-setter within this tradition--if Constitutional reform eventually leads Kenya to return to embracing this tradition.

IPAR. The need/purpose for the IPAR intervention is discussed in the narrative for that element, and an appendix, elsewhere in the paper. The case in brief is as follows.

Democratic theory actually lags practice on this point. Democratic theory in all its forms places heavy emphasis on an informed electorate and, by implication, on those people elect to

office. If the electorate are all well-informed, their elected representatives will necessarily be so as well. But democratic theory has, at least in this respect, not been rewritten to take full account of the consequences of an age of unprecedented technological complexity accompanying technological development. It has also failed to take account of the "small planet" phenomenon which links peoples of all nations to each other to an unprecedented degree, further increasingly the complexity of issues of the day.

Every democratic state has seen an abundance of policy research institutes grow and prosper. Some, of course, are unabashedly partisan and recognized as such by everyone who follows politics closely (for example, the Heritage Foundation in the United States). Some are better than others, and reputations are formed quickly. But every democracy has a few whose competence and relative impartiality is known and respected by governments and observant public alike. The Brookings Institution in Washington is one venerable example. Some are independent, like Brookings. Some are university-based like IDS in Sussex.

The point is that governments and public alike grow to depend on such policy institutes to penetrate, dissect, and present in intelligent lay terms the complex issues that require public policy initiatives. The health care debate in the U.S. is one good, contemporary example. Governments need these institutes in addition to their own staffs for policy development. The people need these institutes so they can know that their governments have access to the information they need to deal with the issues sensibly on their behalf.

No less developed country can sustain a plethora of such institutes. The IPAR proposal (see Appendix) does an exemplary job of explaining that, while Kenya does have many such institutes, all but one are by their charters specialized in one way or another and are not available to address the big cross-sectoral issues of the day. The one exception has been the Institute for Development Studies at the University of Nairobi.

IDS in the late '60s, 70s, and even into the early 80s, performed the "Brookings" role with some distinction. Its discussion papers and occasional papers were frequently well-researched, well-thought out examinations of the issues of the day. Even more significant, senior government officials--from the Planning Ministry and planning departments of other ministries especially, would come over to IDS for coffee-fortified seminars on these issues. The debates were intense and intelligent and the fact that some participants were government officials and some were not posed no barrier whatever. The point is that here, too, IPAR will restore a Kenyan tradition that still existed not so long ago.

The assessment correctly reports the decline and collapse of IDS' capacity to perform this function. IDS' fate mirrors that of the Universities generally, Nairobi in particular. In broad, blunt terms the University has lost its de facto autonomy in all important respects. The current labor dispute is just one example. For reasons of academic freedom and financial survival, many of the best faculty in all areas have departed for pastures greener in both respects. Some have done so after not insignificant instances

of official harassment, including imprisonment. Interestingly, the diaspora includes Kenya politics where former faculty members retain their "professor" titles. Thus, IDS is no longer able to perform in line with its honorable tradition. The authors of the IPAR proposal are among those who have been part of this lost tradition and, through IPAR, seek to restore it in order to benefit the government, the policy community, and the people of Kenya as a whole.

IPAR will have two primary functions: to assemble, digest, and integrate existing research on fundamental issues of the day in order to present all sides of those issues in a coherent fashion; and secondarily to undertake research itself on those issues where there are gaps in the research that already exists.

The creation of IPAR rests upon a pessimistic assumption about the timing and prospects for a return of the University and of IDS to their former strength. Sadly, there is very little in the present political climate with which to dispute that assumption. Moreover, the creation of IPAR also rests on the pessimistic assumption that IDS and the University are unlikely in the foreseeable future to regain the substantially greater degree of autonomy they enjoyed during the years of their greatest strength.

There is little choice, therefore, but to create IPAR as an independent entity to be what IDS once was. IPAR will not be caught up, as IDS has been, in the political struggles with the government because it will not be GOK funded and will exist independently. If, later, IDS along with the university revives, there will be present and former IPAR fellows to help the process along. KIPPRA (the Kenya Institute of Public Policy Research) will function within the government and is not projected to speak to the wider public. There is nothing to prevent cooperation between KIPPRA and IPAR when possible and mutually beneficial, and that idea has already been explored.

