



United States Agency for International Development

Contract Information Management System (CIMS)

DIRECT ACTION DATA FORM FOR GRANTS & COOPERATIVE AGREEMENTS

1. Basic Award Number 674-0301-G-SS-1052-00

2. Recipient Name Center for Rural Legal Studies

3. Award Description (This description will be seen by high level Agency officials, as well as members of Congress.)
The purpose of this project is to provide additional funds to support the efforts of CRLS to safeguard and expand the legal rights of rural farmworkers and their families.

ENTERED

OCT 08 1993

4. Principal Place of Performance

South Africa

5. Benefiting Country

South Africa

6. Project Officer

Office Symbol

Democratization & Governance Activities (COLD)

Name (Last, First)

Wendel, Dennis

7. Grant Agreement Type

- A. Disaster Assistance
- B. American Schools & Hospitals Abroad (ASHA)
- C. Other Than Those Listed Above
- D. Title XII Authority

8. Basic Purpose

- A. Tech. Services to Host Country
- B. Commodities
- C. Train. Services to Host Country
- D. Research
- E. Arch. & Engineering Services
- F. Construction

7a. Extent Competed

- E. Competed by the Technical Office
- F. Competed by the Contracting Office
- G. Not competed (unsolicited proposal)
- H. Not competed (predominant capability, etc.)

9. Taxpayer Identification Number

10. Business Organization Type

- A. Corporation
- B. Individual
- C. University or College
- D. Historically Black College or University
- E. Educational Organization (other than University or College)
- F. International Center
- G. Research Organization (other than International Center)
- H. Voluntary Organization
- I. Foundation
- J. Hospital
- N. Hispanic American College or University
- Z. Other

11. If U.S. University, Host Country Institution

12. If obligated amount is in local currency, provide U.S. Dollar amount

\$120,000

13.a. Negotiator (Last, First, MI)

Wendel, Dennis

13.b. Signature

14.a. Contract Officer (Last, First, MI)

Barrett, Dennis P.

14.b. Signature

COPY OF AWARD DOCUMENT MUST BE ATTACHED TO THIS FORM

ACTION MEMORANDUM FOR THE DIRECTOR, USAID/SOUTH AFRICA

DATE: July 20, 1992

FROM: Harold Motshwane, HRO/GDO

SUBJECT: Community Outreach and Leadership Development (COLD) Project (674-0301); Agreement No. 674-0301-G-SS-1052-01 with the Center for Rural Legal Studies (hereafter the "Center"),

I. PROBLEM

Your approval is required to amend the subject Agreement to obligate U.S. \$140,000 of FY92 COLD Project (674-0301) funds and to extend the termination date of the Agreement with the Center for an additional year until September 30, 1993.

II. AUTHORITY

Pursuant to Redlegation of Authority No. 452, the Director, USAID/SA, has authority to authorize, execute and amend grants with indigenous non-governmental organizations (NGOs) in an amount not to exceed \$5.0 million per grant.

III. BACKGROUND AND DISCUSSION

The Mission has had a long-standing policy to focus more of its human rights efforts and resources in rural areas because farm workers and their families have few legal protections and, consequently, are often the victims of vicious human rights abuses. Recently, for example, a young black farm worker was severely beaten by a white farmer, welded onto a workbench, doused with gasoline and set alight. The white farmer had accused the youth of stealing a TV set. The local magistrate released the white farmer with a small fine, but sentenced the youth to prison for stealing.

There are several reasons why such grotesque human rights violations occur -- rural white communities are conservative and becoming more reactionary to the reforms taking place; local white lawyers will not represent black farm workers in cases against white farmers (e.g., LHR was not even able to rent office space in the rural town of Colesberg); farm workers are often docile because they are dependent on the farm owner for food and shelter; farm workers and farms are not covered by laws that protect urban workers; human rights organizations are generally located in urban areas; and political organizations working for democratic and legal reform have an overwhelmingly urban focus.

Yet, if South Africa's transformation into a legitimate democracy is to be a lasting one, the legacy of apartheid -- which is so vivid in rural areas -- must be eradicated. This means that protective legislation must be enacted, a "rights culture" must take hold among whites and blacks, and a system of rural jurisprudence must be developed.

