

PD-ABQ-624 59/0822
18260

OP/B/LA DISTRIBUTION FOR GRANTS and COOPERATIVE AGREEMENTS

A DOCUMENT INFORMATION

Document No LAG-G-00-97-00016-00, Mod No _____
Incremental Funding Only YES _____ NO X
Add-On YES _____ NO X
Unfunded YES _____ NO X

B OBLIGATION

REQUEST NO	AMOUNT OBLIGATE	PARTIAL	FINAL*	AMOUNT DECREASED
<u>10258-026</u>	<u>\$ 80,000</u>		<u>X</u>	<u>\$ 0</u>
	<u>\$</u>			<u>\$</u>
	<u>\$</u>			<u>\$</u>
<u>TOTAL</u>	<u>\$ 80,000</u>			

*IF FINAL OBLIGATION GRANT OFFICER HAS NO OBLIGATION TO DERESERVATION OF ANY REMAINING FUNDS

GRANT OFFICER KATHLEEN FRASCELLA Date 8/29/97
POINT OF CONTACT SAME TELEPHONE 875-1154

C INITIAL DISTRIBUTION

X Recipient
____ Not Required (Incremental funding, unfunded extension requested by Recipient)
X Accounting Station for recording of obligation
X FM/A/PA, M Smith (Room 612, SA-2) (If AID/W funded)
____ Mission Controller, USAID/____ or Date Cable sent _____
(if Mission-funded)
____ Not Required (If unfunded, or if unilateral, or if Grant Officer signs last)

D LEG NOTIFICATION

____ Completed, date _____
X Not required

E FINAL DISTRIBUTUION

____ 1 cy w/orig signature to Recipient
(If Incremental Funding, or if unfunded extension requested by Recipient, or If Grant Officer signs last)
X 1 cy w/orig to Accounting Station ____ for recording of obligation (Incremental Funding or if Grant Officer signs last) or X for information (If unfunded, or if Grant Officer signs first)
____ Mission Controller, USAID/____ (if Mission-funded)
X FM/A/PA, M Smith (Room 612, SA-2) (If AID/W funded)
X 1 cy to Payment Office
____ Mission Controller, USAID/____
X FM/CMP (Room 700, SA-2) ____ H Holland(LOC) X J Cicippio(non-LOC)
Payment Provision
____ Letter of Credit No 72-00-
____ FM/CMP/LC is requested to ____ increase or ____ establish LOC
____ Unfunded Action, Copy of Document provided for FM/CMP/LC files
X Periodic Advance
____ Reimbursement
X 1 cy to Project Officer
X LAC/RSD _____, G JACKSON
____ USAID/____
____ G/WID _____
____ G/ENV/_____
X 1 cy to LAC/SPM, S Hill(NS Room 2252)
____ 1 cy to G/WID, S Toth (SA-38, Room 914)
____ 1 cy to G/ENV/EET, C Kiser (SA-18, Room 506J) (All ENERGY actions)
____ 1 cy to G/ENV/ENR, P Bowen (SA-18, Room 515E) (All ENVIRONMENT actions)
____ 1 cy to G/ENV/UP, C Kiser (SA-18, Room 506J) (All URBAN PROGRAM actions)
X 1 cy, w/cy of A&A Request Document, to OP/CIMS, Judy Britt (SA-14, Room 1439)
X 1 cy w/orig sig & copy of this form to file
____ If add-on, 1 cy to Mission or AID/W Technical Office Adding-On



U S AGENCY FOR
INTERNATIONAL
DEVELOPMENT

PD-ABQ-624

98260

AUG 29 1997

Mr William Futrell
President
ENVIRONMENTAL LAW INSTITUTE
1616 P St , N W
Suite 200
Washington DC 20036

Subject Award No LAG-G-00-97-00016-00

Dear Mr Futrell

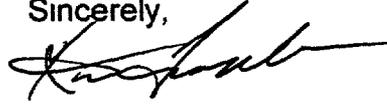
Pursuant to the authority contained in the Foreign Assistance Act of 1961, as amended, the U S Agency for International Development (hereinafter referred to as "USAID" or "Grantor") hereby grants to the ENVIRONMENTAL LAW INSTITUTE (herein after referred to as ELI or "Recipient") the sum of \$80,000 to provide support for a program in Environmental Law Institute, as described in the Schedule of this award and the Attachment 2, entitled "Program Description "

This award is effective and obligation is made as of the date of this letter and shall apply to commitments made by the Recipient in furtherance of program objectives during the period beginning with the effective date and ending 11/30/1998 USAID shall not be liable for reimbursing the Recipient for any costs in excess of the obligated amount