Accountability and Governance. The principal objective at this time in this area is the implementation of a Budget Monitoring System (BMS). The BMS will link four previously unintegrated stages of the budget process all the way, eventually, to the district level: the three year forward budget, the annual budget estimate, the annual supplementary budget, and the final account. Accountability and transparency are written into all streams of democratic theory though not always with the same terminology. Nothing could be more central in this country at this time than improved accountability and transparency in the financial area.

Similar initiatives are underway in the revenue generation area and project work in this area has not been excluded. Some may have a philosophical problem with tightening up on tax collection before doing so in the expenditure area, but that concern will be satisfied by starting with support for BMS.

Kenya's need for integration as well as accountability and transparency in the financial management area is beyond dispute. Abuses of the financial system have been widespread for many years, including notably the banking scandal of 1992-1993, and non-transparent decision-making in GOK procurement practice. BMS will

not end all this but it will make an important start. Thus, there are important areas in which political and economic liberalization can walk hand-in-hand, and this is one of them.

Synergies. It is understated as a goal typically, but it is highly desirable, that the elements of a DG project, or any project, be mutually supportive. The four elements of the DG project are so to a significant and commendable degree. Civil society, Parliament, and IPAR as well as the people of Kenya generally will benefit by any improvement in the transparency and accountability of GOK financial management as BMS projects. Pressure from civil society and parliament will help sustain the system established as will IPAR studies. A strengthened civil society will support the initiatives of better trained parliamentarians and staff as will IPAR studies. Reciprocally, a better trained parliament will help focus the issues with which both civil society and IPAR will deal. IPAR will be in effect an NGO, however it is eventually registered, so it will in fact provide important research and analytic support for other elements of civil society who will in turn be major consumers and supporters of IPAR's work, perhaps even financially.

5. Design/Implementation. General. The project's implicit design approach is to address the four areas for the reasons outlined above, including the achievement of the synergies noted. The project will promote broadened political and economic pluralism as specified in the strategy/approach section. Strengthening civil society will by definition strengthen pluralism. IPAR will remove a de facto official monopoly of policy research sources and a void, mentioned above, in society at large. Autonomous sources of information and policy analysis are an element of pluralism. A better trained cadre of parliamentarians and staff will be more capable of thinking and speaking for themselves and forming useful coalitions on key issues than before. Anything that promotes legislative strengthening promotes pluralism in the form of at least incrementally increased checks and balances within government. BMS will serve the interest of all three other components in this regard as noted above.

The overall implementation strategy is similar to those of other established DG projects in the region; e.g., Zambia and Ethiopia. Each has a manager to oversee the day to day operation of the project supported by a specialist advisor. The REDSO D/G Advisor will continue play the advisor role in Kenya, not excluding possible hiring of a country advisor for Kenya at some point. The country team serves as the overall policy group for the Post in this as on other issues, a separate DG committee being established in some places and not in others. One is established and beginning to operate in Kenya chaired by the Political Counselor.

A classic and recurring issue is whether to externalize the management of the project to a contracting firm or manage it in house. The other DG projects are all managed in-house though segments of the project draw on particular contractors for particular purposes. The work load for in-house management along the lines sketched in

the project paper justifies both a manager and an advisor but it is not excessive for projects of comparable size (Ethiopia) or double the size of ours (Zambia). That model has appeared to work elsewhere and, thus, may deserve to be replicated in Kenya. Experience in the region to date has suggested that the DG advisors/managers do more than just run the project: their advice and input is sought by others in the Mission, in USIS, and the Embassy as indeed is appropriate. That relationship depends both on trust and on recognition that the managers and advisors are part of the Post and the Mission and not external to it as any contractor would be because of responsibilities and loyalties to his/her employer rather than solely to the post and mission. For that reason, there is good reason to believe that DG projects are peculiarly not externalizable and to attempt to do so might be very inadvisable for the reasons stated.

The division of responsibility between DG advisors and project managers elsewhere has not been as sharply defined as the titles may seem to imply. In fact both the advisor and the manager are engaged in project implementation in a collaborative fashion. The advisor's distinctive role is to add technical input as needed in the design, implementation, and assessment of the project and also to lend technical expertise in assessing host country progress and commitment.

From experience observations elsewhere in the region, a full time secretary would appear not to be essential. But a secretary should be designated for the project who would incorporate the project's work of this nature with his/her other duties.

Provision for short term TA should be included, as it will be needed, and there exists a core of qualified individuals, some of whom are known to the Kenya Mission, who remain available for this purpose.