In 1990, the Human Rights Office and human rights lawyers in the Boland Cape region began discussions about the need to build upon some of the more successful human rights legal work being done on behalf of rural farm families in the area.

Despite these successful legal cases and some inroads being made among the more enlightened agri-business community, it was felt that important factual information about rural legal problems and possible solutions was not systematically analyzed or being made available to individuals and groups seeking to develop reform options for a future non-racial democracy.

Accordingly, with the support of a Small Human Rights Grant (\$10,000), the Center developed a pilot project to (1) focus legal assistance on precedent-setting cases (e.g., whether a large poultry operation was, in fact, a "farm" and thus exempt from the labor code) and (2) to examine the rights of farm worker families in such areas as evictions, claims to land, alternative dispute mechanisms, women's and children's rights and legal reforms.

The initial effort of the Center was deemed a success by all concerned and in 1991, a COLD grant for \$120,000 was made to the Center to implement the following program:

- ** to carry out legal research and, as appropriate, litigation to assist disadvantaged individuals or groups in rural areas;

- ** to develop solutions and legal policies to redress problems faced by rural workers and their families;

- ** to publish such findings and information so as to influence both academic and legislative debate on possible legal reforms for rural areas;

- ** to assist human rights organizations and groups with similar objectives to better understand some of the problems, legal and otherwise, faced by rural farm families; and

- ** to strive toward developing the basic principles of democracy in rural areas.

During the past year, the Center has made several important beginning contributions toward eradicating some of the most atavistic vestiges of apartheid, developing a rural jurisprudence and replacing apartheid with legal structures that are more just and democratic.

The Center, which has had representation on the National Manpower Commission, was quite active in helping the Commission develop recommendations for changes in the Unemployment Insurance Act and the Basic Conditions of Employment Act, both of which have excluded farm workers. This year, for the first time, farm workers will be provided some protections under both Acts.

Although not all of the Center's recommendations were agreed to during the deliberations, a good start was made. For example, for the first time, farm workers are included in the conditions of dismissal, hours and leave provisions (wages were not covered during this legislative session). While none of the parties to the debate (Cosatu, the Farmers Union or the Center), were totally satisfied about the proposed changes, these two Acts, for the first time in South Africa, provide a modicum of protection for farm workers. As follow-up on these changes, the Center is developing a series of pamphlets and guidance manuals for both the farm workers and farm owners to assist in the implementation of the new laws. In conjunction with Lawyers for Human Rights, the Center is also developing a manual on the new changes that will be used by paralegals working in rural areas.

With funding from OXFAM/UK, several members of the Center are making a study tour of Brazil, Chile, and Bolivia to look at the experience these countries have had in farm labor and rural economic policy options.

In terms of precedent-setting court cases, the Center had made some important inroads in the area of what constitutes a "farm" in the context of whether a farm should be included or excluded from extant labor law protections. In Food & Allied Workers Union vs. Ferucci, the Supreme Court held that an abattoir would not be exempt from coverage of the labor law simply because the operation was located and carried out on the farm.

The Center was also commissioned by the ANC to develop a document on farm worker policy. As part of this commission, the Center held a major workshop involving representatives from twenty-five (25) of the leading organizations working in the area of rural development such as the Association for Rural Advancement (AFRA), the Transvaal Rural Action Committee (TRAC), Cosatu, the Labor Research Service, the Western Cape Land Commission, the National Land Commission, academics and ANC staff.

The Center also held a wide range of seminars and conferences on many key topics that focus on the problems of the rural community (e.g., a workshop on Community Perspectives on Land and Agrarian Reform in South Africa sponsored by the MacArthur Foundation). Professor Fred Thome, of the Wisconsin Land Tenure Center (WLTC), is in discussions with the Center over the possibility of the Center acting as "host" for a group of graduate students from the WLTC.

The proposed amendment will continue support for the Center's program of assisting farmer workers and their families by developing a more equitable system of jurisprudence in rural areas which have been seriously neglected. The activities of the Center are important, and the level of their performance has been excellent.