This award is made to ELI, on condition that the funds will be administered in accordance with the terms and conditions as set forth in 22 CFR 226, entitled "Administration of Assistance Awards to U S Non-Governmental Organizations", Attachment 1, entitled "Schedule", Attachment 2, entitled "Program Description", and Attachment 3 entitled "Standard Provisions "

Please sign the original and each copy of this letter to acknowledge your receipt of this award, and return the original and all but one copy to the Grant Officer

Sincerely,



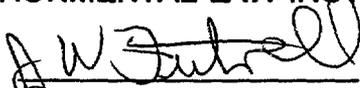
Kathleen Frascella
Grant Officer
M/OP/B/LA
Office of Procurement

Attachments

- 1 Schedule
- 2 Program Description
- 3 ~~Standard Provisions~~
- 4 ~~Standards for USAID Funded Communications Projects~~

ACKNOWLEDGED
ENVIRONMENTAL LAW INSTITUTE

BY



Title

President

Date

9-15-97

ACCOUNTING AND APPROPRIATION DATA

A GENERAL

1 Total Estimated Amount \$ 80,000
2 Total Program Amount \$94,000 00
3 Total Obligated Amount \$80,000 00
4 Cost-Sharing Percentage
 (Non-Federal) %
5 Activity Title Promoting Sustainable Mining
6 USAID Technical Office LAC/RSD-E
7 Tax I D Number 52-0901863
8 CEC No 07-112-253F
9 LOC Number

B SPECIFIC

Request Number 26-10258
Organization LAC/RSD - 10258
Resource Category 410463
Activity Mining LAC Managed Activities
Account DV97/98LDV797
Obligated Amount \$80,000

**ATTACHMENT 1
SCHEDULE**

1 1 PURPOSE OF AGREEMENT

The purpose of this Agreement is to provide support for the program described in Attachment 2 of this Agreement entitled "Program Description "

1 2 PERIOD OF AGREEMENT

The effective date of this Agreement is the date of the Cover Letter and the estimated completion date is November 30, 1998

1 3 AMOUNT OF AWARD AND PAYMENT

(a) USAID hereby obligates the amount of \$80,000 00 for the purposes of this Agreement

(b) Payment shall be made to the Recipient by Payment - Periodic Advance in accordance with procedures set forth in 22 CFR 226 22

1 4 BUDGET

The following is the Agreement Budget, including local cost financing items, if authorized Revisions to this budget shall be made in accordance with 22 CFR 226 25

National Case Studies	\$30,678
Common Approaches and Report	30,808
Disseminations and Presentations	<u>18,514</u>
Total	\$80,000

1 5 REPORTING AND EVALUATION

1 5 1 Financial Reporting

In keeping with the requirements established in 22 CFR 226 52, the Recipient is required to

(a) Submit an original and two copies of a "Request for Advance or Reimbursement", SF 270, on a monthly basis to

Office of Financial Management
M/FM/CMP, SA-2
320 21st Street, N W
Washington, D C 20523

(b) Prepare a "Financial Status Report", SF 269a, on an accrual basis and submitted quarterly in an original and two copies to

Office of Financial Management
M/FM/CMP, SA-2
320 21st Street, N W
Washington, D C 20523

1 5 2 Monitoring and reporting program performance

(a) Requirements The Recipient shall submit an original and one copy of a brief quarterly program report to the address listed in the Cover Letter. In addition, one copy shall be submitted to USAID/CDIE/DI, Washington, DC 20523-1802. A final performance report is also required.

(b) Contents The Program report shall briefly present the information contained in 22 CFR 226 51(d).

1 6 TITLE TO AND CARE OF PROPERTY

Title to all property financed under this award shall vest in the Recipient subject to the requirements of 22 CFR 226 30 through 37.

1 7 AUTHORIZED GEOGRAPHIC CODE

The authorized geographic code for procurement of goods and services under this award is 000.

1 8 INDIRECT COSTS

Pursuant to the Standard Provision of this Award entitled "Negotiated Indirect Cost Rates - Provisional (Nonprofits)," an indirect cost rate or rates shall be established for each of the Recipient's accounting periods which apply to this Award. Pending establishment of final or revised provisional indirect cost rates, provisional payments on account of allowable costs shall be made on the basis of the following negotiated provisional rate(s) applied to the base(s) which is (are) set forth below:

<u>Type</u>	<u>Rate</u>	<u>Base</u>
General O/H	29 34%	<u>1/</u>
Research O/H	31 32%	<u>2/</u>
Fringe Benefits	33 69%	<u>3/</u>
G&A	14 21%	<u>4/</u>

