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EMBASSY OF THE
UNITED STATES OF AMERICA
Office of Development Affairs
September 20, 1988

Professor John Dugard
Director
Center for Applied Legal Studies
University of the Witwatersrand
JOHANNESBURG

Legal Training and Placement Program
Agreement No.674-0301-G-SS-8168-00
COLD Project

Dear Professor Dugard:

Pursuant to the authority contained in the Foreign Assistance Act of 1961, as amended, the Agency for International Development ("AID") hereby obligates to the Centre for Applied Legal Studies ("CALS" or "Recipient"), the sum of \$35,000 to support the establishment and initial operation of a Legal Training and Placement Program for disadvantaged law students in the Republic of South Africa, as described in Attachment 2 of this Agreement.

This Agreement is effective and obligation is made as of the date of this letter and shall apply to commitments made by Recipient in furtherance of program objectives during the period beginning with the effective date and ending August 31, 1990.

This Agreement is made on condition that the funds will be administered in accordance with the terms and conditions as set forth in Attachment 1, "Schedule", Attachment 2, "Program Description", and Attachment 3, "Standard Provisions", which have been agreed to by CALS.

If these terms are agreeable to you, you are requested to sign the original and six (6) copies of this letter to acknowledge your receipt and agreement with the terms of this Agreement, and return the original and five (5) copies to the Office of Development Affairs, U.S. Embassy, Pretoria.

Sincerely yours,

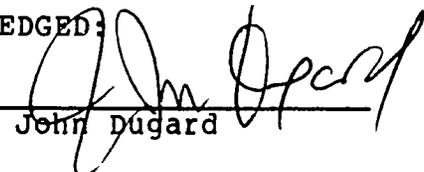

Wendy A. Stickel
Attache

Attachments

1. Schedule
2. Program Description
- ~~3. Standard Provisions~~

ACKNOWLEDGED:

BY:


John Dugard

TITLE: Director

FOR: Centre for Applied Legal Studies

DATE:

FISCAL DATA

Appropriation: 72-1181014

Budget Plan Code: GSSA-88-21674-KG13

RES CNTL NO.: B880220

Com. Doc. No.: 674-0301-G-SS-8168-00

Project No.: 674-0301.00

Total Obligated Amount: \$35,000

Funding Source: USAID/South Africa

Drafted:RLA:ESpriggs *h/R*

Cleared:ADIR:WStickel

SPDO:MJohnson

PROG:CPascual *h/R*

CONT:MVandoren

HRO:POLson *h*

ATTACHMENT 1

SCHEDULE

A. Purpose of Agreement

The purpose of this Agreement is to support the establishment and initial operation of a Legal Training and Placement Program for apartheid-disadvantaged law students under the auspices of the Centre for Applied Legal Studies (CALs), as more specifically described in Attachment 2 to this Agreement.

B. Period of Agreement

1. The effective date of this Agreement is September 20, 1988. The expiration date of this Agreement is August 31, 1990, meaning that costs incurred for goods and services provided after that date will not be eligible for funding under this agreement.

2. Except as AID may otherwise agree in writing, funds obligated thereunder are available for program expenditure for the estimated period September 20, 1988 to August 31, 1989 as shown in the Financial Plan below.

C. Agreement Funding and Payment

1. The total estimated amount of this Agreement for the period shown in B.1 above is U.S. \$100,000.

2. AID hereby obligates the amount of \$35,000 for purposes of this Agreement during the period set forth in Section B.2 above. In no event will Recipient's costs exceed the U.S. dollar amount obligated without a written amendment to this Agreement.

3. Additional funds up to the total amount of the Agreement shown in Section C.1 above may be obligated by AID subject to availability of funds, the achievement of satisfactory progress toward Program objectives, and the requirements set forth in Attachment 3 under "Revision of Financial Plans".

D. Financial Management

1. General. The Recipient shall be responsible for accounting for all funds provided under this Agreement. Reimbursement for expenses incurred shall be in the form of a monthly submission of invoices, checks, payroll sheets, etc. as further described in Part 2 of this Section. Set forth below in Section E, "Financial Plan", of this Agreement is a budget based upon expected expenditures covered by this Agreement. This budget contains an estimate of monthly expenditure requirements and a request for a 90-day advance. Due to administrative procedures, a sufficient advance of funds will

be provided to cover expenses for three months of operations. Any interest earnings from funds provided under this Agreement will be returned to USAID.