Embassy of the United States of America

USAID/South Africa
September 13, 1991

Mr. Dawie Bosch
Center for Rural Legal Studies
4 Station Street
Stellenbosch 7600

Subject: Center for Rural Legal Studies
Agreement No: 674-0301-G-SS-1052-00

Dear Mr. Bosch:

Pursuant to the authority contained in the Foreign Assistance Act of 1961, as amended, the Agency for International Development (hereinafter "USAID") hereby enters into this Agreement with the Center for Rural Legal Studies (hereinafter the "Recipient" or "CRLS") and obligates the sum of \$120,000 to provide support for a program described in Attachment No. 1, entitled "Program Description," of this Agreement.

This Agreement is effective and obligation is made as of the date this letter is signed by an authorized USAID representative. The Agreement and obligation shall apply to commitments made by the Recipient in furtherance of program objectives during the period beginning on the effective date of this letter and ending September 30, 1991.

This Agreement is subject to the terms and conditions set forth in the Standard Provisions, Attachment 1, "Standard Provisions," Attachment 2, "Program Description," and Attachment 3, "Standard Provisions." This letter and the three attachments just described, which have been agreed to by your organization, constitute the Agreement.

Please sign the original and one (1) copy of this letter and then return the original to USAID/Pretoria.

Sincerely,



Dennis P. Barrett
Director

ACKNOWLEDGED AND ACCEPTED

By: Dawie Bosch



Title: Administrator

For: Center for Rural Legal Studies

Date: 1991-09-27

Attachments:

1. Schedule
2. Program Description
3. ~~Statutory provisions and official provisions as applicable.~~
4. Advance Request (as applicable)
5. A.I.D. Geographic Code PDS List

BEST AVAILABLE COPY

ATTACHMENT NO. 1

SCHEDULE

I OVERVIEW OF AGREEMENT

A. Purpose of Agreement

The purpose of the Agreement is to provide funds to support the efforts of CRLS to safeguard and expand the legal rights of rural farmworkers and their families, and in so doing contribute to the process of developing an appropriate rural jurisprudence for the "new" South Africa.

II PERIOD OF AGREEMENT

The effective date of this Agreement is the date the cover letter is signed by an authorized USAID representative. Unless otherwise agreed to by USAID in writing, the expiration date is September 30, 1992, meaning that no USAID funds under this Agreement shall be applicable to goods not furnished or services not performed for the program by this date.

III AGREEMENT FUNDING AND PAYMENT

A.I.D. hereby obligates the amount of US \$120,000 for purposes of this Agreement.

IV RECIPIENT RESPONSIBILITIES

A. The Recipient shall be responsible for accounting for, and shall open a separate interest bearing bank account to be used solely for all funds provided under this Agreement. The Recipient shall deposit all USAID funds, including cash advances, in this separate account and shall be held responsible for the safekeeping of the funds. The Recipient shall be held responsible for the safekeeping of the funds and shall be held responsible for the safekeeping of the funds.

B. Any interest earned on the funds provided under this Agreement must be returned to USAID not less often than quarterly. Up to the Rand equivalent of US \$100 in interest earnings per annum may be retained by the Recipient to cover administrative costs such as bank charges on the separate interest bearing account.

C. Each month after the initial advance, the Recipient will submit to the USAID Controller's office a voucher for reimbursement based on expenses incurred during the previous month. The voucher will consist of two parts:

1. Disbursement Report: A detailed report of disbursements by budget line item. Each report 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 grand total for the current reporting period;
 - (b) the cumulative amount of Rand received under the Agreement by budget line item; and
 - (c) copies of paid invoices (not proforma 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.
2. Cash Advance Status Report in the following format:

USAID CASH ADVANCE STATUS REPORT

(a) Period covered by this report:

From (Month, day, year) _____
To (Month, day, year) _____

Period covered by next report:

From (Month, day, year) _____
To (Month, day, year) _____

(b) Cash Advances and Funds:

1. Cash advance received at the beginning of this reporting period _____
2. Cash advance received during this reporting period _____