1/ Base of Application Total Direct Salaries Plus Fringe

2/ Base of Application Research Salaries Plus Allocated Fringe

3/ Base of Application Total Direct Salaries

4/ Base of Application Total Direct Costs

1 9 RESOLUTION OF CONFLICTS

Conflicts between any of the Attachments of this Agreement shall be resolved by applying the following descending order of precedence:

Attachment 1 - Schedule

22 CFR 226

Attachment 3 - Standard Provisions

Attachment 2 - Program Description

1.10 PAYMENT OFFICE

Office of Financial Management

M/FM/CMP, SA-2

320 21st Street, N W

Washington, D C 20523

LAG-G-00-97-00016-00

ATTACHMENT 2

PROGRAM DESCRIPTION

The Recipient's proposal entitled "Promoting Sustainable Mining in the Americas" and dated June 20, 1997 is attached hereto as the Program Description (Attachment 2) and is made a part of this Award

PROMOTING SUSTAINABLE MINING IN THE AMERICAS

I Organization Submitting Proposal and Principal Contact Person

This proposal is being submitted on behalf of the Environmental Law Institute (ELI) in Washington D C. The principal contact person is Susan Bass (202) 939-3809 (An alternate contact is James McElfish (202) 939-3840)

II Issue/Problem Being Addressed

Sustainable development of the mining sector in Latin America presents a critical opportunity for promoting environmentally sustainable, increased hemispheric free trade. Latin American countries are anxiously seeking to develop and exploit their vast mineral resources in order to attract foreign investment, create local jobs and increase exports. At the same time U S and Canadian mining companies are looking to Latin American countries for opportunities to expand their operations and to transfer clean mining technology.

The environmental impacts of mining may be devastating if the proper pollution prevention technology and regulatory framework are not in place. Groundwater and surface water supplies may be permanently or temporarily contaminated by improper use of chemicals in the ore extraction process or by uncontrolled runoff from mining waste creating a hazard for the local community and wildlife. The use of mercury for gold mining in sensitive ecosystems like the Amazon basin has a particularly devastating and long-term negative impact on the environment. Ore smelters can emit hazardous air pollutants which are especially harmful in some of the higher altitude mining areas. Strip and underground mining practices may destroy soils and vegetation, leading to erosion, loss of habitat and other negative environmental consequences.

The countries of Latin America face particular challenges in developing approaches for regulating the environmental impacts of mining. Past contamination, especially in the context of government-owned mines which are in the process of being privatized, is of paramount concern. Who should be responsible for carrying out the cleaning up this contamination? What standards should be applicable to the clean-up? Where will the financial and technical resources for carrying out the clean-up come from? What environmental standards will apply to remaining? All of these questions need to be addressed in order to put into place a comprehensive program to deal with past contamination.

The countries of Latin America also lack experience in the process of setting their own standards. Many of the international standards applicable to mining practices do not reflect the scientific, social, economic or political reality of the countries of Latin America. Several

countries have yet to develop the process for working with technical experts and interested stakeholders to develop standards relevant to their reality. In many cases, it may be necessary to establish mechanisms that will allow for a policy dialogue among the interested parties to understand the environmental impacts of mining on different ecosystems. These parties would include representatives from the mining sector, tourism industry, agricultural sector, national parks, environmental agencies, as well as development and environmental NGO's

Even after the necessary regulatory frameworks are established, mechanisms must be created to bring about and assure compliance with the frameworks, including incentives for the transfer of clean technology. Institutions need to be strengthened and individuals trained to undertake the necessary educational, technical assistance, monitoring and enforcement roles. To assure public support for, and participation in, these activities, mechanisms allowing public access to information on the environmental impacts of mining need to be established. At the same time, complementary safeguards for proprietary information should be established to protect the business interests of the mining companies.

III Relationship of Issue/Problem to Promoting Environmentally Sustainable Trade

Mining is a growth sector in Latin America and is primarily export-oriented. As free trade expands, environmental sustainability of mining operations will become more and more important. In order to assure that trade in mineral products does not exact downward pressure on environmental protection in the hemisphere it will be essential for governments to have a common basis of understanding and evaluation of mining operations.

The case for addressing the environmental issues connected with mining in connection with the regional dialogue on the expansion of free trade is compelling. Many of the mining companies are operating as multinationals. They may bring international experience to bear on their operations -- experience not shared by many of the national and local governmental authorities. Several countries in the region have had the opportunity to explore different policy and technology options for addressing these environmental impacts, these countries can share lessons learned with countries launching environmental regulatory programs for mining. The federal government and state governments in the U.S. are experiencing pressure for decreasing domestic environmental regulation of mining to avoid creating competitive disadvantages for local mining industries vis-a-vis Latin American mining operations. Finally, many of the natural resources potentially threatened by mining have common characteristics or may be shared by countries in the region. As the environmental laws of most countries -- especially those regulating mining -- are still in the formative stages, now is the time to initiate regional policymaking initiatives in this area.