2. Disbursement Procedures.

a. Payment Method. Local currency disbursements from USAID to Recipient will be made through monthly reimbursement for expenses incurred during the previous month. Each reimbursement request will include (a) a summary sheet listing in a format compatible with the budget the purpose and amount of all (individual) expenses incurred with a sub-total for each budget line item and a total; and (b) copies of paid invoices (not pro forma invoices), checks, or other documentary evidence showing that funds were expended and the payee received such funds; e.g. an invoice stamped "paid", a cancelled check, a payroll sheet signed by the employee, etc.

b. Advances. It is recognized that an advance of funds is required, as working capital, to carry-out the purposes of this Agreement. Refer to Sections D.1 and E.1 (Table 2) to this Schedule which request such an advance.

(1) As discussed in Paragraph D.2.a. above, monthly (or "recurring") expenses are reimbursed. USAID will reimburse the Recipient for recurring expenses financed from the advance, but non-recurring expenses financed from the advance will not be reimbursed. Rather than reimburse non-recurring expenses, the amount of the advance will be reduced by that amount. Consequently, when the Recipient submits its monthly reimbursement request per paragraph B.1., it is most important to include those expenses which will be used to reduce the advance balance.

(2) At the end of the Agreement period, any advance balance will be liquidated through submission of paid invoices and/or cash.

(3) Should there be a need to increase the level of the advance, USAID should be notified in writing at least 30 days before the required increase. USAID will advise, in writing, of any approved increase. Likewise, USAID reserves the right to decrease the level of this advance should expenditures fall below projected levels.

5

E. Financial Plan

1. Illustrative Financial Plan

An Illustrative Financial Plan for this Agreement is set forth in in Table I below. Revisions shall be made in accordance with Standard Provision 4 of this Agreement, located in Attachment 3 and entitled "Revision of Agreement Budget".

TABLE 1

	9/88-5/89		5/89-9/91		TOTAL	
	US\$	SAR	US\$	SAR	US\$	SAR
Program						
Administration	26,700	58,740	54,200	119,240	80,900	177,980
Program						
Activities	8,300	18,260	10,800	23,760	19,100	42,020
TOTAL	35,000	77,000	65,000	143,000	100,000	220,000

TABLE 2

	US\$	SAR
Program Administration	10,000	22,000
Program Activities	4,000	8,800
TOTAL FOR 90 DAYS	14,000	30,800

2. Level of Assistance

The budget totals provided have been calculated by taking the amounts required by Recipient in South African Rands and then converting these to U.S. Dollars. While the Rand amounts are included in the budget for illustrative purposes, the U.S. Dollar totals and not their Rand equivalents constitute the binding level of USAID assistance.

Due to exchange rate fluctuations, Rands available under individual items financed under this Agreement may exceed levels budgeted for by Recipient, and thus allow other items to be financed as well. In such an event, Recipient will consult with USAID on the priority use of these funds, and arrangements will be made to amend the Agreement to provide for their expenditure. However, should changes in the exchange rate result in fewer Rands being available than budgeted for, Recipient must finance the shortfall since the U.S. dollar amount prevails.

F. Reporting and Evaluation

The Recipient shall submit a performance report no less than every six months indicating actual accomplishments financed by the Agreement. The report shall be submitted within 30 days of the end of each six-month period. The outputs of the program, such as the number of persons placed, will be quantified in each report. Reports will describe outputs by category, such as number of apartheid-disadvantaged students or graduates placed with major firms in articulated clerkships or vacation jobs, hired as professional assistants, or placed in pupilages with mainstream advocates. A brief description of the activities undertaken during the period (e.g. database development, etc.), including the status of the activity, specific problems encountered, and any potentially broad implications, will also be included. A final report describing cumulative benefits and status of the program and future directions will be submitted to AID within 60 days of expiration of this Agreement.

G. Special Provisions

1. Within 90 days of execution of this Agreement, Recipient shall, except as AID may otherwise agree in writing, allow USAID to conduct a financial review to confirm that proper financial management systems for accounting and record keeping exist.

2. Prior to final selection of persons to fill the Coordinator position and Trustee positions, the name and qualifications of each recommended candidate will be submitted to AID and AID shall have two weeks after such submission to comment.

H. Title to Property

Not applicable.

I. Authorized Geographic Code

All goods and services financed by this Agreement shall have their source and origin in the United States or the Republic of South Africa.

J. Local Cost Financing with U.S. Dollars

The amount of U.S. dollars authorized to be used for local cost financing is the entire amount obligated under this Agreement.

K. Other Implementation Guidelines

None.