This project is about capacity building, a term of which not everyone is enamored. To some it sounds impersonal, as if divorced somehow from people. To others it seems cynical, as if organizational capacity building is an end in itself unrelated to people and their issues and problems. Those are understandable concerns, but a careful reading of this project will lead to its acquittal on both charges. The civil society, legislative improvement, and policy analysis components of this project all relate directly to enabling people to do more things and do them in new and more effective ways. The project indicators, if they don't already do so, should make clear that it is behavioral changes projected will be measured. But it is proposed also to institutionalize these behavioral changes; weave them into the norms, rules and procedures that constitute the organizations involved so that people joining these groups in the future will absorb this learning as part of learning their roles and the way the groups work.

Moreover, in all three cases the groups involve have rationales far grander than their own survival. The legislature will, of course, presumably survive in any event. But a great many MPs know that the legislature could and must play a far more active leadership role in the policy setting area and are anxious to be able to do so more effectively. All the better known NGOs, at a

minimum, are animated by valid, important socioeconomic or political improvement purposes. And the proposers and would-be charter principals of IPAR all see its purpose as described above and in the narrative.

BMS, and possibly tax modernization, are somewhat different in this respect. Both involve as the primary objective installing a system and training people to work with and benefit from it. Both relate to a larger purpose as explained above, one from which all Kenyans stand to benefit in the long run.

In short, the Kenya project is about people-level impact. Through greater financial transparency and accountability, better trained legislators to represent them more effectively, stronger civic-NGOs to advocate and defend democratic values on their behalf, and a research organization to help clarify the issues involved in the key problems they experience on a daily basis, the people of Kenya as a whole will benefit directly from these democratic initiatives.

IPAR. IPAR is designed to function very much as IDS once did; and it is designed by distinguished individuals who have themselves been a part of that institution in its heyday.

It is to be a center for high quality, in-depth, independent research on the most important and vexing policy issues of the day. While IPAR will initially be built around some of Kenya's most distinguished scholars, it will over time support and bring to prominence younger and promising researchers. IPAR will bring together, indeed in some ways recreate a policy community for the discussion of issues of the day that will be informed by IPAR research. Through this policy community that will attend its seminars and conferences, IPAR will also reach a wider audience and broaden access to, as well as enrich the store of policy-relevant knowledge. The international stature of several of the charter principals will put the restored Kenya policy community more directly in touch with those in other countries inside and outside Africa. Everybody gains from such exchanges of knowledge.

About the design of IPAR there appears to be little or no controversy. However, there are several issues concerning its implementation. One is its financial sustainability. The proposal envisages contract research providing up to 50% or more of IPAR's operating costs. The most venerable of non-University based policy research institutes, like Brookings in Washington, do so to a similar or possibly even greater extent. IPAR's charter principals believe, with good reason that they will be able to secure funding from external sources. Other possibilities are the sale of IPAR publications and subscriptions to a journal it might establish. A membership fee for belonging to IPAR as a member of the policy community might include free or reduced rates for such publications. In short, every venture in the private sector entails financial risk, and IPAR on balance is a good one.

Setting up of an IPAR endowment is an issue by itself because it is a new venture for AID. Endowments are now an approved mechanism, though implementation guidance has not yet been received from AID/Washington. Field missions have been encouraged

by Washington to explore new ideas. Surely, exploring this one has merit.

The charter principals are all men. Sensitive to that imbalance, they are pledged to redress it promptly as IPAR is implemented.

There are several matters relating to setting up IPAR as an organization. These are not really issues but rather tasks to be accomplished and overseen. If IPAR is to be independent it must decide what studies to undertake on its own except insofar as it accepts contract research. Bylaws do need to be finalized including, in addition to the usual components, measures for selecting researchers, electing institute leadership, electing/designating members of the governing Board, and provisions for length of terms and eligibilities for renewals. Appropriate personnel and financial management procedures will need to be installed. The Charter principals are all experienced with such matters in other well established organizations, and they will need minimal coaching on how to meet these requirements.

There will need to be a donor advisory committee, particularly at the outset composed of representatives of donors contributing financially to IPAR. Once the basic organizational and financial procedures are established to the satisfaction of all donors, a donor advisory committee will still be useful as a sounding board for ideas and initiatives and for thinking together about problems that may confront the organization.