3. Interest earned on cash advances during this report period _____

4. GROSS cash advance available during this reporting period (total of lines 1, 2 and 3)

5. LESS, interest remitted to USAID during this reporting period

6. NET cash advance available during this reporting period

7. Total disbursements during this reporting period

8. Amount of cash advances available at the end of this reporting period (line 6 minus line 7)

9. Projected disbursements for the next reporting period

10. Additional cash advance requested for the next reporting period (line 9 minus line 8)

11. Total interest earned on cash advances from the start of the grant to the end of this reporting period, but not remitted to USAID

12. Total cash advances to subgrantees, if any, as of the end of this reporting period

(c) The undersigned hereby certifies that: (1) the amount in paragraph 12 above represent the best estimate of the cash advances to subgrantees as of the end of the reporting period; (2) appropriate refund or credit to the Agreement will be made in the event of a disallowance in accordance with the terms of the Agreement; (3) appropriate refund or credit to the Agreement will be made in the event funds are not expended; and (4) any interest exceeding the kind equivalent of US \$100,000 annum will be remitted to USAID.

Title: _____

Attachments:

1. Disbursement Report

V FINANCIAL PLAN

A. The Illustrative Financial Plan for this Agreement is set forth in Table I below. Revisions of this Plan shall be made in accordance with Standard Provision 4 of this Agreement, located in Attachment 3 and entitled "Revision of Agreement Budget." The Recipient is authorized a 15% deviation between line items, provided that USAID is notified in writing of such budget changes in the Recipient's following Disbursement Report. However, any deviation above this amount, or any increase in the total Grant, must be approved in advance in writing by the Director, USAID/South Africa.

Table I

Illustrative Financial Plan

<u>Item</u>	<u>Total</u>	
	<u>US_\$</u>	<u>SAR</u>
Salaries	55,400	149,500
Equipment & Supplies	12,100	32,600
Workshops, Research and Conferences	22,400	60,600
Other Direct Costs	30,100	77,350
Total	120,000	320,050

B. Level of Assistance

The total Rand amount in the Illustrative Financial Plan (Table I above) is the maximum Rand available under this Agreement. The conversion rate from U.S. dollars will be the prevailing rate at the time of conversion as determined by the Controller, USAID/South Africa. For example, the U.S. dollar amount of \$100,000, at an exchange rate of R1.75 to the U.S. dollar, will result in R175,000.

Due to exchange rate fluctuations, South African Rands available under any individual line item financed under this Agreement may exceed levels budgeted for by the Recipient.

11

If the Recipient desires to use such excess Rands to finance additional eligible program expenses, it may submit in writing to USAID its proposed priority uses of such funds. If USAID is in agreement with the Recipient's proposal, the Agreement may be modified to provide for the authorized expenditures. USAID reserves the right to deobligate any dollars in excess of those needed to fund the Rand Budget. However, should changes in the exchange rate result in fewer South African Rands being available than budgeted for, the Recipient will be responsible for financing the shortfall since the U.S. dollar amount prevails.

VI REPORTING

The Recipient will submit quarterly progress reports on activities funded and general performance under the Agreement. The quarterly reports should include a brief description of the types of activities funded hereunder during the period, including the issues involved, the status of the activity, plans for further action, and any potentially broader implications. The Recipient will also submit a final report on all activities financed by the Agreement. The content and format of the final report will be agreed upon by USAID and the Recipient at a later date.

VII OVERHEAD RATE

Not Applicable.

VIII TITLE OF PROPERTY

Title to all property purchased under this Agreement shall vest in the Recipient in accordance with the terms of Attachment 3, Additional Standard Provision 19, entitled "Title to and Use of Property."

IX AUTHORIZED GEOGRAPHIC CODE

The authorized geographic code for all procurement with A.I.D. funds under the Agreement is the United States Department of State Geographic Code 935, meaning that all goods and services financed by this Agreement shall be procured in the Republic of South Africa or in other countries included in A.I.D. Geographic Code 935. Please refer to Attachment 5 for a list of countries included in Code 935.

X LOCAL COST FINANCING

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

XI SPECIAL PROVISIONS

A. Procurement

1. Scope: This provision is applicable to the extent that local cost financing is otherwise authorized by the Agreement. It does not require procurement in South Africa where off-shore procurement could otherwise occur.

2. Policy: In the procurement of goods and services in South Africa, the Recipient shall, to the maximum extent practicable, award contracts to individuals who or organizations which are disadvantaged by apartheid and are responsive and appropriate providers of goods and services.