1

PROGRAM DESCRIPTION

LEGAL TRAINING AND
PLACEMENT PROGRAMME
FOR APARTHEID-DISADVANTAGED LAW STUDENTS

I. OVERVIEW AND PURPOSE

This Proposal introduces a new Programme that will be conducted nation-wide within the Republic of South Africa. The goal of this Programme is to create, in as short a time as possible, a cadre of Black lawyers with sophisticated legal skills and experience in dealing with major issues affecting the mainstream economy and South African society generally. The more immediate purpose of the Programme is to address the constraints that prevent Black lawyers from entering mainstream law practice, with the specific objective of facilitating the placement of at least 50 Black law graduates annually with major law firms as either articled clerks or professional assistants, or in pupilages with successful advocates having broad practices.

Initially the Programme will be conducted by a coordinator who, with support provided through this proposal, will be sponsored by the Centre for Applied Legal Studies at the University of the Witwatersrand School of Law. However, by the second year, it is expected that the Programme will be conducted under the auspices of a trust composed of prominent practitioners, academics and community and business leaders. The Programme, through mechanisms hereunder outlined, will facilitate placement and oversee the training of 50 Black lawyers annually in three key areas of practice, namely: commercial, labour and human rights law.

II. RATIONALE FOR THE PROGRAMME

The statistics in the legal profession reveal that there is a limited number of Black lawyers currently practicing in South Africa. Even this limited number of lawyers who have managed to beat the odds and become admitted to practice are restricted to practices that are outside the country's "mainstream" commercial practice area. As a result, few if any Black lawyers have been able to develop expertise in such important fields as conveyancing, corporate law, commercial and international transactions, banking, securities, taxation, high level labour and commercial negotiations, etc. For similar reasons beyond their control, Black lawyers rarely have an opportunity to become engaged in high-level human rights and labour practice.

In addition to serving as advocates for the elimination of apartheid and other human rights abuses and as negotiators in future economic and political restructuring, Black lawyers with sophisticated, mainstream skills and experience are, or

will soon be, needed in significant numbers to fill various positions. More specifically, regardless of the exact type of government or economic system that South Africans adopt for themselves in the future, skilled personnel with legal expertise will be needed to serve in key posts in the executive, legislative and judicial branches of government and to serve as providers of legal and managerial services to the economic community and the population at large.

If South Africa is to fulfill its potential to be a positive and influential force in regional affairs, and have a governmental and economic system that has credibility both inside and outside the country, then it follows that:

- (a) Blacks must play a major role in Government, the economy, and society at large in the near future, and
- (b) Significant numbers of such persons must possess broad and sophisticated legal skills.

The basic problem which this Programme is intended to address is the lack of comprehensive approaches to remedy the dearth of well-trained Black lawyers in South Africa, particularly in the key areas of Commercial, Labour and Human Rights Law. These areas have been identified because:

- (a) Substantial Black involvement and leadership in these areas is crucial for the process of meaningful change towards a democratic, non-racial society;
- (b) Black lawyers are grossly under represented in these areas, and
- (c) There will be a need for skilled Black professionals in these areas in both the public and private sectors of post-apartheid South Africa.

Given the above description of the basic problem, the goal of this project is to increase as quickly as possible, the number of Black lawyers with the skills and experience to fill the immediate and longer term needs of the country for such human resources.

The specific purpose of the Project is to increase as quickly as possible the number of Black lawyers in "mainstream" law practice, particularly in the commercial, labour and human rights areas of practice. This will entail overcoming the barriers that have kept all but a small number of Black lawyers from becoming profession assistants and partners in major law firms.

III. BACKGROUND ON THE PROBLEM

The reason for the dearth of well-trained Black lawyers in South Africa have been reasonably well identified through a country-wide research effort carried out between February and July, 1988 as a forerunner to the present Programme proposal.

developed, to facilitate timely identification of those particularly meriting and needing placement help. This data base should include academic and financial information, as well as the kind of work the student is interested in (e.g. community or commercial).

3. Deans of law schools need to play an active role in placement, using the data base envisaged to identify students with strong potential and then, with help from senior faculty members, pushing firms to take them on and querying firms' reasons for refusing them (if this should happen).

4. Black students should also be educated as to the importance of commercial work and mainstream experience, rather than simply focusing on human rights and labor law (important though these are at present to their communities). It is important that they comprehend the vital role that Black lawyers in mainstream commercial practice will be able to play in fostering change, and after political change ultimately comes. Black lawyers could play a useful role in marketing this concept to Black students, as it might then be more credible.