Some wonder why the GOK would permit such an organization. It will do so because it will seem relatively non-threatening, including being complementary to rather than competitive with KIPPRA for reasons stated above. By charter it will be independent and non-partisan. If the GOK will tolerate a donor aggressively supporting opposition parties, recent headlines notwithstanding, a non-partisan IPAR supported by numerous donors should appear relatively innocuous. Moreover, the charter principals are known and respected by the government. They have not been prominently associated with any political party, ruling or opposition. Political conditionality has become an accepted practice in donor-host country relations, and should it choose to do so, the U.S. government could insist on registration and acceptance of IPAR and of GOK acceptance of donor support for civic NGOs as conditions for making other forms of assistance available.

Much hangs on the commitment of IPAR's charter principals. This proposal came from them in the first place; and it is they who have been pursuing the registration. There is, at this stage, no reason to doubt any flagging on the original commitment by any of the charter principals and every reason to believe they remain committed to this initiative.

Legislative improvement. The design of the legislative improvement component of this project is implied in what has been said above. The objective is improved performance by legislators and staff by upgrading their skills and competence. The program includes study and training tours for both parliamentarians and staff, seminars for the same purpose here in Kenya, upgrading of

the parliamentary library, and some equipment to speed reproduction of Hansard. Once again, there appears to be little controversy or uncertainty about the design.

The one substantive implementation issue appears to be that of working with the clerk. The question raised is whether it is appropriate to work with an officer who some might consider "partisan".

Section 45(2) of the Kenya Constitution (1992 edition) says simply that "the offices of the Clerk of the National Assembly and of the members of his staff shall be offices in the public service." The language suggests that in constitutional terms the staff of Parliament is to function like a civil service, albeit distinct from the civil service that staffs the ministries and local governments.

As a practical matter, the clerk is directly answerable to the Speaker who in turn is very much in charge of the management of the house. This pattern is not out of keeping with other followers of the Westminster tradition. The degree of the Speaker's control in practice no doubt varies a good deal from country to country and individual to individual.

On a working basis, the Clerk has been very responsive on behalf of the Speaker to Mission insistence that delegations be balanced in terms of party, region, gender, and newer/veteran members. He also has accepted Mission objections to leadership of the delegation by a nominated member. The Mission did properly relent on the issue of nominated members being included upon being reminded that some very certifiable democratic states have nominated members in their legislatures (e.g. the Canadians and in a sense the Germans in their upper houses). As a practical matter, there has been no problem in working with the Clerk on these issues of balanced delegations.

Also, as both a philosophical and a practical matter the Mission has no choice but to work with the Clerk if it is going to work with the Parliament, and the reasons for doing so are compelling as explained above. It is important to that one central donor objective is the establishment of as much Parliamentary independence as possible--from the executive branch. But it is just as important, arguably even more so, for Parliaments to be independent of foreign governments in fact and appearance. Were the Mission to succeed in handpicking ourselves MPs and staff members for training exercises, it would be seen as--and might even in fact be--compromising the integrity of those MPs. The "American MPs" they would instantly be called, and their capacity to function would be thereby seriously compromised. In short, there is neither a problem nor a realistic issue here.

Civil Society. No one appears to question the design concept for strengthening civil society: strengthening those civic-focused NGOs to articulate, inculcate, exemplify, assert, and defend democratic values on behalf of society at large. The issues are ones of implementation.

One very important issue is the criteria for making grants. One suggestion would be to operationalize the preceding paragraph

to yield as criteria supporting those organizations with a demonstrated commitment to those activities. To those one would need to add the existence of appropriate financial and organizational procedures, or a clear commitment to meet these criteria as a mandatory first stage in receiving support before any operational money to pursue their civic objectives is issued.

A second issue is who makes the grants. That issue turns in part on whether the project as a whole is managed outside the mission or, as is done elsewhere, inside the mission as described above. But there is a long term-short term aspect to the question also. Assuming the conventional in-house DG management approach, AID itself would need to make the initial grants along the lines of the 116e process. It could differentiate the two categories by decreeing a dollar limit, above which proposals are deemed candidates for project funding and below which they go in the 116e pot. Duration might also be an issue. All projects of more than a year's duration, regardless of funding level, might be put in the project funding category, all others in 116e.

Ultimately, with the development of one or more umbrella NGOs, and as its/their standing translates into broad acceptance as such within Kenya, spinning off the decision-making process to those organizations by agreed upon criteria and procedures would honor the autonomy and independence so critical to civil society. Probably, however, AID representation would need to continue on the decision-making boards as long as Mission money is involved for reasons that need no rehearsing. In the meantime, there would be no reason why an appropriate U.S. based NGO might not be engaged to work with applicants for project funding to ensure that in organizational and financial terms they are ready for AID funding.