3. Definitions: Individuals and organizations disadvantaged by apartheid shall mean: (1) South African individuals of black, "colored" or Asian descent whose principal place of business is in the Republic of South Africa; and (2) private partnerships or commercial firms which are incorporated in or organized under the laws of the Republic of South Africa, whose principal place of business is in the Republic of South Africa, and which are more than 50 percent beneficially owned by South African persons of black, "colored" or Asian descent. The Republic of South Africa includes the so-called "independent" and "self-governing" Bantustans.

B. Competition: Except as otherwise provided in this Section XI, all procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, free and open competition.

C. Staff Recruitment: The Recipient agrees that all staff recruitment for positions funded by USAID will be carried out through an appropriate competitive process and that salary levels will be in accordance with community and professional standards.

D. Travel and Per diem: The Recipient will provide for USAID approval a copy of its travel and per diem policy covering both domestic and international travel for its staff and for program participants not to exceed U.S. rates. In the event the Recipient does not establish a policy, U.S. Government regulations governing travel and per diem shall apply.

E. Political Affiliation: The Recipient agrees that programs funded under this Agreement will be made available to individuals and groups regardless of their political beliefs or affiliations. The Recipient shall not discriminate in its hiring practices or in the provision of its services against individuals or organizations who associate themselves with any particular political philosophy. The Recipient shall periodically review the level of actual provision of its services to assure that persons or organizations sympathetic to certain political groupings or philosophies are not intentionally excluded from activities financed by USAID.

XII STANDARD PROVISIONS

The Standard Provisions applicable to this Agreement are contained in Attachment 3 entitled "Standard Provisions."

ATTACHMENT No. 2

PROGRAM DESCRIPTION

I. Summary

The proposed Agreement will provide funds to support the efforts of CRLS to safeguard and expand the legal rights of rural farm workers and their families, and in so doing contribute to the process of developing an appropriate rural jurisprudence for the "new" South Africa.

II. Problem

Of the countless thousands of disadvantaged South Africans, farmworkers remain the least protected and most plundered. Farmworkers have been brutally beaten and even killed for infractions such as running over the "Boss's" dog, stealing a chicken or being drunk, for example. And even when legal action is taken on behalf of the farmworker, the accused generally gets off with a fine and/or a suspended sentence.

At least several factors account for this deplorable situation: rural white communities' areas are generally conservative and often reactionary; local white lawyers will not represent black farmworkers against white farm owners; human rights groups are seldom located in rural areas; farmworkers tend to be docile, largely because they must depend on the farm for food, housing, water and transportation; farmworkers and farms are exempt from the laws that protect urban workers or govern the urban workplace; and political organizations working for democracy and legal reform have an overwhelmingly urban experience, power base and history.

Yet if South Africa's future is to be stable and prosperous, these issues must be addressed. The legacy of apartheid must be eradicated in the rural areas. This is by no means an easy task. Democratic and equitable principles need to be developed and implemented. Basic protective legislation must be enacted. Mechanisms by which these rules can be enforced need to be established. Poverty and injustices must be eradicated and a human rights culture be put into place.

III. Background

South Africa is currently undergoing rapid political change. Significant though the national transformation of the political arena is, it is clear that there is still a long road ahead. The many barriers to a new political dispensation, the legacy of apartheid continues to exist.

The human rights and related legal problems facing farmworkers are well documented, and the Human Rights Office has had a long-standing policy of trying to focus more of its efforts and resources in rural areas.

In 1990, for example, the HRO and Roger Chennells, a human rights lawyer covering the Boland Cape area, began discussing ways and means of building on some of the more successful human rights legal work in rural areas of the Cape. It was determined that the establishment of a practical, action-oriented research and legal assistance unit focusing on farmworkers, would be an important step in the process of developing the basis for longer-term legal and policy reform options for rural areas.

It was recognized that much of the human rights legal assistance provided farmworkers had been successful and that inroads were being made with some of the more enlightened members of the agri-business community, particularly the fruit, wine and poultry producers. These labor-intensive producers tend to adopt an industrial management model rather than the worker/patron model. It was also recognized, however, that a great deal of important information and field reports were gathering dust in file drawers of law firms and advice offices. As a result, important factual information on rural legal problems was not being systematically analyzed, or readily available to individuals and organizations seeking to develop reform options for rural jurisprudence.