5. The research finding that 95% of commercial law firms interviewed stated that they are willing to take on Black clerks may be misleading, as most firms would probably do so only if the Black applicants were better than, or as good as, other White applicants. Instead, what is needed is an affirmative action approach in which firms hire the best Black graduates that are available and give them a fair opportunity to learn and to produce in the real work environment. The experience of several workshop participants was that often top students do not make top lawyers.

6. Rather than approaching firms as entities, efforts should instead be focused on identifying sympathetic individual partners, willing to take Black clerks under their wing, to gain the cooperation of these firms and to ensure that meaningful work and training feedback is given to the clerk.

7. The law firms need to be educated into acceptance of the need to take on, and develop the skills of Black clerks. This should be done by a particularly respected practitioner, or alternatively, by a respected referral organization, with a number of upfront senior practitioners. The emphasis should be placed on contacting sympathetic individual partners, and deans of law schools should be informed of all commitments made to take on black clerks (so that these can then be further pursued). In addition, effort should be directed initially at those firms which have indicated (as shown in the research findings and questionnaires) a willingness to take on two or more black clerks, as they may be more sincere.

8. Firms should be asked for a commitment at three levels: to take on black clerks, give them meaningful work and consider them seriously for promotion to professional assistants and, ultimately, partners. (However, this may be too much to expect at present).

9. The possibility should be explored of getting influential clients (such as large liberal companies, major university donors and the organizations of commerce and industry) to put pressure on the law firms to take on Black clerks and professional assistants.

10. A mechanism should be developed to provide a reputable screening or recommendatory process, as many law firms have indicated that this would increase their willingness to take on Black clerks.

B. Longer-term Student-focused Activities

1. In addition to the need to alert Black students to apply early on in their final year for articles, help is needed in counselling students how to write appropriate letters of application, backed by full CVs, how to handle job interviews, etc.

2. Pressure must be put on the Law Societies to press for two legislative changes: (i) giving B Procs an immediate right of appearance and (ii) according accredited university law clinics the capacity to train articled clerks. All organizations in the field must work together on this, so as to maximize chances that law schools will be allowed to do more to provide practical training. Increased practical training will help Black law students who may lack outstanding grades to secure articles with law firms.

3. There is a need for increased academic support for Black law students, as this has a critical bearing on their ultimate placement. A further workshop involving the deans of all the law schools around the country should be held for this purpose.

4. As regards the problem of "feeder" universities (e.g. Turfloop to Wits), coordination of undergraduate programmes should be encouraged by staff exchanges and annual meetings and student preparation for the "fed" universities should be facilitated by providing, well in advance, a data base of eligible students. In addition, feeder universities should be helped with books and journals and every effort made, in the longer term, to enable them to improve their standards.

5. Two important problems (which have a bearing on both training and placement difficulties) are financial and residential pressures. An organization should be developed to raise funds for this purpose, to identify students who need help and to provide residential and other assistance to clerks.

C. Longer-term Firm-focused Activities

1. A concerted drive is necessary to widen the present (very small) pool of law firms willing to take on Black clerks.
2. The placement issue should also be viewed from the law firms' perspective, particularly on the basis of "what's in it for them?" In this regard, the rapidly expanding Black commercial market, especially in conveyancing, should be stressed as well as the growing importance of industrial relations work and the need (even for firms presently with a management-sided, union-bashing reputation) to be able to understand and negotiate with the unions. In addition, it is important to emphasize the inevitability of change and the importance of "buying into the future" by preparing for it now.
3. It should be emphasized to firms that there is very little cost to them in taking on Black clerks, as most clerks do not, in any event, pay their way. In addition, the social responsibility of law firms should be stressed.
4. The problem stemming from the "profit motive" (i.e. the fact that law firms see Black clerks as less profitable than whites) could also be addressed by offering subsidization: for example, by undertaking to pay 50% of a Black clerk's salary for the first three months of his articles.
5. A possible solution to Black law student antipathy towards commercial or mainstream practice is to ensure that all Black clerks have the option of spending the first six months of their articles (or a fixed percentage of time during their two years of articles) working on human rights and labour issues.
6. Vacation work should be encouraged, and law firms should be asked to take on the same student in both June and December vacations, so as to maximize the benefit to both. This would then give an overall employment period of some nine weeks -- possibly enough time for a student to learn enough about mainstream law practice to later seek employment (or articles) with such a firm, and for a firm to decide whether to offer a position (or articles) to a particular student.
7. The possibility of part-time employment for students (i.e., coming in to work for firms on particularly demanding cases as the need for this arises) should also be canvassed. However, it may also give rise to difficulties (especially given the heavy academic workload) if such part-time opportunities arise in during the school term.
8. A data base should be developed, covering perceptions (from both sides) of how both vacation work and articles have proceeded and what the benefits/disadvantages have been.