Accountability and Governance. There appear to be no substantive issues with respect to the design or implementation of BMS which will be the first initiative in this area, or about tax modernization or the auditor general and attorney general areas all of which are in the "talking" stage at this point. A particular difficulty with the tax modernization initiative is the failure of the GOK to date to meet the Mission's requirement for "bite sized" aspects of this large and very expensive initiative that AID might fund, this despite our repeated requests for same.

6. Constraints/Realistic End of Project Status. General. **Commitment.** There are, of course, constraints to be confronted in all aspects of this project. Several are well known, pervasive, and common to all the project components. Uppermost among these is possible government resistance, not just at the inception but in innumerable other ways through the life of the project (LOP). These boil down to the issue of GOK commitment to further the transition. At this point, many dedicated, capable individuals in key places notwithstanding, the GOK's momentum in furthering democracy and transparent, accountable government is glacial.

In fairness, the private sector, people in general, and opposition parties must all be players in this transition. AID documentation itself fails to recognize that a viable civil society

and well-functioning opposition parties don't appear overnight. Moreover, AID documentation wholly overlooks the knotty problems, even in established democracies, of keeping the affairs of ruling parties and of the governments they run separate not to mention disengaging them when they have been purposefully intertwined in legally constituted one party governments for a quarter of a century and more.

It is necessary to observe that Kenya opposition parties, too, have scarcely lived up to their all-important roles in multiparty democracies. They must do more than field candidates and win seats in parliament and in local councils. They must also take the lead in defining the issues of the and alternative approaches for dealing with them to those put forward by the government of the day. For their own organizational well-being as well as for the good of the country, they must know when to support the government on initiatives on which there should be true consensus. The role of the Loyal Opposition, like that of the policeman in *Pirates of Penzance* is not a happy, nor an easy one. But it is indispensable. All the parties have failed in general to rise above issues of personality within and between themselves to to pursue their true roles. In not doing so, they have provided a sad example of the weakness of our own thinking in this area.

While the weakness of official commitment and sustained momentum is an obstacle, there is nothing monolithic about it. The very lack of organizational integration, of which there are daily public examples, is important. It means that with proper diplomacy and a shrewd choice of GOK and private sector partners, each of these initiatives has the potential to be accepted and, in some, sense to succeed.

Corruption. Beyond weak commitment, corruption is a major issue. On the one hand, technical knowledge of how to end rampant corruption is still a frontier area of inquiry. On the other hand, in democratic theory openness and transparency are to corruption as light is to darkness. In practical as well as theological terms, democratic theory assumes that corruption can't stand the light of day. And each of these project components in its own way is intended to open up the political process in ways that will making bring official malfeasance to account easier. A very few short years ago, Goldenberg would never have seen the light of day. There has been some positive change in this area and supporting more of it through this project is wholly appropriate.

End of Project Status. Someone in the mission has suggested that the EOPS be set forth in behavioral terms, emphasizing as discussed earlier that behavioral change is what is meant by capacity building. With minor modifications, that individual's suggestions are incorporated with respect to EOPS in each area.

Legislative Improvement. The present and previous tours have proceeded without serious problems. There is reason to believe that any but the general constraints apply in this area, and in

fact they have so far not appeared. A reasonable EOPS would find "better quality of debate in terms of 'improved use of objective information resources in public policy debates'" and, in addition, better drafted private member's bills, more prompt preparation and circulation of Hansard, and evidence of extensive use of enhanced library resources.

Civil Society. Specific to civil society is the everpresent constraint/danger of excessive government control. Leading members of the civic NGO community counsel, however, believe that the present NGO law is a vast improvement on initial drafts and that it is workable. The climate could change, of course, but the prevailing expectation is that the existing hard-won compromise is something both government and NGOs can live with and, therefore, will. Not to be left out of the equation is the power of the churches, the largest truly autonomous societal sector, to provide powerful leadership for all of civil society and society at large. They did prior to the decision to go multiparty in 1991 and may very well be about to do so again on other key democratic concerns. In these circumstances, it is reasonable to expect that project support for civil society will be possible and have a reasonable chance of success.

Progress and EOPS could include evidence that civic NGOs actually do articulate and assert democratic values, attempt to defend them against governmental transgression, exemplify them internally, and undertake to inculcate them in the population at large. Of course, evidence of utilizing satisfactory financial management and organizational procedures must be included.