Accordingly, with the support of a Small Human Rights Grant, a pilot project called the Center for Rural Legal Studies was set up. In addition to providing legal assistance on potentially precedent-setting cases, CRLS carried out a program of practical research in several areas (e.g., legal problems experienced by farmworkers; how legal rights and remedies are claimed on the ground by farmworkers; eviction and housing rights; how rights to land are secured; farmworkers organizational options; alternative dispute resolutions options; women on farms, their role, pay and benefits). Hard information on the above matters, which has been the focus of workshops and publications, is providing a solid analytical framework for individuals, organizations and policy makers seeking to develop policy reform options in the area of farmworker problems, land use, etc.,.

The pilot project has, in the view of all concerned, succeeded in confirming beyond all doubt the value and the need for the Center's work.

IV. Program Description

CRLS will use Agreement funds to safeguard and expand the legal and human rights of rural farmworkers, including the following:

carry out legal research, and as appropriate litigation, to assist disadvantaged individuals or groups in the rural areas;

develop solutions and legal policies to redress problems faced by rural farm workers and their families;

publish such findings and information so as to influence both academic debate and legislative reform in rural areas;

assist human rights groups and other organizations with similar objectives to better understand some of the problems, legal and otherwise, faced by rural farmworkers and their families; and

strive toward developing the basic principles of democracy in rural areas of South Africa.

In terms of litigation, the Center is trying to focus its efforts on "test" cases; that is, cases that will have a wide, precedent-setting impact. For example, the Center is involved in a case where 70 farmworkers were dismissed where the issue is whether the so-called "employment codes" should be seen as part of the employment contract itself -- these statements of principle and equity are often touted by some wine producers as evidence of their progressive employment policies. If the position of the Center prevails in court, the provisions of these codes will be incorporated (read into) into employment contracts which frequently fall far short of the "employment codes." Another example, is a case where a large commercial poultry operation summarily dismissed 40 workers because of their trade union membership.

The employer's position is that his business is a farm and hence the labor codes do not apply. The Center's position is that this form of agri-business is not significantly different from an industrial operation and should be covered by the labor code. Another case involved a farmer who gave his worker, his wife and two small children five minutes to leave the farm. After spending several winter nights living in the bush, the Magistrate's court ordered that they be provided shelter. This case, particularly, if damages are recovered, will not only set a valuable precedent on "reasonable notice" but will be a lesson to other farmers.

Several organizations such as IDASA have commissioned articles from the Center on farmworker problems; human rights organizations and even the Cape Table Grape Growers have asked staff of the Center to speak on the legal protection of farmworkers; a Swiss law student has been assigned to the Center to conduct research on squatting issues; the Center has been asked by the Center for Development Studies to participate on the ANC Land Commission; the Center has been invited by the SAG National Manpower Commission to sit on a committee that will draft legislation for the inclusion of farmworkers under such proposed legislation. The Center has also built up an excellent working relationship with nearby advice offices and numerous human rights organizations. The first full-time researcher of the Center was recently selected by the Wisconsin Land Tenure Center to attend an intensive six-week program on land tenure issues in Southern Africa. As the result of an IV grant provided to Roger Chennells, links have been established with several U.S. organizations working on similar problems such as the Migrant Legal Action Program in Washington, D.C., the Wisconsin Land Tenure Center and the California Rural Legal Assistance Migrant Farm Workers Project.

Over the first year of its existence, the Center has not only gotten itself established but has also begun to make important contributions to the process of developing an appropriate jurisprudence for rural areas. The legal assistance provided farmworkers and the Center's targeted research, have become vital components in the efforts to rid rural areas of some of the worst vestiges of apartheid and to begin the process of replacing it with a legal structures that are just and democratic.

As an indication of the dedication of the Center's staff, its two researchers took out personal loans to cover salaries, rent and expenses incurred between November 1990 and January 1991. With some short-term help from the Australians and a small HR grant, the Center has been able to continue its work while this proposed Agreement could be developed and funded.