9. A support programme should be developed to assist Black clerks, who suffer the same problems of transport, accommodation, etc, as they do as students.

D. Institutional Development

1. A separate organization should be created to provide the necessary coordination between law schools and firms, as well as existing organizations already active in the field. The organization also should raise funds for academic support programs, housing programs, bursaries and articulated clerk subsidies.

2. The organization will need one principal coordinator who should be both knowledgeable and good with people, as well as sufficiently dynamic to galvanize the various actors concerned into taking the necessary steps. He should preferably be a legal practitioner, but need not necessarily be Black. The organization must be perceived to be independent (though its very goal of placing Black students in mainstream practice may render it suspect to some) and it should also have sufficient clout to ensure action.

3. The new organization (or consortium) will need a group of trustees, who should be drawn from a broad spectrum of organizations (so as to enhance its perceived independence) and who should also include representatives from the law schools, the major firms and the various organizations (such as the Legal Education Centre (LEC) of the Black Lawyers Association or Lawyers for Human Rights) already interested in this field.

4. Funding will be needed for this purpose and every effort should be made to utilize existing resources and eliminate duplication. Hence, the organization should be housed in the existing institution. The Wits Law School is the best of the available candidates (the others being Lawyers for Human Rights and the LEC) taking into account a number of political sensitivities. It is possible that the coordinator could shift from law school to law school, around the country, and perhaps ultimately to the LEC, but this would require a person willing to undertake such frequent moves.

5. In sum, for the present, the aim of the proposed Programme should be two-fold: to take the necessary steps, in the longer term, to launch a suitable organization and to place the graduates coming up this year and next in mainstream firms.

Two further institutional development actions should be noted, both became major working assumptions of the workshop: First, new procedures, staff and infrastructure should be minimized and duplication of work being done by others avoided. Instead existing entities should be built up to take on greater roles in the training and placement

of Black lawyers. Such entities might include, for example, the law schools, law firms and other bodies such as the LEC.

Second, a target number of Black law graduates to be placed in mainstream firms and pupilages is necessary to focus and galvanize the effort. Fifty mainstream placements per year was adopted as an appropriate minimum target. However, it is important that the objective of placing at least 50 highly motivated Black law graduates in mainstream positions in the coming year not be seen as the ultimate goal of the programme. Rather, the "first fifty" should be seen as shock troops -- the group that initially opens the door. After the successful placement of the "first fifty", or perhaps two or three rounds of such a placement effort, more firms should be willing to employ Black lawyers. It is this cumulative effect, resulting in a substantial cadre of experienced, capable Black lawyers with mainstream experience, that is the true goal of this Programme.

V. IMPLEMENTATION

A. The General Plan

The first step in initiating the recommendations summarized in the preceding section, particularly the immediate mainstream placement activities, is the hiring of a Programme Coordinator, the provision of office space and related administrative support and a basic travel budget. The Coordinator of the Programme would be employed, at least initially, under the auspices of CALS, which would serve temporarily as host institution. Once a national Board of Trustees's is established (a first year priority work item for the Coordinator), that body will assume general policy oversight of the Programme. Once sufficient funding is raised for the Programme to occupy its own premises (which should occur in the second year), the Trustees will assume full policy and management responsibility for the Programme. During the interim period, however, it is vital that the Programme retain its independent and nationwide character. Thus, the Programme will not become, nor be seen as, an integral part of CALS.

B. Responsibilities of the Coordinator

The responsibilities of the Coordinator are set out below in rough order of priority:

1. To facilitate the placement throughout South Africa of apartheid-disadvantaged law students with major law firms, by undertaking the activities described in Section IV A of this Proposal, including

- increasing the role of major law schools and law school deans in the placement of Black law students with major law firms;
- developing a student data base;