IPAR. Since IPAR will be in effect a kind of NGO the obstacles it faces are similar to those of civic NGOs. In addition, IPAR faces as a possible constraint a breakdown of cooperation with KIPPRA and its researchers a general denial of access to ministries and documents. That is an everpresent danger on the horizon, but the stature of the charter principals is such that they will have access through other channels and support from those channels when they encounter GOK resistance. Denial of access to these individuals could prove publicly embarrassing to the GOK. Moreover, particularly for Kenya, there is enough information that is in the public domain, that IPAR could function with its access thus defined. In the likely eventuality that they will be able to obtain access, they will be able to pave the way for future researchers who may not be quite so well known. Even at some point in retirement from IPAR, the charter principals could be helpful in this way.

Realistic achievement and EOPS could very well include both the organization and its operations in place and function and its production of "objective public policy studies on key issues which are widely debated and advance Kenyan understanding of costs and benefits of various social choices".

Accountability and Governance. Beyond the general constraints, none specific to BMS appear on the horizon. Achievement and EOPS

could properly center on the system being in place at some definable stage of the long term process and evidence that "BMS produces timely, accurate information on the use and allocation of public financial resources for Parliament, government and the general public." It would be an additional measure in the parliamentary category that the Public Accounts Committee uses and publicizes the BMS reports in Parliamentary debates.

7. Conclusions. The final issue is whether, considering all the above, this project from an institutional perspective is technically sound and administratively viable given the problems it addresses and which, combined with others, shape the environment in which it will work. All things considered, the answer is affirmative.

Draft I R, Annex I. M&E Implementation Plan. Narrative follows.

Gantt Chart for Implementation of Monitoring and Evaluation Activities

Indicators	FY94				FY95				FY96				FY97				Means of Verification
	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	
Goal Level Indicators: Evidence of pluralism through the development of both public and private institutions whose purpose is to enhance the performance and accountability of Government in Kenya		■															Baseline survey and project evaluation studies
Evidence of increased levels of tolerance and compromise between competing groups wishing to advance their respective interests				■													Direct observation by the DG Advisor and other officials in the US Country Team
Increased respect for human rights				■													International human rights indexes (including State Department and Human Rights NGO reports)
Purpose Level Indicators: Kenya National Assembly improvement in the quality of debate of major issues of public policy		■				■				■				■			Project longitudinal study of Hansard
Enhanced capacity of key institutions, both public and private sector, to promote the accountability and transparency of governance in Kenya		■												■			Baseline survey and project evaluation studies
Improvement in staff support for the operations of the legislature, especially the standing committees of the Assembly		■												■			Baseline survey and project evaluation studies
Increase in the institutional capacity of NGOs whose purpose is to promote democratic governance	■													■			Project financed survey of assisted NGOs
Successful establishment of the Institute for Policy Analysis and Research				■													IPAR Annual Report
Establishment and institutionalisation of the Budget Monitoring System (BMS) at the Ministry of Finance		■				■				■				■			Ministry of Finance semi-annual reporting

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Gantt Chart for Implementation of Monitoring and Evaluation Activities

Indicators	FY94				FY95				FY96				FY97				Means of Verification	
	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4		
Output Level Indicators :																		Semi-annual questionnaire for MPs on knowledge of parliamentary procedures and use of support facilities
Skill-level of MPs																		Semi-annual questionnaire for parliamentary staff assessing knowledge of specific technical matters
Skill-level of parliamentary staff																		Project management assessment
Quality of drafting of private members bills																		Project recording
Time taken to publish Hansard																		Baseline survey and project evaluation studies
Range of books and periodicals in the parliamentary library																		Economic Survey/MOF documentation
Increase in the aggregate amount of tax revenue to the GOK																		MOF/Budget Monitoring System records
More timely tracking of annual recurrent and development expenditures																		
Annual expenditures information disseminated in a more comprehensible and readable form to the National Assembly and the public																		Mid-term evaluation
IPAR recruited 70%+ of its projected staff establishment by EOP																		IPAR annual report
IPAR completed first round of projected research studies and disseminated results																		IPAR annual report
IPAR has a multi-disciplinary methodological approach and professional composition																		IPAR annual report
IPAR management structure firmly established																		Mid-term and final evaluations
Numbers of rural dwellers actively participating in NGO DG activities																		Baseline survey and project evaluation studies
Rural/Urban ratio of participation in the IED																		IED Members database
Number of micro grants awarded to NGOs per FY																		Project records
Number of major commitments to NGOs per FY																		Project records
Number of grants provided outside HRDF mandated guidelines																		Project records
Attendance at training workshops from a broad spectrum of parties																		Project records
Management information systems providing project management with timely and relevant information for decision making																		Mid-term evaluation
Management information systems actively used by project management for decision making on implementation issues																		Mid-term evaluation