IV Proposed Activity

To respond to this need, ELI -- in partnership with leading environmental law centers from key mining countries in the region -- proposes to prepare suggested regional guidelines for use by national policymakers in developing effective national legislative frameworks for understanding and controlling the environmental impacts of expanded mining in the region. ELI's partners will include the *Sociedad Peruana de Derecho Ambiental (SPDA)* in Peru, the *Centro Mexicano de Derecho Ambiental (CEMDA)* in Mexico, the *Canadian Institute for Environmental Law and Policy (CIELAP)* in Canada, the *Centro Especializado en Derecho y Política Ambiental (CEDPA)* in Bolivia, the *Fundacion Ambiente y Recursos Naturales (FARN)* in Argentina, the *Fundacion Ambio* in Costa Rica and *Instituto "O Direito por um Planeta Verde"* in Brazil.

During the first phase of the project ELI and its partners will conduct research on existing national and subnational laws and policies in the Argentina, Bolivia, Brazil, Chile, Costa Rica Mexico, Peru, the United States and Canada for regulating the environmental aspects of mining.¹ Each project partner will be responsible for preparing a national case study for their respective country. These national case studies will focus on the different policy approaches, including economic incentives, used in these countries to promote the concept of pollution prevention as well as the development and transfer of "state of the art" pollution prevention technology and services. The national case studies will also analyze to identify gaps or inadequate mechanisms in these regulatory frameworks. The first phase of the project will take approximately six months to complete.

During the second phase of the project ELI will review and edit the national cases. ELI will then use the case studies to prepare a draft of suggested regional guidelines for policy frameworks to understand and control the environmental impacts of mining. This draft will be circulated for comment to the partner organizations in the project. Each partner organization will be responsible for making recommendations and comments on the proposed guidelines. ELI will also circulate the draft to representatives of the mining industry and governments for comment. ELI will take these comments under consideration in preparing the final report which will include both the suggested guidelines and the edited national case studies. The second phase of the project will take approximately three months to complete.

¹ Last fall -- ELI in partnership with FARN and SPDA presented a series of workshops in Argentina comparing the different regulatory approaches of the three countries for mining. The workshops targeted federal and provincial policymakers, NGO's and private sector representatives. The research for the first stage of the proposal project will build on the work conducted by ELI, FARN and SPDA in connection with these workshops.

During the third phase of the project ELI will disseminate the final report to key policymakers in the region active in the development of regulatory frameworks for the mining sector. ELI staff and representatives from the other partner organizations will present the project findings for comment and discussion to representatives of the mining industry, government and the non-governmental community at select regional and national level events throughout the hemisphere (see discussion of follow-up below)

ELI will also explore opportunities for collaboration with the Institute of the Americas and the Colorado School of Mines in the follow-up activities to the December 1995 conference, including participation in the proposed dissemination seminars in Latin America (Peru, Chile and Brazil) and the proposed 1997 Latin American Mining Conference and the 1998 summit in Santiago. The third phase of the project will take approximately six months to complete.

V Expected Results, Beneficiaries, and Measurable Indicators

The expected longterm result of the project is the strengthening of national frameworks for regulating the environmental impacts of mining which is critical to facilitating the expansion of mining activity in the region. This will be accomplished through the development of suggested regional guidelines for national policy frameworks and the compilation, dissemination and exchange of information on national regulatory experiences. The expected beneficiaries of the project are governmental and non-governmental actors involved in the development of framework policies.

For the project to be considered successful it must contribute to the discussion, consideration, proposal, enactment and adoption of new laws, regulations, policies and guidelines for regulating the environmental impact of mining. In the short term the success of the project may be evaluated by assessing the number of (i) key policymakers in both the executive and legislative branches of government, (ii) representatives of the mining industry, and (iii) representatives of concerned non-governmental organizations, who have been provided with access to the proposed guidelines and national case studies either by directly receiving copies of these documents or through attending public outreach events where this information is presented. The short term success of the project may also be evaluated by monitoring the discussion of these issues by the media and trade journals. Over the longer term the success of the project may be evaluated by monitoring national and subnational legislative and executive branch developments in the mining area, as well as conducting surveys of government officials to assess the usefulness and influence of the proposed guidelines and national case studies.

ELI proposes to assemble the data described above through its partners for a period of two years following completion of the fifteen month project. Each project partner will be responsible for collecting the relevant data for their respective country.

VI Proposed Follow-up

ELI will work with its partner organizations and other to identify national and regional opportunities to disseminate the suggested guidelines and national case studies. ELI will seek funding for these activities from the Inter-American Development Bank and World Bank and private foundations.