- developing an employer data base;
 - developing a list of supportive senior practitioners, commercial clients and CEOs, university donors, and law society officials and enlisting their active assistance in encouraging affirmative action by major law firms;
 - developing close working relationships with supportive senior law partners who are willing to sponsor one or more Black law graduates as articled clerks or professional assistants in their firms.
2. To develop and initially administer a student orientation programme to educate students concerning mainstream law practice, techniques of job seeking, etc. The Coordinator should develop plans to have each participating law school take over the operation of such orientation programmes as soon as possible.
 3. To develop and administer a vacation job programme to be taken over, as soon as possible, by each participating law school.
 4. To establish a trust and identify appropriate trustees to ultimately oversee the Programme and its fundraising efforts.
 5. To raise further funds for the Programme.
 6. To establish Regional Committees comprising participants from the legal practice and legal academics within all regional areas.
 7. To liaise with local and foreign institutions in regard to the expansion of the Programme into specific areas of legal practice.
 8. To arrange for meetings of the Board of Trustees as well as regional committee meetings.
 9. To monitor the progress of students placed by the Programme by liaison closely with the employing lawyers and firms.
 10. To prepare periodical reports for submission to the Board of Trustees, Regional Committees and all interested parties.
 11. To design and distribute a publication concerning the Programme with a view to sensitizing the community and the law firms in regard to the aims of the Programme.
 12. To attend conferences or meetings directly relevant to the success of the Programme.
 13. To design and administer Students' Education Grants.

The Coordinator to be appointed must be a qualified lawyer with experience in the field of legal training. It is also important for the person to be able to design and administer the grants, raise further funds for the Programme, to be able to relate to and and motivate Black law students, and to work closely and cooperatively with senior law school faculty and administrators, senior partners of major law firms and other organizations operating in the training and placement field.

C. Board of Trustees

The Board of Trustees will be constituted comprising 5 to 20 people appointed in their individual capacities as follows:

- 1 to 4 deans of the major law schools;
- 1 to 4 senior Black attorneys;
- 1 to 4 senior Partners of major law firms;
- 1 to 4 experienced Black advocates; and
- 1 to 4 prominent community Leaders.

The Board of Trustees shall be appointed, with the concurrence of major donors, from a list of individuals compiled country-wide. Initially the Board may be small to enable the Programme to establish itself quickly. However, the Trust will be designed to be expandable in order to broaden the base of involvement in and support for the Programme.

The function of the Board shall be:

- to establish and administer a Fund which will finance the administration of the Programme as well as bursaries;
- to appoint and supervise personnel under such conditions as shall be appropriate; and
- to act as final authority in all matters relating to the administration of this Programme.

D. Regional Committees

Regional Committees will be constituted in each major city (if they do not already exist) which shall comprise of representatives of the Law Schools in the same area as well as representatives from firms participating in this Programme. The purpose of the Regional Committees shall be to expand the number of participating firms (and, hence, the annual number of positions available for placement of Black law graduates) in each area; to help resolve housing and other problems encountered by students, articled clerks or professional assistants participating in the program; to jointly supervise the progress of the trainee attorneys; and to facilitate liaison with other areas through the Coordinator.

VI. BUDGET

This proposal seeks funding for the first two years of the Programme. It is anticipated that funding for subsequent years will be sought during this period by the Coordinator who shall have been appointed.

As indicated earlier, the Centre for Applied Legal Studies and the Wits University Law Faculty have been approached to make available office accommodation for the first two years of the Programme. The amount therefore required will cover only the first two years of operation while a full budget will be prepared by the Coordinator upon assuming office in regard to the subsequent years of the operation of this Programme.

R400,000 per year could readily be utilized. The amount might be budgeted as follows:

A. Salaries:

Having regard to the qualifications of the Coordinator, the job description and the number of hours which he will have to spend in and outside his office and away from his residence, an estimated amount of R40,000 to R60,000 per annum would under the circumstances be appropriate. A part-time secretary/administrative assistant will cost about R12,000 per annum, R20,000 on a full-time basis.

B. Coordinator's Travel:

The nature of the Programme entails enormous travelling throughout the country in regard to meetings with lawyers, deans, legal academics, participating students and possible donors and funders. It is further expected that in raising funds and liaising with other institutions the Coordinator may have to travel abroad. An estimated amount of R5,000 to R10,000 per year appears appropriate, based upon the travel costs associated with the six month research phase which developed the information required to prepare this Proposal.

C. Pilot Activities:

It will be important to demonstrate the viability of the Programme to students, law schools and law firms. Accordingly, funds will be needed for pilot or trial activities such as specialized competitive bursaries for LLB students seeking mainstream legal careers; temporary clerkship bursaries to remove financial obstacles even larger firms encounter; U.S. firm fellowships, perhaps to match U.S. law firm contributions; trial orientation programs to prepare LLB candidates for the mainstream job market. Estimated cost: R100,000 to R150,000.