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Gantt Chart for Implementation of Monitoring and Evaluation Activities

Indicators	FY94				FY95				FY96				FY97				Means of Verification
	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	
Activities																	Project records
Parliamentary staff are trained																	Project records
Computer equipment is provided for the parliamentary library and the Office of the Clerk																	Project records
MPs are provided with study tours																	MOF reporting to the project
Budgetary process is computerized																	MOF reporting to the project
Tax Modernization program continues to be implemented																	IPAR annual report
IPAR staffed by the 'best and the brightest' of Kenya's social science community																	Project assessment and mid-term evaluation
Sustained high quality analysis on selected policy issues is undertaken																	Project records
Civil society grants program established and operated by the Mission																	Project records
NEMU transformed into a permanent fully-funded organization with a 'rural reach'																	Project records
Legal defense fund established																	Project records
'Nairobi We Want' secretariat established																	Project records
Pilot program in rural civil education established																	Project records
Party and campaign management training workshops undertaken																	Project records
Management information systems designed																	Project records
Job descriptions written																	Project records
Staff recruited																	Project records
Staff trained																	Project records
Mechanism for day to day project implementation established																	Project records

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Just 1 working table only

Gantt Chart for Implementation of Monitoring and Evaluation Activities

Indicators	MOV Type	FY94				FY95				FY96				FY97				
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	
G1.1	BS																	
G1.2	AO																	
G1.3	AO																	
P1.1	AS																	
P1.2	BS																	
P1.3	BS																	
P1.4	NS																	
P1.5	AO																	
P1.6	SO																	
O1.1	SO																	
O1.2	SO																	
O1.3	AO																	
O1.4	PR																	
O1.5	BS																	
O2.1	AO																	
O2.2	AO																	
O2.3	BS																	
O3.1	AO																	
O3.2	AO																	
O3.3	AO																	
O3.4	MF																	
O4.1	BS																	
O4.2	PR																	
O4.3	PR																	
O4.4	PR																	
O4.5	PR																	
O4.6	PR																	
O5.1	MF																	
O5.2	MF																	
A1.1	PR																	
A1.2	PR																	
A1.3	PR																	
A2.1	PR																	
A2.2	PR																	
A3.1	PR																	
A3.2	BS																	
A4.1	PR																	
A4.2	PR																	
A4.3	PR																	
A4.4	PR																	
A4.5	PR																	
A4.6	PR																	
A5.1	PR																	
A5.2	PR																	
A5.3	PR																	
A5.4	PR																	
A5.5	PR																	

G = Goal
 P = Purpose
 O = Output
 A = Activity
 BS = Baseline survey & evaluations
 AO = Annual observ. (secondary data)
 AS = Annual survey
 NS = NGO special study
 S² = Semi-annual questionnaire
 MF = Mid-term and final evaluations
 PR = Project reporting (management information system)

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Gantt Chart for Implementation of Monitoring and Evaluation Activities

Indicators	MOV Type	FY94				FY95				FY96				FY97				
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	
P1.4	NS																	
P1.1	AS																	
G1.1	BS																	
P1.2	BS																	
P1.3	BS																	
O1.5	BS																	
O2.3	BS																	
O4.1	BS																	
A3.2	BS																	
O3.4	MF																	
O5.1	MF																	
O5.2	MF																	
G1.2	AO																	
G1.3	AO																	
P1.5	AO																	
O1.3	AO																	
O2.1	AO																	
O2.2	AO																	
O3.1	AO																	
O3.2	AO																	
O3.3	AO																	
A3.1	AO																	
P1.6	SO																	
O1.1	SO																	
O1.2	SO																	
O1.4	PR																	
O4.2	PR																	
O4.3	PR																	
O4.4	PR																	
O4.5	PR																	
A4.6	PR																	
A5.1	PR																	
A5.2	PR																	
A5.3	PR																	
A5.4	PR																	
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