D. Consultancies and Trust Organizations:

Preparation of more detailed plans than those contained in this proposal with respect to activities such as the student data base (e.g. its content, structure and uniformity between law schools) and full development of the trust and its activities (e.g. procedures for administration of funds; bursaries programs and related student selection criteria and procedures; cost effective academic support programs; student housing options) will require advice and technical expertise beyond that which may be possessed by the Coordinator. Such work should be allocated to others through contracts funded by the Programme. Also, organization of the trust and its effective operation will require travel by the trustees to meetings and related costs. Estimated cost of these items: R100,000 to R150,000.

E. Future Management of Bursaries Donations:

Once the trust is organized and its administrative procedures developed, it should be able to operate or oversee a very substantial bursaries programme, if such funding becomes available from donors. The possible magnitude of such a programme, assuming 50 LLB students per year at R10,000 per student to cover all major costs, would be R500,000 annually excluding administrative costs. Proper administration would require two or three professionals and a secretary, at a potential additional cost of R100,000 to R150,000 per year.

F. Miscellaneous Costs:

The costs relating to registration of the trust, stationery and telephone calls can be estimated at R5,000 to R15,000.

ILLUSTRATIVE BUDGET
(\$100,000 LEVEL)

ITEM AND BASIS	SEPT 88-MAY 89		JUNE 89-SEPT 90		TOTALS	
	US \$	SAR	US \$	SAR	US \$	SAR
<u>PROGRAM ADMINISTRATION</u>						
Coordinator						
12 mos @ R4700/mo	17,091	37,600	36,745	80,840	53,836	118,440
12 mos @ R5170/mo						
Secretary						
8 mos @ R1000/mo (PT)	3,636	8,000	14,545	32,000	18,181	40,000
Travel						
Local mileage, air and car rental	6,000	13,200	3,000	6,000	9,000	19,800
SUBTOTAL	26,727	58,800	54,290	119,440	81,017	178,240
<u>PROGRAM ACTIVITIES</u>						
Pilot Activities	0	0	6,710	14,760	6,710	14,760
Trial bursaries, clerkships, subsidies U.S. fellowships						
Consultancies and Trustees Travel						
2 consultancies @ R6100 each	5,545	12,200	0	0	5,545	12,200
20 Trustees @ R300/R440 each	2,728	6,000	4,000	8,800	6,728	14,800
SUBTOTAL	8,273	18,200	10,710	23,560	18,983	41,760
TOTAL	35,000	77,000	65,000	143,000	100,000	220,000

JUL 13 '88 16:27

ENTERPRISES

787 P02

ACTION MEMORANDUM FOR THE DIRECTOR

FROM: Edward J. Spriggs  RLA

SUBJECT: FY 1988 Funding for Black Legal Training and Placement

PROBLEM: Your approval is required to provide \$70,000 from the COLD Project to implement the second phase of our program to increase the numbers of black law graduates in "mainstream" law firms in South Africa. These funds will be obligated with the Center for Applied Legal Studies (CALs).

BACKGROUND: On September 25, 1987 USAID/SA executed a cooperative agreement with Lawyers for Human Rights, Pretoria Branch, for the purpose of funding research efforts to identify means of increasing the number of well-qualified black lawyers in South Africa. \$33,000 in PD&S funds were obligated for this purpose. In March of 1988, LHR-P, with substantial USAID/SA and RLA involvement, entered into a contract with the National Directorate of Lawyers for Human Rights pursuant to which the National Directorate was to appoint a key staff member, Peter Mothle, to carry out a research effort and workshop leading to a comprehensive proposal on ways and means of increasing the numbers of black lawyers involved in mainstream commercial, labor and human rights law practice. The rationale for the research effort and workshop (and for continued USAID assistance in this field) is contained in Attachment 1 to this memorandum.

The work called for under the contract has been substantially completed. Mr. Mothle conducted extensive interviews with approximately 75 key persons in the legal profession throughout South Africa, including law professors, deans, law society officials, senior partners and others in major law firms and law students. These interviews resulted in the development of considerable data on the problems faced by black law students and aspiring attorneys with respect to their education and professional advancement. More importantly, the interviews produced a substantial amount of data concerning possible solutions to these problems. Mr. Mothle's Interim Report on the research summarizes the results and provides useful statistical information.

-2-

Upon completion of the research and preparation of the Interim Report, final plans were made for a workshop composed of key individuals to further specify the solutions to identified problems in the area of black legal training and placement (BLTP). The workshop was held at the University of Witwatersrand, School of Law on Saturday, July 9, 1988. For the most part, the workshop validated the results of Mr. Mothle's research. The major exception involved the question of the willingness of major law firms to retain black lawyers as "articled clerks" with a view toward subsequently integrating them into their practices as Professional Assistants.

Convincing firms to take such action on a significant scale was considered to be a task that would be more difficult to accomplish than implied in the Interim Report. However, the workshop participants agreed that a number of specific actions could be feasibly undertaken, at reasonably low costs, that could dramatically increase the intake by such firms of black law graduates, thereby increasing the numbers of such persons in "mainstream" law practice in South Africa in the medium to long run. The result will be a larger number of black lawyers with sophisticated technical and negotiating skills necessary for an orderly transition to a non-racial democratic society.

DISCUSSION: Some of the specific actions recommended by the workshop included:

- a much more active role in placement of black law graduates by law schools;
- increased emphasis within law schools on practical legal training, through practice-oriented courses, clinic programs, etc.;
- greater emphasis within law schools on remedial educational programs for educationally disadvantaged students;
- early identification of applicants to major law schools from "homeland universities" for purposes of orientation and remedial preparation, as necessary;
- development, with the consent of the students involved, of data bases (e.g. resume-type data) at each law school concerning graduating black students to facilitate placement and interviews with law firms;

-3-

- appeals to commerce and industry to request that they insist that their law firms do more to promote black lawyers;
- direct appeals to major law firms by senior, influential practitioners and law school deans to hire more black lawyers;
- formulation of an initial list of (a) such influential persons and deans, and (b) major law firms willing immediately (i) to hire significant numbers of black articulated clerks and (ii) to influence other firms in their areas to do likewise;
- formation of consortia of law firms in each major metropolitan area committed to increasing the number of black lawyers in their ranks and to increasing the number of major firms participating in the program;
- a major fundraising effort to provide funding for bursaries and remedial programs for black law students;
- orientation programs within the law schools for black students considering entering commercial practice and/or large law firms;
- provision of housing on campus or nearby for black law students (rather than forcing them to live in distant and inadequate township housing);
- hiring of a full-time coordinator to develop and implement the above program.

It was agreed at the workshop that a maximum salary of R50,000 would be appropriate to attract an experienced coordinator to implement the program. It was also agreed that up to R20,000 for travel expenses and stationery would be appropriate. These annual figures are based on the assumption that various office and operational support needs be provided by the host institution. Funding for a 2 year period is suggested to facilitate recruitment of a high caliber person for the coordinator position, in all likelihood a black South African lawyer.

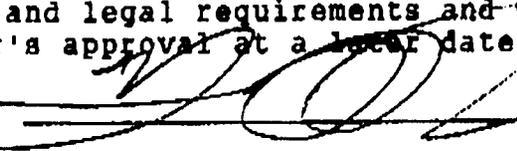
22

- 4 -

Several potential host institutions were discussed, including a creation of a new structure. These options were carefully considered in light of the time required to implement them -- particularly given the urgent need to institute placement activity immediately, since law firms are now (in July-August) making their final decisions regarding articulated clerks for 1989. The consensus was that the best host institution on an immediate and interim basis could well be the WITS Law School -- principally because of particular individuals located at the school and its commitment to an active program of this sort. The BLA Legal Education Center was a closed second. Political considerations now prevailing in the country, particularly acute amongst the black law student population, however, played a role in the rankings. For similar reasons, LHR was not considered the best host.

The simplest, most direct option for providing the immediate assistance required to quickly implement the workshop's program would be a grant to the Centre for Applied Legal Studies (CALS). CALS has a major interest in the development of black lawyers, and in the promotion of human rights and constitutional alternatives. It also is an eligible recipient of USAID funds pursuant to the RLA legal opinion dated July 28, 1987, and has received several AID grants for various specific purposes in recent years.

RECOMMENDATION: For the reasons set out above, it is recommended that you authorize the use of \$70,000 from Community Outreach and Leadership Development (Project No. 674-0301-00), for coordination of black legal training and placement activities through the Centre for Applied Legal Studies. The actual grant, to be developed on the basis of your approval principle, will of course be subject to all Mission and legal requirements and will be presented for the Director's approval at a later date.

APPROVE: 

DISAPPROVE: _____

DATE: 7/15/88

Clearances: PDO:AMarshall (subs)
HRO:Polson (subs)
PROGR:CPascual (subs)

23